LAWFARE, LEXICON, AND LEGITIMACY

How International Law Was Weaponised Against Israel — and Why It Matters Now

Introduction: Why This Conversation Matters

Good evening.

I want to begin by acknowledging something important. This is an audience with a wide range of political views – about Israel, about the current military situation, about the Israeli government, and about how justice, security, and peace should be pursued.

That diversity is not a weakness. It is a strength.

What many of us share, however, is something more fundamental: a concern that the language of law, once intended to protect the vulnerable, is increasingly being used to accuse, isolate, and delegitimize the Jewish state, and by extension, Jewish collective identity itself.

Tonight, I am not here to defend every Israeli policy or military decision. And I am certainly not here to suggest that Israel should be exempt from legal or moral scrutiny.

I am here to explain something that operates upstream of all those debates – something that shapes how the conflict is understood before facts are weighed or arguments heard.

That phenomenon is lawfare.

To understand what is happening today, we must first be clear about what lawfare is, and what it is not.

Lawfare is not the application of law to war.

It is not accountability.

It is not criticism.

Lawfare is the use of legal language, legal institutions, and legal norms as instruments of political warfare.

Put simply:

Lawfare is the weaponisation of law to delegitimise an adversary, constrain its right of self-defence, and erode its moral standing, without regard to legal merit.

In lawfare:

• Allegations substitute for proof

• Process substitutes for judgment

• Stigma substitutes for verdict

The objective is not to win in court.

The objective is to win the narrative.

And Israel, perhaps more than any other state, is uniquely vulnerable to this tactic.

To see why Israel is uniquely vulnerable, we must return to the origins of the postwar international legal order itself.

The modern international legal system emerged from the ashes of World War II and the Holocaust. Its central concepts – war crimes; crimes against humanity; and, genocide – were created in response to a catastrophic failure of law: the realization that entire peoples could be exterminated while the international system stood by helplessly.

It is essential to pause on genocide, because this concept did not arise organically from diplomatic practice. It was conceived, named, and relentlessly advanced by a Polish Jewish jurist, Raphael Lemkin, whose own family was murdered in the Holocaust. Lemkin understood that existing law protected states, not peoples, and that without a legal category addressing the destruction of groups as such, mass annihilation could occur with impunity. He spent his life lobbying governments and the United Nations to ensure that what happened to the Jews would never again be legally invisible.

The *Genocide Convention* was therefore not an abstraction. It was a direct response to Jewish annihilation.

Zionism, the reassertion of Jewish sovereignty after centuries of vulnerability, fitted naturally within this postwar moral and legal framework. Israel's creation and admission to the United Nations were not acts of defiance against international law; they were expressions of it. A people that had been rendered defenceless was reclaiming the most basic right the new legal order was meant to protect: the right to survive.

And here lies one of the great ironies, and tragedies, of our time. The very legal architecture inspired by the destruction of European Jewry is now being inverted and deployed against the Jewish people, recast not as the defining victims of genocide, but as its alleged perpetrators.

Almost from its establishment, Israel became the only state whose very legitimacy, not merely its conduct, was placed on trial.

That is the paradox at the heart of lawfare.

To understand how this inversion became durable and global, we must now turn to politics.

To understand modern lawfare, we must examine its twentieth-century origins in Soviet political warfare.

In the early decades of the Cold War – essentially from 1947 to 1965 – the Soviet Union identified Zionism as a strategic threat. Zionism contradicted Marxist ideology, inspired Soviet Jews, and aligned Jewish identity with the democratic West.

The Soviet response was not military. It was ideological.

Drawing on research confirmed by Cold War defectors, the Soviet Union launched a coordinated campaign to reframe Zionism as:

• Racism

• Colonialism

• Imperialism

• Apartheid

This narrative was laundered through the Non-Aligned Movement, exported into United Nations General Assembly politics, and embedded in academic and cultural institutions.

This was lawfare before the term existed: replacing legal interpretation with ideological assertion, cloaked in the language of international norms.

That campaign reached its apex when the United Nations itself adopted the language of delegitimisation.

The culmination was UN General Assembly Resolution 3379 of 1975, which declared that Zionism is a form of racism and racial discrimination.

This resolution:

• Did not adjudicate law

• Did not establish legal precedent

• Did not bind states

But its political effect was enormous.

For the first time:

• Jewish self-determination was criminalized

• Opposition to Israel was recast as moral virtue

• Delegitimization was institutionalized

Although the resolution was repealed in 1991, its conceptual framework endured. The damage was done.

This was **lawfare in its formative stage**.

And it laid the intellectual groundwork for what we are now witnessing in international legal institutions.

To understand why this framework proved so enduring, we must look at how it reshaped moral reasoning in liberal societies.

