



Human Rights Lawyer speaks out on Ukraine and Israel

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Zain Raza (ZR): Thank you for tuning in today, and welcome back to another episode of The Source. I'm your host Zain Raza. We are back after taking a break for two weeks following a successful crowdfunding campaign in which we raised €53,000 via 1710 donors. We want to thank all of the people who donated to our cause, because not only will we be able to cover our costs during this year, but we will be able to improve our capacities as well. Today I will be talking to Dimitri Lascaris about the war in Ukraine and Israel's assault in Gaza. Dimitri Lascaris is an independent journalist and lawyer for international law, class actions and human rights. In 2020, he ran for the Green Party leadership in Canada, finishing second. Dimitri, welcome back.

Dimitri Lascaris (DL): Thank you for having me, Zain. Always a pleasure.

ZR: Earlier this week, a Russian military plane which was carrying 65 captured Ukrainian soldiers to a prisoner exchange was shot down near the Russian city of Belgorod near the Ukrainian border, killing all 75 people on board. Ukrainian President Zelensky came out with the following statement, quote: "It is clear that the Russians are playing with the lives of Ukrainian prisoners, the feelings of their loved ones and the emotions of our society", unquote. Russia has called the downing of the plane a terrorist act, whereas Ukraine is demanding for an international investigation. What possible motives in your assessment does Russia or Ukraine, for that matter, have for downing an airplane that was carrying prisoners of war?

DL: Well, it's unclear whether this was intentional, and it may well have been a tragic accident. The airplane - I mean, it's important to understand - was in Russian airspace. It wasn't on the border of Ukraine. It was a good way inside Russian airspace, and it was shot down. So this claim by Zelensky that the Russian government is playing with the lives of Ukrainian prisoners of war, I think there's really no evidence to back that up whatsoever. And this is just a classic example of, you know, Zelensky trying to exploit a situation which appears on the surface to have been a tragic mistake. The Ukrainians seem to have admitted now that they didn't shoot it down. First, there were indications that they had done that. Then when it was disclosed by the Russian government that the passengers were prisoners of war, there was a long period of silence, and there was some speculation on social media that this was some kind of a false flag. Now, the Ukrainians seem to be acknowledging that they shot it down, and they're trying to pin the blame on the Russians when I think there's really no basis to do that. So, this just brings us back to the constant theme that I have been emphasizing of the absolutely humanitarian imperative that we bring this war to an end. It's just terrible what's happening. There was a real, eye opener of a statement recently on social media by a Canadian Ukrainian who went to Ukraine. It's now been widely circulated

amongst those of us who observe, who've been following the war in which he said, "shame on everybody who supported this war, whatever your motivations may have been, shame on the lies that we've spread about it. The Ukrainian people are devastated. They believe that over a million men are dead. They don't believe winning is possible. They believe that the narrative in the West about the war is lies and propaganda. And the best thing that we can do for the Ukrainian people is to stop the carnage". And I cannot stress that enough. And what happened to these 65 prisoners of war and the crew of this aircraft is just one more confirmation of this.

ZR: Let us look at some international developments surrounding the war in Ukraine. According to Reuters, on Tuesday, NATO signed a €1.1 billion contract for hundreds of thousands of 155mm artillery rounds, many of which will be supplied to Ukraine, given it has been repeatedly complaining about severe shortages. Upon signing the contract at a ceremony at NATO's headquarters in Brussels, NATO's Secretary General Jens Stoltenberg said, and I quote him here, quote, "The war in Ukraine has become a battle of ammunition", unquote. In addition, it is being reported in the German media that Britain has offered Germany a swap of cruise missiles. In this way, Germany will sell cruise missiles to the UK and they will then send it to Ukraine, allowing Germany to bypass any concerns over the delivery. Germany has been quite hesitant to supply cruise missiles thus far as Ukraine could use them to strike deep within Russian territory which could significantly escalate the war. In your view, will the new batch of artillery rounds and perhaps even cruise missiles make a difference in Ukraine's capability in 2024?

