

USA Wants to DESTROY The ICC. Attacks Global Community | Prof. Yusra Suedi

The contempt with which the US is treating international law has found a new low point. The State Department now officially says it wants to dismantle the ICC. Dr. Yusra Suedi, an international law scholar at the University of Manchester and founder of SAIL, joins Pascal Lottaz to examine the US campaign against the ICC, the limits and value of international courts, pressure on smaller states, and Europe's role. They also discuss the Gaza case at the ICJ, why proving genocide is legally difficult, and why international law still matters. Links: SAIL Simplified Approach to International Law: <https://www.learnsail.org/> Yusra Suedi on Bluesky: <https://bsky.app/profile/yusrasuedi.bsky.social> Yusra Suedi on LinkedIn: <https://uk.linkedin.com/in/yusrasuedi> Neutrality Studies substack: <https://pascallottaz.substack.com> Merch: <https://neutralitystudies.com/shop> Donation: <https://neutralitystudies.com/donate> Timestamps: 00:00:00 International Law and Its Courts 00:07:03 The US Campaign Against the ICC 00:19:42 Courts as Justice and Political Pressure 00:34:00 Can the US Dismantle the ICC 00:43:31 The Legal Test for Genocide

#Pascal

Welcome back, everybody, to Neutrality Studies. Today we have a countrywoman of mine, Dr. Yusra Swedi, an Associate Professor of International Law at the University of Manchester. She's running the Simplified Approach to International Law, SAIL, Substack at LearnSail.org. Yusra, welcome.

#Yusra Suedi

Thank you very much, Pascal. It's so nice to be here.

#Pascal

It's nice having you here. I mean, you also grew up and studied in Switzerland, like me. You're from the French-speaking part, actually. So English is also a way for us to bridge the fact that we have two different languages, even though we're from the same country. And now you are teaching in the UK. How is that going?

#Yusra Suedi

I am. It's a really exciting time to be teaching international law, and I'm really grateful that the UK is a big advocate of academic freedom. That means we have passionate, interesting conversations with students about all the things there are to talk about in international law in the headlines today.

#Pascal

Yeah. And, you know, it's interesting that you're saying that you're happy about the UK, because the UK at the moment, in my corner of the Internet, is not that famous for being a big advocate of journalistic freedom. We've seen how the UK is trying to impose very, very, very harsh prison sentences on Palestine Action. And I know that you yourself have actually been involved in the genocide case against Israel, in the legal team. Can you give us just a little bit of background on this one, and how you are also looking at, you know, the UK being on the other side of the fence when it comes to this one? How are you looking at the whole thing?

#Yusra Suedi

Yeah. So in the last couple of years, there have been a series of cases that have come before several international courts and that have revolved around the Israeli-Palestinian conflict, but each addressing a different dimension of it. So you were right to mention the genocide cases — the main one that was brought by South Africa against Israel in December of 2023. And the other one that I've actually been involved in was a request for the International Court of Justice, which is the world court, the UN's principal court, to make an assessment about whether the Israeli occupation is illegal.

And so I was involved in that case, and the court actually did decide, in an opinion, that the occupation is absolutely illegal. Unfortunately, that has not led to the end of the occupation, but it has served as a really important authoritative tool for further political and diplomatic advocacy on the international and domestic level. But I'm happy to also talk about the genocide cases, because I know that has been such a source of interest over the years.

#Pascal

Do you think that the genocide cases, and in general the approach of international law, are still something that can help us in 2026? Because it seems that we are going through an intense phase of, you know, might makes right.

#Yusra Suedi

Yeah, I think that in the current era that we're in, which certainly reflects might makes right by several great powers, one source of solace for many people, including lawyers, is international courts. There's something growing that is called strategic litigation law. It's the ability of judges to actually do their best to clarify but also remind states of their legal obligations and to encourage other relevant institutions, for example, UN institutions, to enforce as best as they can these important international laws. So I still think that even though they're not free of their own limitations, the institutional structure is an important kind of source of hope for many people, especially during these difficult times.

#Pascal

Can you just give us a very short rundown of these international courts? Because while international law is about 400, 450 years old, depending on where you set the starting date, the court system itself is relatively new, right? We have the International Court of Justice under the United Nations, but then also the International Criminal Court and the different ad hoc courts. So the system that we have today with the courts—how old is that, and how robust would you say it is?

