

FAILING TO PROTECT



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Failing to Protect

*The UN and the Politicisation
of Human Rights*

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For Andrew
(and Alfie)



CONTENTS

<i>Acknowledgements</i>	ix
<i>Author's Note</i>	xi
<i>Prologue</i>	xiii
1. International Law: What Law?	1
2. The UN: A Brief Explanation	11
3. International Humanitarian Law, Criminal Law, Human Rights Law	25
4. Universal Rights or Cultural Relativism?	37
5. UN Human Rights Machinery	47
6. Look! We Did Something: South Africa and Israel	57
7. Stop Shouting, Start Helping: Post-colonialism, Human Rights and Development	69
8. Human Rights of Migrants: What Rights?	79
9. The 'Great' Powers	87
10. Out of Sight, Out of Mind: Hidden Abuses Across the World	97
11. The 'Good Guys'	119
12. It is Not All Doom and Gloom	127
13. Alternatives: A Radical Proposal	141
14. Alternatives: A Less Radical Alternative	151
15. Alternatives: Reform	163
<i>Notes</i>	169
<i>Index</i>	209



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LOOK! WE DID SOMETHING

SOUTH AFRICA AND ISRAEL

On 9 May 2004, two unmarked vehicles drove down into the village of Goi-Chu, located within the Urus-Martanovski region of Chechnya. Zelimkhan Isaev was at his home in Sverdlov Street when gunmen burst into his house. Mr Isaev was dragged out of his house and taken away in the cars shortly after 9 p.m. The next day, federal armed forces returned to the Isaev family home to conduct a search. Witnesses say that after three hours nothing illegal had been found, and that before leaving one of the soldiers placed a hand grenade under the pillow in the bed where Mr Isaev slept. On 11 May, it became known that Mr Isaev's health was deteriorating after being severely beaten and tortured in order to extract his signed confession that he had sabotaged military equipment in Grozny. He was not admitted to hospital until 12 May, by which point he had three broken ribs and badly damaged internal organs sustained during beatings as well as numerous traces of electric burns. He remained under armed guard in the hospital for four days until Mr Isaev's relatives were allowed to take him to a hospital in Ingushetia on 16 May. The young man died that night. Doctors established that his death was caused by the beatings and torture sustained since 9 May. He was 26 years old.¹

Zelimkhan Isaev was abducted, tortured and beaten to death during the fifth year of armed conflict in Chechnya. His is just one of the tens

FAILING TO PROTECT

of thousands of stories of abduction, displacement, torture or killing that took place during the second Chechen war. A month prior to Mr Isaev's death, the United Nations Commission on Human Rights considered whether to pass a resolution condemning human rights abuses in that region. The draft resolution called on Russia to cease violations of international humanitarian law and human rights and to investigate and punish all incidents committed by its agents. In particular, the resolutions expressed concern about 'forced disappearances, extrajudicial, summary or arbitrary executions, torture, ill-treatment, arbitrary detentions, attacks against humanitarian workers, continued abuses and harassment at checkpoints'.

By 2004 tens of thousands of people had been killed during the armed conflict in Chechnya.² Arbitrary detention, torture and forced disappearance had become the norm within that region. Gross and systemic human right violations were committed by Russian agents with impunity. Local officials acknowledged the discovery of 49 mass graves where nearly 3,000 civilians were buried.³ Hundreds of thousands of people were displaced during the war, and in 2004 there remained 65,000 displaced persons in Ingushetia alone.⁴

At that time, the Commission was the main UN human rights body. Two years later, it was disbanded and replaced with the Human Rights Council.⁵ The Commission's failure was attributed to its excessive politicisation and its lack of action on many grave human rights situations.⁶ But that is not to say that it did nothing; far from it. One thing the Commission did was focus on Israel and the Occupied Palestinian Territories.⁷ Some scrutiny was necessary, but the Commission focused disproportionate and excessive attention on Israel compared with similar or even worse abuses elsewhere.⁸

The 2004 draft resolution on human rights abuses in Chechnya⁹ was defeated by a vote of 23 against¹⁰ to 12 in favour,¹¹ with 18 abstentions.¹² Despite the ongoing armed conflict and grave human rights violations, the Commission had similarly voted against taking action on Chechnya in the previous two years. The European Union tabled the resolution, and all 12 votes in favour came from Western states who were members of the Commission. Unsurprisingly, Russia voted against the resolution. Of greater interest are the countries from two political blocs that might have been expected to support Chechnya.