DL: There are two critical problems confronting Ukraine. The one is, no matter what weaponry they provide to Ukraine in the near term, Ukraine and the West are not going to outproduce Russia. That's absolutely clear at this stage. So these deliveries of weapons, although they would help to rectify a grotesque imbalance in ammunition on the battlefield for a short period of time, they will not ultimately overcome that fundamental problem. Russia's economy is now fully geared to wartime levels. It's important to note, to understand, that the defense industry in Russia is largely state-owned, whereas in the West it is largely privately owned. So this gives the Russian government the ability to adapt the industrial capacity of the defense industry to the needs of the nation much more rapidly than we can in the West, where we don't control the priorities of the manufacturers of these weapons. They are fully focused on maximizing profits, not on the interests of the state. So for that reason alone, we're never going to outproduce them. Our economic model doesn't permit it. But even more importantly, Zain - and I touched on this in my answer to your first question - however much weaponry we provide to the Ukrainians, they're running out of men. Who is going to use these weapons? There have to be people who are trained on the battlefield to employ whatever weaponry we can supply to the Ukrainian military. And they are finished in terms of their capacity to recruit a large army. Right now, there is no indication that even if they wanted to institute another mass mobilization, that the capacity is there. There's every reason to believe that they won't be able to fulfill any mobilization program of a significant scale. So why are we prolonging this war by sending more weapons to Ukraine? It's absolutely insane and frankly, it's inhumane.

ZR: Last week at the World Economic Forum at Davos, Ukrainian President Volodymyr Zelensky proposed a ten-point peace plan that purports to end the war ignited by Russia's invasion in February 2022. The major points of this plan include a full withdrawal of Russian troops, restoration of Ukraine's borders and accountability for war crimes committed by high Russian officials. Russia was not only not invited to the World Economic Forum, but in

addition, Ukraine has insisted that it will not discuss this peace proposal with Russia as Zelensky has decreed any talks with Russia as illegal. Can you address the main points of this proposal and where you think they are realistic to implement?

DL: Effectively what this so-called peace plan is, it's a demand for Russian surrender. A demand for Russia to cede all of the territory that it currently controls, which it acquired, at the sacrifice of tens of thousands of men, and huge cost to the Russian economy. It requires the Russians to basically cough up their president and subject him to an indictment by the ICC or prosecution by the ICC, when the ICC has completely disregarded Western war criminals, including, you know, the Bush administration and the criminal war of aggression on Iraq. It requires the Russians to make reparations to the Ukrainians, and doesn't require any kind of concession or sacrifice on the part of Ukraine or NATO. None whatsoever. Now, you may think that this is entirely justified from a moral and legal perspective, but it's totally detached from reality. Ukraine is losing this war. In what world do we think that the party that is winning this war at great cost and sacrifice, is going to completely surrender to the party that is on its knees? It's ludicrous. If you actually want to do a peace deal, then there has to be mutual compromise. The Ukrainians now - they had an opportunity back in the first two months of this war, which they squandered, to do a peace deal with Russia that did not require them to concede any land to the Russian Federation. Boris Johnson flew to Kiev and blew that deal up, undoubtedly with the connivance of the American government, and told Zelensky they wouldn't support it. Zelensky therefore decided to prosecute a war and ended up losing. And now those consequences have to be faced, and that means there will have to be territorial concessions. That's what a real peace plan would involve. And unless and until the Ukrainians come to terms with that fact, their country is just going to become increasingly eviscerated by this war.

ZR: Let us switch our attention to Israel's war in Gaza. After the October 7th attacks of Hamas that killed around 1200 Israelis, 373 of them being military personnel, Israel launched a massive assault on Gaza - first with aerial strikes and then following with a ground invasion. It's now estimated that at least 25,490 Palestinians have been killed so far in this assault. According to the Israeli newspaper Haaretz, military operations now focused on Gazas southern city of Khan Yunis, where Israel is relentlessly bombing areas around two hospitals. Furthermore, the United Nations recently came out and stated that Israeli tanks struck a huge UN compound in Gaza which was providing refuge to displace Palestinians, causing, quote, "mass casualties", unquote. Israel denied its forces were responsible and suggested that Hamas may have launched the shelling. How would you evaluate Israel's war this far? In your view, have they moved closer to the primary stated goal of eradicating Hamas?

DL: Hamas just inflicted upon Israel its largest one day loss in the entire three and a half months or so of warfare. I believe it was 24 Israeli soldiers that died in one day. It's absolutely crystal clear that Hamas is nowhere close to being defeated. They have not captured or killed a single senior Hamas commander in Gaza. They have not recovered a single hostage alive. They've begun to withdraw large numbers of troops from the Gaza Strip. There are thousands of Israeli soldiers who are wounded, including hundreds dead. And I believe somewhere in the range of 2000 of them are permanently disabled. This is just going to get worse for Israel. And it's very clear that there is no military solution to this conflict. The solution is political. They need to give the Palestinian people a state and bring to an end the apartheid regime. And tomorrow, at 7 a.m., New York time, the International Court of Justice is going to reveal its order in the genocide claim brought against Israel by South Africa. And if there any justice

in this world, the court will rule in South Africa's favor and find that it's plausible that Israel is committing genocide. This war cannot end soon enough. Not just for the Palestinian people, but for the people of Israel. It is in their interest that a political solution be found, and it is staring us in the face saying, it's right there. It has always been there. And the fact of the matter is that the Israeli political elite simply doesn't want it.