#Yusra Suedi

Yeah, so the idea of international dispute settlement—states or even an individual against a state basically resorting to a third party to resolve some kind of conflict they have in a peaceful way, as opposed to going on the battlefield—is something that has existed for actually many, many decades, possibly as long as international law itself prevailed. But this modern form of brick-and-mortar international courts scattered across the world, each dealing with their own areas or having their own realms of competence, that's a little bit more of a recent idea.

So the International Court of Justice—before that, we had kind of a similar body that existed post-World War I. And I think a newer and a lot more controversial one, which we may have the opportunity to talk about later in this conversation, is the International Criminal Court, which really, you know, has only existed for about 25 years. And so each of these has kind of come up against a significant amount of challenges, and also has its limitations in terms of how they were designed and what they can and cannot do. But I still think that we are better off having them than not having them.

#Pascal

Hey, just a very quick note. The best way to support this channel is by signing up for my free Substack. You can also help with a paid subscription there, or you can get some of our new merch on neutralitystudies.com. Links below. See you there. I mean, I completely agree. I think we're better off with them. But there are people who disagree and people who strongly disagree. And as a matter of fact, just today or yesterday, the U.S. came out with a note to the media informing everybody that they are from now on going to fight the International Criminal Court with all they have. Let me just read to you maybe the first passage of the statement that they made. It's called "State Department Launches Campaign to Dismantle International Criminal Court's Threat to American Sovereignty."

Today, Secretary of State Marco Rubio announced a sweeping campaign to dismantle the threat posed by the ICC to U.S. sovereignty. The campaign will feature a whole-of-government response to systematically disable the ICC's ability to operate, target American servicemen or officials, or otherwise threaten American sovereignty. And then it lists a couple of things that it will do, including diplomatic calls from the Secretary of State, Deputy Secretary, and Ambassadors to members of the

senior leadership of foreign nations, highlighting the abuse of the ICC. Nations that partner with American law enforcement and the U.S. military, or that enjoy the benefits of the U.S. security umbrella, are called upon to reject the ICC's purported authority—blah, blah, blah, yada, yada, yada—basically saying that they are going to put, at this point, only diplomatic pressure.

Because we know that the United States actually also has a law on its books that would allow it to go into The Hague and physically take out Americans if there was ever somebody imprisoned there through the ICC—the so-called Hague Invasion Law. It's quite insane. And they've had that for a while. So the U.S. opposition to the ICC is not new. And the U.S. is, of course, not party to the Rome Statute, the founding document of the ICC. But this kind of bellicose language against an international court is something that, at least, I haven't seen yet to that level. How does this strike you?

#Yusra Suedi

I can't say that it's surprising. The U.S. has always had a very strong position when it comes to the ICC. Interestingly, it was quite actively involved in the negotiations of the Rome Statute, which is the ICC's founding document. And I suspect that this was more to kind of ensure that it would be designed in a way that would not harm the U.S. or the U.S.'s interests. But increasingly, with time, you know, I think the approach of the U.S. has been very clear towards the ICC, especially under the Trump administration, where we've seen the U.S. sanctioning judges on the bench who have moved forward with an arrest warrant against Benjamin Netanyahu and Yoav Gallant.

And I think that was definitely a moment, a more intense moment where we realized the extent to which the U.S. is very much against the ICC. But there were earlier episodes as well, when the ICC opened an investigation in Afghanistan, which obviously involved the U.S. It's very unfortunate, and it also showcases the limitations that I mentioned earlier of some of these courts that are very vulnerable to states' funding and support in many ways.

#Pascal

You know, one of the criticisms about the current international system to which the ICC belongs is that it was basically shaped along the lines of Western states and that it represents, just like the Bretton Woods system, just like other systems like the international banking system, the structural power of the West against the rest. And if you look at the record, the track record, especially of the ICC, of who they actually convicted for war crimes, they're all Africans. They're all heads of state or officials of African nations. And there are famous quotes of people who said, like, yeah, the ICC is there for us to use against Africans and so on.

Not a single Western leader had been indicted until the indictment of Benjamin Netanyahu and Yoav Gallant, which is, of course, what made the U.S. extremely angry. But that only came after, at the same time, Hamas leaders were listed by the ICC. And of course, that came two years after the ICC

issued an arrest warrant against Vladimir Putin and one more Russian official. And the West was applauding this. We remember very strong words of support by then President Joe Biden. And then, when the arrest warrants against Mr. Netanyahu came, all hell broke loose. So what do you make of this accusation that the ICC overall is one of these instruments against the rest of the world, although we're seeing that now one of the architects is actually not happy with it at all?