A number of decolonised countries voted against the resolution despite Chechnya clearly trying to throw off the yoke of its former

LOOK! WE DID SOMETHING

imperial master. The political pay-off for a state supporting the resolution on Chechnya would be damaging its own relationship with Russia. It is clear why many states would be reluctant to stoke the flames of Russia's ire. While the Cold War has ended, Russia remains a powerful ally and a dangerous enemy. Russia's economic and military might remain a crucial factor in international and diplomatic relations. Countries take this into account when determining whether or how to act. The more reliant a country is on a powerful ally—for trade, diplomatic protection or even military backing—the more likely it is to place national political objectives in front of the subject matter of any tabled resolution at a UN body.

OIC members would usually be expected to support a Muslim state, such as Chechnya. However, those countries also either abstained or blocked the resolution on Chechnya. In 2003, Russian President Vladimir Putin attended the OIC summit in order to discuss his country becoming an observer member of that bloc.¹³ Islam is an official religion in Russia and the Muslim population in that country is one of the largest in the world. Russia's links not only with individual OIC members but also with the bloc itself undoubtedly played a significant, if not primary, role in those states abstaining or voting against the resolution on Chechnya.

The lesson is clear: national and regional political objectives supersede concerns about human rights.

Even Western countries—usually at the fore of promoting democracy and human rights—were not as proactive as one might have hoped. The US refused to sponsor the resolution. Having caused significant tensions within the Security Council by invading Iraq, the US was wary of worsening its relationships with Russia and China and its stance at the UN immediately after the invasion was to avoid antagonising them.¹⁴

While states used the draft resolution on Chechnya to further their own unrelated political objectives, human rights abuses in that region continued to be perpetrated with impunity. And it is not just Chechnya that flew under the UN's radar. Other crises or ongoing situations were afforded scant attention within UN human rights bodies. The armed conflict in the Democratic Republic of Congo has claimed over 6 million lives since 2000.¹⁵ Women continue to be raped and tortured by government forces, rebels and militia, all acting with impunity. Tens of millions of people have been displaced, with many having fled their

FAILING TO PROTECT

villages before they were looted and burned to the ground.¹⁶ Occupation and systematic human rights abuses have occurred in, for example, Kashmir, Northern Cyprus, Tibet and Western Sahara. Minority groups like the Kurds are displaced for generations, stateless and continual refugees. Yet the UN, particularly its main human rights bodies, almost always fails to take action and frequently declines even to discuss those human rights situations.

In the modern, globalised world with constant media scrutiny, attention is being increasingly drawn to the UN's lack of action on human rights situations. States cannot simply sweep that lack of action under the carpet. Instead, they rely on telling success stories in order to mask the failure to act.

When the UN focuses excessive and disproportionate attention on a particular state, it creates an ostensible 'success story'.¹⁷ It can then point to its action on that situation in order to show that it is successfully protecting human rights. Often excessive scrutiny provides significant political and diplomatic pressure that forces a country to cease abusing human rights. The point here is not that the states under the spotlight do not merit attention but rather that the UN's constant focus on one grave human rights situation masks its failures elsewhere.

Questions must be asked: Why are some countries excessively scrutinised while others avoid any attention whatsoever? How are those countries selected? What are the political motivations for disproportionate attention? And what is the impact on human rights protection across the world? The easiest way to answer those questions is to examine two cases of disproportionate scrutiny and ostensible 'success stories'—South Africa and Israel.

South Africa

The UN's greatest human rights 'success story' is the ending of apartheid in South Africa.

Abuses in apartheid-era South Africa were grave, gross and systemic. Government policies of racial segregation and subjugation meant that there were state-sponsored, systematic human rights violations. It was absolutely right that the UN focused attention and took action on South Africa.

At the same time as apartheid in South Africa, other countries had similar policies of state-sponsored racial oppression and human rights

LOOK! WE DID SOMETHING

abuses. The Soviet Union had apartheid-type policies that systematically abused the rights of Chechens, Ingush, Balkars, Baltic peoples, Roma, Jews, Muslims, Romanian ethnic Hungarians, Tibetans and Uighurs.¹⁸ A clear parallel can be drawn between the oppression of millions of non-Russian, indigenous peoples within the USSR¹⁹ and the apartheid policy which oppressed non-white peoples in South Africa. China adopted similar policies against Tibetans; the US against Native Americans; Australia against the Aborigines; Canadians against the First Nations people. Yet, while the UN focused excessive efforts of ending apartheid in South Africa, it took no action—and almost nothing was even discussed—about similar abuses elsewhere.

Why was so much attention devoted to South Africa and so little to other similar situations? The answer is simple. The political set-up during the Cold War enabled South Africa to be the pariah state whilst simultaneously shielding other countries from scrutiny.