ZR: I would like to move to international developments, surrounding this war. You already mentioned the International Court of Justice. This was going to be my next question. The South African government brought a case against Israel at the International Court of Justice, accusing it of genocidal acts on the 29th of December. Tomorrow, as you mentioned, there will be a ruling that could potentially impose a number of emergency measures, including a halt to Israel's assault on Gaza. Before we get into this case, could you first tell our viewers the difference between the International Court of Justice and the International Criminal Court and why South Africa might have chosen the ICJ and not the other?

DL: First of all, the International Court of Justice is a creature of the United Nations. It was created pursuant to the UN charter, and virtually every state on Earth is a signatory to the United Nations Charter. So it is representative, to a far greater degree than the ICC, of the international community, because the ICC was created by a separate legal institute called the Rome Statute. And a number of important states are not signatories to the Rome Statute. China, Russia, the United States. Israel itself is also not a signatory to the Rome Statute. A second important distinction is, the ICJ deals with complaints by one state against another state, whereas the ICC deals with criminal prosecutions of individuals. So the South African government chose to bring a claim against the State of Israel in the highest court in the United Nations system. Oftentimes, we refer to the ICJ as the World Court. And this court, interestingly, has rendered a decision in the past against Israel. It was an advisory opinion, in 2004, relating to the legality of the separation wall and settlements in the West Bank. And it ruled unanimously that the settlements are a violation of international law. So I think that for that and numerous other reasons, there are strong prospects that this court will rule against Israel tomorrow. Whereas the ICC - whose prosecutor, Karim Khan, a British barrister, has shown absolutely no interest in prosecuting any Western war criminals - I think is unlikely at this stage, and to the great discredit of that institution, to take any meaningful action against the Israeli war criminals who are prosecuting this war.

ZR: As an international lawyer, can you talk about the South African case in detail, in particular the documentation and evidence that they provided and whether you think it's robust?

DL: I think this case is overwhelming. Frankly, I think there should be absolutely no question about the propriety of the remedies that they're seeking. The fundamental provision upon which it's based is Article Two of the Genocide Convention of 1948, which defines genocide. And that is, you know, the commission of certain identified acts with the intention to destroy in whole or in part, a protected group such as the Palestinian people. They clearly would fall into the category of a protected group. So in terms of the acts that are necessary to be committed for a genocide to occur, there's a list of five of them - they're not an exhaustive list - in the Genocide Convention. One of them is killing members of the group. Obviously, that's happening here. Another is depriving them of the necessities of life. I'm paraphrasing, but clearly that's happening here. The Israeli said at the very outset that they were going to deprive the entire population of Gaza of food, water, and fuel. And they've done just that. And there are other acts that they're committing. In terms of the intention, the South African

legal brief, 84 pages, has page after page of statements by people at the highest levels of the Israeli government, clearly evincing an intention to destroy, if not all of the population of Gaza, certainly a substantial part of the population of Gaza. So, for example, the Israeli Prime Minister - President - Isaac Herzog, who is presented to the West as a moderate, said there are no innocent people in Gaza. They're all guilty. The Minister of Finance referred to the 2 million or so inhabitants of Gaza as Nazis. So he's including the million or so children in Gaza in his characterization of the population as Nazis. You had, you know, the Heritage Minister saying that nuking Gaza was an option. You have the Prime Minister, Netanyahu, saying that he was going to turn Gaza into a deserted island. And these are just some examples, Zain. So clearly, I think the legal test for the requisite intention has been met by the voluminous, meticulously detailed documentation presented by South Africa to the court. And really, it's just a question at this stage whether the court is going to act in accordance with the law or it's going to be swayed by political pressure. And I believe that it's going to do the former, it will ultimately act in accordance with the law because the evidence is just so overwhelming, and also because in 2020, the same court, effectively the same collection of judges rendered a case, a decision against Myanmar, brought by Gambia, in which they sought essentially the same relief. And in that case, the evidence was not as compelling, in my opinion, as it is in this case. So I don't know how these judges could grant provisional relief in the Myanmar case and then, you know, preserve their credibility, while denying, to South Africa the same, relief.