#Yusra Suedi

Yeah. Well, I think if we look at the current investigations that are open before the ICC, there are actually quite a few that extend beyond the African continent. So there are investigations that are open in, for example, Myanmar, Bangladesh, the Philippines, Venezuela, Ukraine, Lithuania. So there is, I think, a greater balance that the ICC has sought to achieve. Look, I think that the International Criminal Court is actually a necessary idea. I think the history of geopolitics has indicated that something like this was needed in the world. And it was a very kind of long-standing project that took many, many decades to develop. I think because several generations of lawyers and government officials and human rights activists considered that something like this needed to exist in the world.

Now, I do also think that in its implementation and in its design is where some of the flaws and limitations lie. But I think, like any other court, implementation can be enhanced and improved through practice and through time. And courts are very receptive to public opinion, to their own kind of clientele — those that they're serving, those who are supporting them. And so I think that they are adaptable to criticism, to change. And I think that it's a good thing, it's a strength, because that means that these institutions can continue to serve the people, to serve the international community as best as they can in light of developments.

#Pascal

So you would say that despite all the justified criticism about the conduct of the ICC in its 25 years of existence, all hope is not lost. And this might actually be an institution that could be properly impartial going forward and actually also, you know, go after Western leaders, I mean, every once in a while, because there's no shortage of war crimes on the Western side either. The question is, why are those not being dragged in front of the court?

#Yusra Suedi

Yeah. I mean, the ICC has faced a lot of pressure since it was established. But I think this recent period has demonstrated a really heightened level of pressure that I'm not sure the ICC has faced at this level of intensity before. Its prosecutor, Karim Khan, is currently undergoing allegations of sexual misconduct, which means that he is currently suspended. And that obviously impacts the ICC's ability to carry on with its functions, even though those in his place have been doing a really good job. The judges are also currently being sanctioned. There are some controversies around

different cases. And then you have the U.S. coming out and declaring almost war against the ICC. Right. So it's up against a lot. But I think it depends on whose perspective you're asking for. I think that several victims around the world who live in certain countries where investigations are currently ongoing will say that the ICC is probably their only hope.

#Yusra Suedi

A glimmer of hope that they have. And I think for that reason alone, it is a worthy institution, and it is a worthy project.

#Pascal

I mean, from your own experience with these institutions, do actually weaker states, especially states, let's say in Africa, in East Asia, in South America, do they attach a lot of value to these courts? Because in the end, international law is actually an exercise in trying to defend the weak states from the strong. And then it's usually the strong arguing that, well, at the end of the day, it's not even very useful to have these institutions, right? We're seeing that right now. Basically, the United States saying that they need to protect U.S. sovereignty means that they want to protect U.S. impunity—impunity to conduct war crimes on any kind of level without needing to answer to anyone at all, right? And the ICC shows that it's directly opposed to that kind of mindset, isn't it? So how do smaller states, in your experience, actually look at these institutions that aren't a danger to them as well?

#Yusra Suedi

Yeah. From my experience, I think there has been a bit of a polarized sentiment because, on the one hand, I think there are a lot of communities around the world who feel like, if not international law, then what? What is there really that can help us out of our situation? But then, on the other hand, a lot of disillusionment, frustration, disappointment when international law doesn't deliver in certain cases because of great powers and the way that they can influence or block certain processes, or because of other reasons related to things like consent, or the competence of courts to deal with certain issues, or financial-related reasons—different things that can actually just come in the way of justice being served in their favor. So I think I would say a lot of people have—it's quite polarized from what I've seen—but there seems to be a bit of a complicated relationship with international law.

But we've actually seen in recent years, tied to our conversation about courts, a lot of smaller states, as you call them, who have actually resorted to approaching these international courts and asking them to do something about their problem, right? So climate change is a really great example, where you have small island developing states who have mobilized before international courts to essentially kind of remind greenhouse gas polluters, which tend to be some of the major countries of the world, about their obligations and create a narrative of accountability. And we can see other examples across international criminal law. We spoke about genocide earlier in the conversation. So

I still think that for smaller states, these institutions and international law at large are tools that they are willing to use and willing to see if they can benefit from to serve their needs better.