Here I draw on the work of Shaul Kelner, professor at Vanderbilt University, whose scholarship examines Jewish identity, Israel, and global activism.

Kelner explains why lawfare is especially powerful in liberal democracies. His central insight is unsettling:

Anti-Zionism became socially acceptable not because antisemitism disappeared, but because it was recoded into legal and moral language.

Human-rights discourse provided:

• Moral cover for prejudice

• Ethical framing for collective blame

• Institutional legitimacy for exclusion

Anti-Zionism has allowed some to believe they are acting righteously while participating in the stigmatization of Jews, now relabelled as “Zionists.”

This is why lawfare is so effective.

It does not depend on overt hatred.

It depends on how people see themselves.

It works because those advancing it can view their actions not as discriminatory, but as principled — as defending human rights, upholding international law, or standing with the oppressed. The vocabulary is legal and moral, not racial or theological. The posture is one of virtue, not animus. By framing campaigns of isolation or prosecution as neutral applications of universal norms, participants can maintain a self-image of fairness and justice, even as the practical effect is to single out and delegitimize the Jewish state.

In this way, the power of lawfare lies less in hostility than in moral self-conception: the belief that one is acting ethically, even while contributing to the political and symbolic isolation of Jews under a different name.

Once this moral framework was in place, legal institutions became the next arena.

One of the most powerful instruments of lawfare is not legal doctrine, but language itself.

Here I want to acknowledge explicitly the analysis of David E. Firester, whose work I am drawing on.

Firester traces how the phrase “Occupied ‘Palestinian’ Territories” was not discovered, but constructed. It does not appear in UN Security Council Resolution 242, of November 22, 1967, calling for the withdrawal of Israeli armed forces from territories occupied during the Six-Day War, nor in any binding legal document governing the post-1967 order.

Instead, beginning in the late 1970s and early 1980s, a series of UN General Assembly resolutions, political, not legal bodies, linguistically fused:

• “Palestinian”

• “Territories”

• “Occupation”

into a single prescriptive brand.

Once Western media adopted the phrase as neutral shorthand, the argument was embedded in the premise:

• The land is inherently Palestinian

• Jewish presence is illegitimate

• Negotiation is unnecessary

This was not law. It was linguistic conquest.

Once language hardens in this way, legal conclusions begin to feel inevitable.

If the land is presumptively Palestinian, then:

• Israeli self-defence becomes aggression

• Israeli security becomes occupation

• Israeli war becomes criminality

Diplomacy is replaced by indictment.

Negotiation by verdict.

No actor has understood or exploited this dynamic more effectively than Hamas.

Hamas does not seek battlefield victory.

It seeks narrative victory.

Its strategy, documented in its own statements and by military analysts, relies on:

• Embedding in civilian infrastructure

• Using human shields (or human sacrifices)

• Maximising civilian casualties

• Provoking Israeli responses

Every civilian death becomes a legal and political asset.

This is not incidental.

It is deliberate.

October 7 should have clarified the moral landscape. Instead, it accelerated lawfare.

Within weeks:

• Israel was accused of genocide

• International legal proceedings were launched

• Moral equivalence was asserted between terrorists and a democratic state

The proceedings did not need to prove genocidal intent – the most demanding standard in international law. They needed only to plant suspicion.

That is **lawfare at its most refined**.

At this point, it is essential to reintroduce what international law actually says about war.

Here the work of John Spencer, Executive Director of the Urban Warfare Institute at West Point, is indispensable.

Spencer, drawing on decades of study of urban warfare, reminds us that the laws of armed conflict judge:

• Intent

• Distinction

• Proportionality

• Military necessity

Civilian casualties, tragic as they are, do not constitute war crimes.

Israel has taken measures to reduce civilian harm that Spencer and other military professionals describe as unprecedented. They include:

• Advance warnings

• Evacuation corridors

• Humanitarian pauses

• Precision targeting under extreme constraints

To erase these facts is not moral clarity.

It is legal distortion.

We need only look at the International Court of Justice – the principal judicial organ of the United Nations.

The Court adjudicates disputes between states and issues binding judgments on questions of international law; it does not prosecute individuals, but determines state responsibility and interprets treaties.

Given that institutional backdrop, the case brought by South Africa against Israel in December 2023 marks a profound escalation in the weaponisation of law. The application invokes the Genocide Convention, a treaty designed to prevent and punish the intentional destruction of a people. Genocide is not defined by civilian deaths, even on a large scale. It requires proof of specific intent – the deliberate aim to destroy a protected group, in whole or in part.

That high threshold was deliberate. It was meant to ensure that the gravest accusation in international law would not be diluted into a political slogan.