ZR: When it came to the ICJ, which is based in The Hague, Israeli Prime Minister Benjamin Netanyahu has been on record saying, quote, "no one will stop us. Not The Hague, not the axis of evil, and not anyone else", unquote. What measures can the ICJ take if Israel fails to comply, even if it establishes genocide? Can it really do anything to stop Israel's assault? Especially when we take into account the powerful countries like Germany and the US, that have decided to back Israel's case against South Africa?

DL: The short answer is no. Alone, standing alone, the ICJ does not have an enforcement mechanism. The next step, undoubtedly would be if it does render a decision against Israel, that this will be taken up at the Security Council level. And the UN Security Council definitely has the ability. For example, it could muster a United Nations military force to protect the civilian population. It could impose severe sanctions upon Israel, economic sanctions, and potentially other measures. So, it's going to depend on further action by the international community. Now, as you indicated, there is opposition in the West, to holding Israel to account and putting a stop to this massacre. Particularly, amongst the United States government, the British government and Germany, two of which have the veto power. And there is some prospect that one or both of the British and the Americans will exercise a veto, if and when the time comes for the enforcement of the order of the ICJ. However, other countries may nonetheless act unilaterally. And my belief is that many will. If the ICJ has said it's plausible that Israel is committing genocide, that will trigger, unquestionably, the obligation of all signatories to the Genocide Convention under Article One to prevent genocide. And any state that fails to do that will be liable for prosecution, for aiding and abetting, genocide or violating its obligations under the Genocide Convention. So all you need to have, even if you can't get past the veto of the British and the Americans, and potentially the French at the Security Council level, you could still have a critical mass of states imposing upon Israel economic sanctions, potentially some form of military intervention. Also, you know, prosecuting Israeli officials in the domestic courts of these states, that would ultimately result in enforcement of the ICJ's order. And that's actually what I expect will happen. I'm skeptical that the UN Security Council will act because of the veto

power of the Western governments, the main western states, but I'm quite hopeful that other actors, at the international level, will take the requisite action to enforce the order.

ZR: For the sake of objectivity, I would like to run some counter arguments that are circulated in the Israeli and Western governments as well as by Israeli and Western media. Let's go through them one by one and you can address them as I make them. So let's start with: Israel has taken every precautionary measure possible to warn civilians in Gaza of its bombardments by, for example, dropping leaflets from the air and requesting them to flee to safer areas.

DL: Well, first of all, look at the numbers, okay? The number of civilians who have been killed in Gaza in three months, is certainly in excess of 20,000 at this stage. It could be in excess of 30,000. Three months. In the Ukraine war, in which Russia has been repeatedly accused of intentionally targeting civilians, the number of civilians who have been killed, according to the UN, is slightly in excess of 10,000 in two years. The number of children who have been killed in the Ukraine war in nearly two years is less than 600. The number of children who have been killed in Gaza is over 12,000. Does that sound to you like they're taking every measure possible to protect the civilian population? And the last thing I'll say - there's so much evidence on this to contradict this claim - I'm just going to give you one from a pro-Israel source, The New York Times. In December, The New York Times published an investigation it had conducted with the benefit of expert advice into the bombing patterns in Gaza. And they concluded, the pro-Israel New York Times, that Israel's military routinely - that's the word they used, routinely - bombed with 2,000-pound bunker buster bombs, the most destructive conventional munition in their arsenal, areas of Gaza where they had told the civilian population to seek safety. Does that sound like they're taking measures to protect the civilian population to you? It sure doesn't to me.

ZR: Second argument: Hamas is using civilians as a shield by hiding amongst them and using this advantage to fire rockets at Israeli civilians.

DL: Let's suppose that's true. I'm going to come back to that in a second. That doesn't give Israel the right to massacre civilians. They are an occupier. They have obligations under the Fourth Geneva Convention. And even if they weren't an occupier, the laws of war would impose restrictions on what they can and cannot do vis-a-vis the civilian population. Whatever Hamas may have done, they cannot mass slaughter civilians in order to get at Hamas. It's as simple as that. But secondly, let's look at Hamas's situation. Where exactly are they supposed to fight? The Israelis don't want them to fight on Israeli territory. They have to fight in the Gaza Strip. The Gaza Strip is one of the most densely populated parts of the world. And there's just no way for Hamas to put up - or any other Palestinian group - to put up armed resistance to the brutal oppression of the people within Gaza without situating themselves amongst the civilian population. It's impossible. You know, if they all emerged into some open field - and there are very few open spaces in Gaza - but let's suppose that all the fighters did, that they would be annihilated. Immediately annihilated, because there are no air defense systems and Israel has one of the most sophisticated missile arsenals and air forces in the world. So there's no way for them to put up any kind of effective resistance to the brutal oppression of the Gazan people without intermingling amongst the civilian population. I mean, that's just a fact and should be obvious to anybody who observes the situation on the ground.