#Pascal

I had two human rights defenders on my channel before, from Germany, and they pointed out to me that international law and these courts are not just about serving justice. That is what, in a perfect world, they would do. But in an imperfect world, they are a venue, a place, and a way to build political pressure for or against a certain thing. How do you see that? If you had to say, how important are these two aspects to each other? Is it like 40-60, 50-50? In the real world, the impact that these courts and cases can have—are they more of an activist, political nature or more of a judicial nature to you?

#Yusra Suedi

I think both can be true. And I think that's something that is largely misunderstood about international law and which is very frustrating. And I completely understand that frustration, and I feel it sometimes myself, is that international law is very process-driven. And a lot of the time it is a process. And that's where the political pressure that you mentioned comes in handy, because a lot of the time, especially in light of terrible atrocities and incidents and things that are very urgent, that we want resolved, that we want to stop tomorrow.

A lot of the time, the processes, the attempts that we will make to seize international institutions, to go to court, or to go to the negotiation table, these things are—the outcome more often than not will be that we now have a tool, an output, a statement, something that will serve to enhance political pressure. I think that is most true before international courts that don't have a police force or an army or a body that can actually enforce their judgments and decisions. And for very controversial decisions, even less so. So let's take an example of the case again with South Africa and Israel before the ICJ. When a judgment actually does come out, even if that judgment were to say that Israel has committed genocide.

On paper, that judgment can be enforced by the U.N. Security Council. But of course, in reality, given the U.S.'s presence as a P5 member with the veto on the Security Council, it's very, very unlikely that the U.N. Security Council will enforce that. Right. So enforcement is the big bad wolf in international law that we often lament about over and over again, and with good reason. What that means for international courts and the work that they do much of the time is that those statements serve as political pressure, which in and of itself, I think, should be seen as very important. But what it means is that we have to accept being patient with what will likely be a much longer process, a longer road to justice.

#Pascal

Yeah, then it's not that these states don't care, right? The fact that the United States is trying to dismantle the ICC, the fact that Israel is appearing in front of the ICJ and calls it ridiculous and anti-Semitic and whatnot, just shows that they get angry at this, right? Even though they can ignore these institutions of international law and just go on with their mass slaughter and their genocide, it still irks them. It's still something—it's a pain in the side that doesn't stop them, but it is a pain.

So can you... Do you maybe have a little bit of background on how this pain is supposed to work on them? Because, I mean, the people who set these courts up didn't do so blue-eyed, thinking that, oh yeah, we make an institution, we give them a house somewhere in The Hague, and then things will be settled, right? I mean, the people who work on this are actually quite realist in terms of understanding what can and cannot be done. But how can these institutions actually increase the pain for some of these offender states?

#Yusra Suedi

Well, I think you've touched on an important point, which is that even though there tends to be a narrative every couple of years that international law is weak or international law is dead, I would actually argue that international law is so powerful that it has resulted in states doing everything they can to design it in a way that won't harm or impact them, right? So historically, this is kind of where the idea of consent came from. So much of international law rides on this idea of consent, right? Right. I can't appear before this international court if I didn't consent to doing that. I won't be part of this treaty unless I consented to be part of this treaty. And a lot of people say that this is essentially where the origin of international law's weakness lies. Right.

But I think that this design alone actually demonstrates that even several decades ago, it was realized just how much international law can wield power and actually be frightening to states and cause pain to them. This is kind of why we've ended up with this design. This is also why, in the modern day, we have, for example, the U.S. speaking out against the ICC and villainizing it. It's actually because of the fear that it has of what the ICC could actually say about what the U.S. has done or what Israel has done. I think at the end of the day, as much as certain people try to diminish what international law is or what it can do, the language of politicians and of states actually indicates that international law has the potential to cause them pain and scares them in many ways.

And this is why they use the vocabulary that they do in certain instances. This is why they condemn certain actions that they feel could actually make life a little bit more difficult for them. This is why some great powers have a bit of a polarized relationship with international law as well, where they can very overtly disregard some of these rules and principles and, for example, decide to just invade Ukraine or attack a certain country overnight. But at the same time, they will engage with the language of international law. They will justify their actions using frameworks of international law. They still care about how they're perceived and what certain international law violations might mean for them geopolitically, economically, perhaps, and in other ways.