Countries were neither willing nor able to take on the two superpowers—Russia and the US. Nor were they willing to criticise China, which led the Non-Aligned Movement of developing and decolonised states. But it went further than that. Countries closely allied with one of those three states were also protected by Cold War politics.²⁰ The only country without political protection was South Africa. Decolonised countries tried to keep the spotlight on South Africa—a country that still practised racist policies and human rights abuses that had been widespread during colonial times.²¹ Apartheid also provided a unifying issue on which developing countries spoke with one voice. Their allies in the Non-Aligned Movement—led by China—supported those endeavours. European states were distancing themselves from the recent human rights violations that they had perpetrated as imperial powers. South Africa was a stark reminder of imperialist atrocities. Western states, then, were not prepared to protect South Africa from scrutiny. Russia supported decolonisation as part of its supposedly Marxist approach to world affairs, but also because it wanted newly independent countries to take its side in Cold War politics. It, too, had no interest in shielding South Africa from scrutiny.

No states, then, had to choose sides between the superpowers, because every country accepted that the spotlight be placed on South Africa.²² Of course, many of those countries were themselves abusing rights at home,²³ and excessive scrutiny of South Africa ensured that attention was deflected away from their own human rights records.²⁴

FAILING TO PROTECT

The UN's lack of even-handedness on South Africa was particularly apparent at the General Assembly. Between 1946 and 1992 the General Assembly adopted 234 resolutions on apartheid, 111 on Namibia, and 224 on other issues regarding Southern Africa. Those 569 resolutions totalled approximately one fifth of the total recorded votes. On average, the General Assembly passed between five and ten resolutions annually on apartheid policies. Some sessions saw almost double that number.²⁵ By contrast, during that 46-year period the General Assembly passed five resolutions regarding gross and systemic violations by China against indigenous peoples: three on Tibet²⁶ and two on Burma.²⁷ Only four resolutions that were passed concerned grave abuses committed by the USSR: one general resolution²⁸ and three on violations in Hungary.²⁹ Violations against Native Americans were ignored altogether, as were similar abuses against the Aborigines in Australia, the Maoris in New Zealand and First Nations in Canada.

From 1965, states regularly challenged South Africa's credentials at the General Assembly. Countries objected to South Africa's delegation because its members were sent by a non-representative and illegitimate government.³⁰ States insisted that the exclusively white government represented less than 20 per cent of the population, and was therefore not legitimate. In 1974 the General Assembly effectively expelled South Africa.

The UN's focus on South Africa was successful. Political pressure and UN action meant that South Africa eventually withdrew from Namibia, ended the apartheid policy and ceased to be a pariah state. Beyond the success story, focus on South Africa deflected attention away from other countries which were abusing human rights. No one would argue that the UN was wrong to focus on South Africa. The problem is that ending apartheid in South Africa is held up as the great success of that generation, while no regard is given to the many millions of victims that the UN ignored.

Israel

Another stark example of the UN's lack of even-handedness is its treatment of Israel. A microcosm of the excessive scrutiny of Israel can be seen if we return to the Commission on Human Rights' 2004 session. At the same time as the Commission voted against taking action on Chechnya, it passed five resolutions about Israel.³¹ That disparity cannot be explained by the gravity of the two conflicts.

LOOK! WE DID SOMETHING

The second *intifada* ('uprising') in Israel and the Occupied Palestinian Territories took place at the same time as the second Chechen war. Amnesty International reported that by 2004 the 'spiralling' violence had resulted in the deaths of 3,200 Palestinians and over 1,000 Israelis.³² While tragic, that is far fewer than the deaths in Chechnya. Tens of thousands of Palestinians were made homeless during that period. Again, many more Chechens were displaced. Both armed conflicts involved gross and systemic human rights violations. Individuals within the weaker territories were subjugated, oppressed and killed. The UN's mandate to protect human rights involves taking action on such situations. While the graver situation in Chechnya was all but ignored, excessive scrutiny was given to the Israel–Palestine conflict.

That pattern has been repeated across the UN. The obvious question is 'Why Israel?' Israel commits grave human rights abuses, but it is by no means the worst offender. So, why does it receive such disproportionate attention at the UN? Why were a quarter of all Commission on Human Rights country-resolutions about Israel while not a single one focused on China? Why does the UN General Assembly discuss and pass resolutions about Israel at almost every session yet fails to devote even a fraction of that time to countries such as India, Sri Lanka and Turkey? Why does Israel merit disproportionate scrutiny while other abusers fly under the radar?