ZR: And the last argument: Israel's assault cannot be considered genocide, given it is not using its full military capacity. In other words, if its intent was on committing genocide, it would use much greater military force, which it is very much capable of and has avoided thus far.

DL: Well, I reject the premise of that argument. I mean, I think that the only thing worse that Israel could do is actually nuke Gaza. Israel has used so many conventional bombs. We're now talking about an amount of explosive force that is far greater than the explosive force of the atomic bomb dropped on Hiroshima. They are constantly having to take munitions deliveries from the United States, because they themselves do not have enough munitions to complete this so-called military operation. One delivery of another from the United States government of things like 2,000-pound bunker buster bombs - they're using an absolutely shocking amount of conventional munitions on Gaza. So I would say that they're, in fact, doing as much as they can to destroy Gaza as quickly as possible. And the proof is on the ground. You know, entire parts of Gaza have been laid to waste. The place is completely unlivable. The health care system has completely broken down. I mean, it's amazing to me that anybody would suggest that Israel isn't trying to destroy Gaza. It's already done that.

ZR: Last week, Israeli Prime Minister Benjamin Netanyahu rejected a Palestinian state by posting on the social media platform called X the following statement, quote, "I will not compromise on full Israeli security control over the entire area of the west of Jordan. And this is contrary to a Palestinian state", unquote. This is in complete opposition to the official policy of its allies in the United States and even Germany, that have stressed the importance of a Palestinian state as a vital component to peace and stability in the region. Firstly, is it even possible to talk about the establishment of a Palestinian state when such a major assault is underway? And secondly, why do you think allies like Germany and the US fail to take any substantial action against Israel, even when Netanyahu officially violates their policy that advocates for a two-state solution?

DL: Well, clearly there is no prospect of a Palestinian state coming into existence as long as they're A) obliterating Gaza and B) populating the West Bank with something in the range of 800,000 illegal Israeli settlers in Jewish only settlements. They've completely destroyed the possibility of a sovereign, contiguous, viable Palestinian state situated along the 1967 borders. Now, they could undo what they've done. It's possible - you could reconstruct Gaza and you could dismantle those settlements and evacuate the settlers from the West Bank. But there's zero indication of a political will on the part of the Netanyahu government or any other major political party in Israel. Whether you're talking about labor or, you know, the so-called centrist parties in Israel, none of them have indicated a seriousness about the creation of a Palestinian state. I think it's time for us to come to terms with the fact, Zain, that the West does not support the two-state solution. They have done absolutely nothing to pressure Israel into giving the Palestinians a viable state. As Israel - this has been going on for over 50 years, since 1967, the construction of these settlements, as I mentioned, the ICJ 20 years ago, ruled unanimously that they're illegal - as this has been going on, Western governments have been deepening their military relationships with Israel, deepening their economic relations with Israel, constantly opposing, at the level of the UN Security Council, the General Assembly, resolutions designed to achieve justice for the Palestinian people. So if you look at what they do and just ignore for a moment what they say, the only rational conclusion you can draw is that the Western governments themselves do not want the Palestinian people to have a sovereign state. This is all lip service, which is designed for political objectives in order to convey the impression that they care about the Palestinian

people. Ultimately, Israel is all about Western hegemony in the Middle East. That's why it was created. That's why they sustain it. And the reason why Western governments do not, in fact, support the creation of a Palestinian state is that it would limit Israel's ability to project American and Western power into the Middle East. They want Israel to be as powerful as possible, so that they can pose their will upon the Arab and Muslim peoples of the Middle East.

ZR: Dimitri Lascaris, independent journalist and lawyer for international law, thank you so much for your time today.

DL: Thank you. Always a pleasure.

ZR: And thank you for tuning in today. Please don't forget to join our alternative channels on Rumble, Telegram and our podcast called Podbean. YouTube, which is owned by Google, can shadow-ban and censor us at any time, especially in times of crisis like these. So if you're watching our channel regularly, make sure to join them as a precautionary measure. You'll find the links to these platforms in the description of this video. I'm your host, Zain Raza. See you all next time.

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