#Pascal

And this is very interesting. And it also shows a difference in the approach to international law by these states. I mean, the U.S., back in 2003, when it attacked Iraq, tried very hard to build a case that this is legitimate self-defense, right? We need to do this as a preemptive strike or preventive—yeah, preemptive, preventive—strike in order to protect themselves according to the UN Charter and whatnot. Now, in 2026, when they again attacked Iran, they didn't even bother to put any of this out, not at all. So it just shows also a progression in the U.S. approach. Russia, on the other hand, tried very hard in 2022 to build actually a legal case of saying, like, we recognize the Donbass Republics.

They asked us for help to defend ourselves against the Ukrainians. Therefore, collective self-defense. Therefore, Article 51 of the UN Charter. Therefore, everything is fine. And of course, this is ludicrous as hell. But whether they try or not is kind of interesting, isn't it? The United States today strikes me as being at the point where it just tries to, if it can, completely and utterly ignore international law—in the case of the ICC, even officially fight against it, like all out. It's an interesting battle to pick. And my gut feeling is it's going to be a very difficult one for them to fight against international law. What is your feeling?

#Yusra Suedi

Yeah, absolutely. And I would say that even though Trump came out a couple of months ago and said, I don't really care about international law, I don't need to respect international law, I just care about my morality, and that's essentially what guides my decisions, right? Even though he said that in one instance, if you listen to the justifications that he himself, J.D. Vance, Marco Rubio, and others have actually provided for why they went into Iran, for example, or why they went into Venezuela, they are engaging with international law, even though they're not saying, you know, under international legal frameworks explicitly. What they are doing is using international frameworks to justify their actions.

Iran, for example, one of the reasons that they kept talking about was the imminence of an Iranian attack against the U.S., which is on an international legal threshold. Also, interestingly, the U.S.—it was Reid Rubinstein, who's the legal advisor in the Office of the Legal Advisor under the Trump administration—actually published a statement on Operation Epic Fury and international law, where, and this was on the 21st of April, 2026, he essentially went through a very long kind of legal justification of that operation, right? So it is something that I feel especially great powers will say they don't have disregard for when they feel excessively condemned for it. But they will always, at the outset, try and engage with it and work within those parameters. And it's just an interesting, slightly schizophrenic kind of relationship.

#Pascal

It's one of the things that we in academia, and actually international law itself, take as an indicator of whether or not states bind themselves by certain promises. I mean, an important part, for instance, in my field is military manuals, right? The manuals that states write, with which they then educate their men under arms. And these manuals are highly, highly technical in international law and very, very detailed, right? And that's then one of the indicators that you can take in front of a court and say, like, look, these are actually the rules that the United States itself recognizes for how their staff has to behave. And if they don't, then, well, they broke some of these rules that are recognized. The whole point is about recognition, right? That everybody recognizes these as the rules of engagement and whatnot. This one, we don't really see big changes, do we? Like, these states, the technical aspects of manuals of war and whatnot, they seem to be as firmly in the saddle as before.

#Yusra Suedi

Yeah, I would agree with that. And I think it just serves as an example to show that, you know, as much as the media and the public will make statements, which I completely understand because they are rooted in frustration and emotion, and we make statements that, you know, we now live in a lawless world and international law is dead. I think as long as we are human beings, we need to run by laws, systems, guidelines, frameworks, and those exist even at the international legal level. And I also think that as much as we feel despondent about international law today, the narrative of its absolute breakdown is something that we've seen throughout history. Right? In the 1930s, during the Cold War, 1999 with Kosovo, Iraq, of course, with 2003, Syria with 2013. Right?

So I'm not entirely convinced by this narrative about, you know, states not using or referring to any law, or us living in this lawless world, or international law being dead. I think that we are definitely at a point of crisis, but I think that the legal rules are still there. They're still actually engaged with a lot more than you think. And of course, there are problems with the extent to which they are respected in certain contexts. But I think that history has shown that that's just cyclical, and that we will get to a point in the future, hopefully, where international law might change, it might improve for the better, and there might be a stronger sense of compliance and stability. And sometimes it just takes breakdowns like this to bring us back to those moments. Yeah.

#Pascal

Yeah, and historically speaking, it's the end of these big international calamities that then lead to a further strengthening of international law. It was the case after the Crimean War that created a lot of new jurisprudence and treaties. It was the case at the end of the First World War that actually gave us the precursors with the League of Nations and the Court of – what was it called? It was the Court of Justice and Arbitration? No, what was the name? The precursor of the ICJ?