Yet in the proceedings against Israel, that standard has been steadily eroded. Genocidal intent has been inferred from selective quotations, decontextualized rhetoric, and the tragic consequences of urban warfare against an enemy that deliberately embeds itself among civilians.

- The effect has been to invert the object and purpose of the Convention itself. A treaty created to protect Jews from annihilation is now invoked to accuse the Jewish state of genocide – while the actual perpetrators of mass murder on October 7 openly proclaim genocidal aims without consequence.

This inversion has been magnified by widespread misrepresentation of what the International Court of Justice has actually decided to date. Former President of the Court, Judge Joan Donoghue, has publicly clarified that the Court has not made any finding that Israel is committing genocide. The provisional measures ordered by the Court were procedural and precautionary, not determinations on the merits.

And yet, in public discourse, “Israel at the ICJ” has been translated into “Israel found guilty of genocide.”

That transformation – from legal process to moral verdict – is **lawfare in action**.

And to understand how lawfare migrates from accusation into enforcement, we must turn to the International Criminal Court.

The International Criminal Court was designed as a court of last resort. Its jurisdiction depends on two foundational principles that are often ignored in public debate.

The first is state consent. Israel is not a party to the statute that established the International Criminal Court. Like many democracies, it did not cede criminal jurisdiction over its nationals to the Court.

The second is the concept of “complementarity” whereby the Court may only act when a state is unwilling or unable genuinely to investigate and prosecute alleged war crimes, crimes against humanity, or genocide itself.

Israel has an independent judiciary, a military justice system, and a long record of investigating its own conduct – often in real time and under intense public scrutiny. Under the Court’s own statute, that should preclude jurisdiction.

And yet, jurisdiction was asserted anyway.

The issue as to whether the Court even had authority was disposed of summarily by, what is called, the Pre-Trial Chamber and later upheld by the Appeals Chamber, despite profound legal objections by Israel.

The International Criminal Court says it can prosecute Israeli leaders because “Palestine” joined the Court Statute and the alleged crimes occurred on “Palestinian” territory. On that basis, it issued arrest warrants for Benjamin Netanyahu and Yoav Gallant, even though Israel never agreed to the Court’s authority and “Palestine’s” status as a fully sovereign state is disputed.

In effect, a contested theory of “Palestinian” statehood was treated as sufficient to confer criminal jurisdiction over Israeli nationals.

This legal leap did not occur in a vacuum. It unfolded against the backdrop of intense political pressure within the Office of the Prosecutor. The Prosecutor who drove this process is now on leave pending decisions relating to allegations of sexual harassment – an irony not lost on those watching the selective moralism at play.

Once again, the objective was not a completed trial. It was the issuance of arrest warrants, the generation of headlines, and the cementing of stigma.

Process became punishment.

What makes lawfare most dangerous is not that it persuades extremists, but that it persuades well-meaning people.

As Kelner shows, lawfare allows people to feel righteous while participating in the collective punishment of Jews.

It offers:

• Legal vocabulary

• Institutional validation

• Moral reassurance

It transforms ancient prejudice into modern advocacy.

This brings us to what is truly at stake.

We can debate Israeli policy.

We can criticize governments.

We can mourn Palestinian suffering.

We can argue passionately about peace.

But if we allow:

• Genocide to become rhetoric

• Law to become a weapon

• Zionism to be criminalized again

• Jewish self-defence to be cast as immoral

Then we are not defending international law.

We are destroying it.

Lawfare is not justice.

It is power dressed up as principle.

And for a people whose survival has always depended on words being taken seriously, understanding this history is not optional.

Closing:

Let me close by being very clear about the messages I hope you take away tonight.

1. **Lawfare is not a debate about one war or one government.** It is a phenomenon that transforms law into a weapon, undermining fairness and legitimacy before facts are even examined.

2. **The postwar legal order was inspired by Jewish catastrophe.** Genocide law was developed by Jews, for Jews, because existing law failed them. The irony – and moral danger – is that this architecture is now being used against the Jewish people and the Jewish state.

3. **Language shapes law and perception.** Engineered phrases like “Occupied ‘Palestinian’ Territories” pre-load moral conclusions, making legal outcomes appear inevitable.

4. **Anti-Zionism is recoded antisemitism.** Human-rights and legal language allows well-meaning people to participate in the stigmatisation of Jews while believing they act ethically.

5. **Preserving international law requires resisting weaponization.** Compassion for civilians, legal accountability, and moral clarity are all compatible, but law must not be hijacked for political ends.

6. **Words matter.** They shape legitimacy, morality, and the perception of violence versus self-defence. Vigilance in recognising weaponised law is essential to justice and Jewish security.

Thank you.