#Yusra Suedi

Permanent Court of International Justice.

#Pascal

Permanent Court of International Justice. The Second World War broke the court and everything, and an entirely new body of human rights law, actually. So the end of crises often brings this kind of stuff, strengthens international law. But maybe let's— I would like, on the technical aspect, to ask you: if the United States now really does this, you know, and wants to fight the ICC, you know, legally the way and diplomatically the way it is fighting militarily Iran, what would it take for the U.S. to dismantle the ICC, for them not even being part of the Rome Statute? They have kind of a problem, right? They have no way of actually properly engaging with it. What would it take to kill the ICC?

#Yusra Suedi

Well, arguably, its Hague Invasion Act already tells us what it is willing to do to destroy the ICC.

#Pascal

But legally speaking, I mean, whose arms do you have to twist in order for the ICC to be dissolved by its members?

#Yusra Suedi

What I can imagine happening is perhaps, in a similar vein to what it's doing right now, the way that it is sanctioning judges, perhaps threatening to sanction states who financially support the ICC or provide other forms of support to the ICC. Because without the member states that constitute the Rome Statute, which is essentially the founding document of the ICC, without those member states who turn up to the Assembly of State Parties, who essentially ensure that the ICC is running, then, you know, there can't be a functioning court. So it would perhaps be through using several channels of diplomatic, political, and financial pressure in that sense.

#Pascal

How big is the Assembly of State Parties? It's a large number, right? It's not just the West plus like eight, nine, ten others. It's like most African states and most Southeast Asian states, most states in South America as well, right? So the non-state parties are actually quite a minority, right? The United States is not a state party—Israel, Russia, Ukraine—but the large majority is. Sorry.

#Yusra Suedi

Yes, I have the right number, sorry. I don't know if you would want to—we can talk about that after. But it is 125 parties. 125, okay.

#Pascal

But that means that even if the United States, let's say, pressures all of its allies in Europe and Japan and South Korea to exit that thing, we would still end up with 75, 80 or so remaining state parties. So the United States has picked itself here a really huge uphill battle of trying to undermine the structure of the Rome Statute.

#Yusra Suedi

Yeah, I think so. And to be honest, I think that this will probably not succeed, simply because, as you correctly pointed out, these indirect channels would be unlikely, in my view, to dismantle the ICC altogether. Of course, the Hague Invasion Act itself proposes an outright invasion, right, as indicated in the title. But even that would be a lot more unlikely, extremely complicated, as obviously the Hague is based in the Netherlands, which, you know, is a NATO member. And so it raises similar problems that the Greenland interest raised, right? So I don't think that we should worry about the ICC disappearing from today to tomorrow. What I think we can be slightly concerned about is how much it will be weakened or can be weakened, and in that sense, how difficult it will be for it to actually carry out its functions, especially with respect to very urgent and very serious cases like Venezuela or like Palestine.

#Pascal

Right. No, of course, the court will probably suffer. But what do you think it does on the political level to the Europeans? Because they've, you know, written the rules-based international order and international law still. And both of us, we know these two terms are not equal. One is kind of this made-up thing, but the other one, international law, is real and is internationally, collectively shared. What do you think the Europeans will do in this situation, where it seems that the U.S. is now in open confrontation with a very important pillar of their concept of how the international world should run? Because the ICC, the Rome Statute—I mean, it's even called the Rome Statute because it was negotiated and signed in Rome. In Europe, they're quite proud of that. And it's, of course, in The Hague, right? And the Netherlands is proud of its international law tradition. Is this going to drive an additional wedge between the U.S. and Europe?

#Yusra Suedi

Very likely, and an additional wedge, adding to many other instances of overt clash between the European countries and the US when it comes to different geopolitical issues and how those relate to international law. So arguably Gaza in some respects, but I think the big one where we saw really

conflicting views was obviously Greenland, because of Europe's interests. Iran was also one where the response of the EU was very divided. There were several different approaches. Not everybody took kind of the same stance when it came to international law.

And so it's these moments, actually, where I think we need more than ever for European countries to take a common stance that does not involve cherry-picking, that does not involve political considerations of what benefits us the most, but really just applies international law as it was meant to be applied. The standards are fairly clear and should apply to every country or every situation in the same way across the board. And I think that the behavior of European countries over the past couple of years has actually served to further weaken narratives about international law because of this selectivity and double standards, which actually harms the potential that it really has to be a strong standard to ensure global stability.

#Pascal

We are actually seeing a move toward the Global South calling out the Global North about its own hypocrisy, right? It was, in the end, South Africa that brought a case against Israel, and they actually gathered a lot of support for that. I don't even know, as we speak today on the 14th of July, 2026, how many state parties there are now to this litigation.

#Yusra Suedi

Yeah. So there are currently 22 interveners. And to be clear, in a normal case, you'll just have two parties, right, against each other. That's like a normal court process. But the International Court of Justice has this special separate procedure where other states who feel like they have something relevant to say, who have something at stake in the case and want to get involved to offer their interpretation or their take on how the case should be dealt with, can do that.

So in this instance of South Africa versus Israel, we now have 22 intervening states involved — 18 who are siding with South Africa and essentially arguing that the Genocide Convention should be interpreted in a slightly more balanced way that makes it slightly easier or more feasible for the court to actually find that genocide has happened, versus a tiny minority of states who are arguing that the very high bar the court currently sets to determine whether genocide has been met should absolutely be kept. And I think the political motivations behind these positions are quite clear.

#Pascal

Can we use the last part of our discussion to go a little bit into this? Because in a private conversation that we had, you pointed out to me that the case for finding that genocide is taking place in Gaza is actually not as strong as many of us might believe, and that this very high bar that you alluded to is the issue. What is this high bar, and why is Gaza not obviously a case of genocide through the ICJ, although the ICJ did find that there's reason to believe that it might be going on,

and they had a first—what is it called—an injunction against Israel, right? But that's not the same as a final verdict on the case. Can you explain why that bar is so high? So what does the court recognize as a case of genocide?

#Yusra Suedi

Yeah. So, look, there's a clear definition of genocide under international law, right? And that definition is found in the Genocide Convention. And it's essentially where you are doing at least one of the following: you're killing people in a group, you are seriously hurting people physically or psychologically, you are deliberately creating living conditions that just make it really hard for anybody to live, you're stopping the group from having children, or you are forcibly taking the group's children and giving them to another group. Right. But it's not enough for you to just do those things.

Actually, the framing that will really determine whether or not this is a genocide is your intention as you are doing these things. So it has to be proven that you are doing these things because your intention is to destroy the group. So how do you actually prove that someone has the intention to destroy a group? In practice, there are two ways. The first is if that person says so—just overtly says, you know, this is my plan. Hitler, for example, with the Final Solution, right? Then the other, and this is a lot more rare and difficult in practice—and if this was what a court had to deal with, its job would be that difficult.

But what actually happens in most, if not all, cases is that you have to assess the génocidaire's behavior. So you have to assess the alleged person committing genocide, or the country committing genocide—their behavior. You don't have direct proof like a confession or a written order, so you just have to guess from a bunch of things that they've done. So how does the court actually guess? It has set a standard, and that standard is that it has to be sure beyond reasonable doubt. So it has to be pretty sure that what's happening is genocide. So what would make the court pretty sure—like sure beyond reasonable doubt? What would make it that sure is that there is no other explanation for that behavior aside from wanting to destroy.

#Pascal

The intention of genocide, yeah.

#Yusra Suedi

Yeah, yeah. And that's how intent is basically assessed. So I look at a series of, you know, behaviors, a pattern of conduct. So it's not just like one thing. It's not like we're going act by act. We don't kind of require that specific assessment or proof for each individual killing or each individual act. We look at a whole pattern together, right? And then we assess kind of, OK, is this the only reasonable explanation for what has happened? Right. And a lot of states have argued that that is

just way too high a bar because in the court's own history, it's really only found genocide in one very specific instance, which was in Srebrenica, which was in the context of the Bosnia versus Serbia case in 2007.

#Pascal

How did it find that there? Because the Bosnia and the Srebrenica case is 8,300 killed males in that village, with very clear intent—very clear. And I think we even have the orders, right, that were given to eradicate all males above the age of 16, right? So how was it established there? And why is it that we have so much genocidal language coming out of Israel, including its top political leadership? Why is it that that genocidal language is not enough to prove what you said before? Well, they just said so, because they keep saying so—actually, that they want to destroy the Palestinians and never come back, and all gone. I mean, why is it that that doesn't count?

#Yusra Suedi

So it's not that it doesn't count, Pascal. I think it's too early for us to know what the court will decide, right? And unfortunately, we're going to have to wait a really long time to know what the court has decided. My estimate is that we won't be seeing a judgment on this case about genocide until roughly 2030.

#Pascal

So justice here will be very, very slow.

#Yusra Suedi

Now, in a very early stage of the standoff between Israel and South Africa in early 2024, we got a little glimpse of what arguments will likely be really fleshed out about genocidal intent, because they already kind of had an opportunity to share their positions on that. And Israel argued that it had several arguments in response to that specific aspect of, like, well, isn't the intent very clear in this case? So it said a couple of things: one, that a lot of this was just rhetorical wartime language; that it was made by figures who were actually outside the actual chain of command; and that some of that language had already been repudiated.

That some of that language was actually misleadingly or partially quoted. So, for example, the Amalek statement—that it was shortened, taken out of context. So it has had some responses. And on top of that, it added that several counteractions, other things that it has done, have actually indicated that it does not have genocidal intent at all. So, for example, humanitarian efforts that it has made—dropping letters to citizens to tell them to evacuate certain spaces, warning citizens to leave and avoid, you know, civilian harm. So all of that taken together is, I think, the essence of the Israeli argument that we will see developed much further as the case proceeds.

#Pascal

Okay, okay. So Israel does have counterarguments that are not to be underestimated in terms of how the court looks at the case. I mean, even though on our side of the ledger it seems to be very clear and obvious, the court cannot take that biased position, right?

#Yusra Suedi

Well, I think what Israel is really relying on, and, you know, the three other kind of interveners—interestingly, one of them was Hungary—but given the change in the Hungarian political position towards Israel, we might interestingly see it kind of retract or, you know, change its position as the case proceeds. But Israel has essentially relied on and is relying on the high standard of the court, because if the court has to essentially be, you know, really sure beyond reasonable doubt and really believe that with the evidence presented, the only possible inference from this is genocide, then Israel is saying things like, well, there were lots of other reasons. I did a lot of other things.

And on top of that, what we did may have been—I mean, it hasn't said this—but it could be argued that what it's doing is possibly like ethnic cleansing or other things like, you know, war crimes, crimes against humanity, other things that are absolutely atrocious, right? But for the bar of genocide, you know, this is not what we're discussing, and that's not specifically met, right? So you're completely correct that, you know, the average person just looking at what's happened on the news would be like, this suspiciously looks like a genocide, right? And I think it's important for us to distinguish—whatever the outcome is of the judgment—it's really important for us to distinguish a court that has decided on this using a very specific bar that is really only applicable to courts versus anyone else, you know, who—we all have the right to assess and decide whether something is genocide or not.

And I think it's not necessarily because a court decides that it is or it's not that that is the only truth or the only version of events. So, for example, you know, in the former Yugoslavia cases, there was a lot of disappointment across the region that Srebrenica was the only place where genocide was found. And for a very long time, you know, many in that community disputed and would probably to this day still dispute that, as this is not my truth. This is an institution that has a different and very specific standard based on international criminal law, right? So that's an open question, I think, for us to think about and also to just bear in mind when the judgment comes out.

#Pascal

Right, right. No, that is important to keep in mind. Yeah, so, I mean, overall, international law is no magic wand that can suddenly make us live in a better world. At the same time, it's also not a magic wand that will suddenly just disappear. So it probably will remain a thorn in the side even of great

powers. We will see what will come out of this new war against the ICC that the United States just declared. Yusra, is there anything that we haven't covered that you really, really would like to get out?

#Yusra Suedi

No, not for now. This was a fantastic conversation. Thank you so much.

#Pascal

No, thank you very much for this. And then again, everybody, I want to remind you, you actually see it in Yusra's name. She publishes a lot about international law and you're trying to make things understandable to everybody under LearnSal.org. That's how people will get to your Substack, right? Yeah, that's right. And any other place to find your writings or your publications?

#Yusra Suedi

Well, you can just look me up on other social platforms — X, Bluesky, LinkedIn — if you just look up my name. But my work there is a lot more of the academic work that I produce, whereas SAIL is my passion project at the moment for absolutely everyone.

#Pascal

Look up Yusra Swaileh's Substack. It will be linked in the description box below. Yusra, thank you so much for your time today.

#Yusra Suedi

Thank you so much.