The answer is the same as it was for South Africa. The UN focuses on Israel because most states support or tacitly accept such scrutiny.

The General Assembly, in particular, has lacked even-handedness on Israel. A stark example is Resolution 3379 (1975), entitled 'Zionism is Racism'.³³ Resolution 3379 reflected international politics and diplomatic relations at that time. Arab countries had gained significant strength and influence largely owing to 'the oil weapon'.³⁴ Many Arab states had participated in or supported the wars against Israel in 1948, 1967 and 1973. Those countries used the General Assembly to focus attention on the Palestinian cause. They went further than denouncing Israeli treatment of the Palestinians.³⁵ Resolution 3379, which equated Zionism with racism, challenged the state of Israel's right to exist.

The USSR supported the Arab states. Israel had once been viewed as a potentially socialist state but was increasingly allied with the US. Decolonised states lent their support, perhaps because of alliances with the USSR or on anti-imperialist grounds. The Palestinians' predica-

FAILING TO PROTECT

ment raised grave questions about human rights but the dictatorial regimes in the Arab and Soviet blocs raised equally serious questions. Global action against Israel deflected attention from those countries' own human rights abuses. Many Western states might have supported criticism of Israel if there had been even-handed scrutiny of human rights throughout the Middle East. But the singling out of Israel was manipulation of human rights for political ends.

Resolution 3379 was repealed³⁶ in 1991.³⁷ But that is not the end of the story of disproportionate attention on Israel. Far from it. Resolution 3379 is just one of many ways in which the UN has lacked even-handedness on Israel, and the Human Rights Council has become a main vehicle for that disproportionate attention. Although it is mandated to protect rights across the world, the Council has devoted vastly disproportionate attention to Israel.

Israel does commit violations against Palestinians and Israeli Arabs, although it is a democratic state that is formally committed to international human rights law obligations. It grants wide access to human rights organisations and provides legal recourse for human rights violations through domestic and international courts. Yet, of all the human rights situations across the globe—including those states under despotic rulers who provide almost no access to the outside world to ascertain severity of the situation³⁸—Israel is the only country that appears on the Human Rights Council's permanent agenda.³⁹ Israel has been the sole focus of six of the Council's 19 Special Sessions convened on grave or crisis situations. Compare this with Darfur, the Democratic Republic of Congo, Libya, Myanmar and Sri Lanka, each of which has been the subject of only a single special session.

It is interesting briefly to examine the situations in two of those countries in order to understand the disproportionate scrutiny afforded to Israel in comparison with other human rights abusers.

In February 2008 the *Guardian* newspaper reported on the village of Ninja in the Walungu region of the Democratic Republic of Congo.⁴⁰ The village is populated almost exclusively by women and children because almost all the men have been killed by armed militias. Virtually all women in the village have been raped by the militias—'some countless times'.

'Mirindi Euprazi was at home with her family when the rebels attacked. They broke into her home and took all her possessions, before torturing her, her husband and their teenage children. Then the horror began.

LOOK! WE DID SOMETHING

“They forced my son to have sex with me, and when he’d finished they killed him. Then they raped me in front of my husband and then they killed him too. Then they took away my three daughters.”

She hasn’t heard of the three girls, 13, 14 and 17, since. A small woman, she speaks softly and without visible emotion, but as she describes being left naked while her house burned, she raises a hand to cover her face.’

Heartbreakingly, what happened to Ms Euprazi is so common that it no longer shocks or even surprises people with knowledge of the conflict. Millions of people—men, women and children—have been killed in the Congo since the turn of the millennium. Rape, displacement, torture, looting, pillaging, were all so widespread as to make it almost impossible accurately to record the figures.

In the final days of the 2009 civil war in Sri Lanka, some 20,000 people were killed,⁴¹ four times the number of Palestinians killed during the eight years of the second *intifada* between 2000 and 2008.⁴² Near the end of the conflict in Sri Lanka, ‘hundreds of thousands of Tamil civilians were penned into a tiny spit of sandy land along the eastern coast, living in squalid makeshift encampments, starving, exhausted and under fire from the Sri Lankan military’.⁴³ The corpses ‘started mounting up as the army shelled a safe zone it had demarcated for civilians and hundreds of thousands of people fled’.⁴⁴ In one small village of Puttumattalan, 700 people were killed by the army as they tried to flee to safety. ‘It took five or six days to dispose of all the corpses.’⁴⁵ One man described the process to a former employee of Amnesty International:

‘We just dropped the bodies in ditches because there were so many. It was the worst thing in the world. They were all sorts—men, women and kids. More women than men, but children of all ages. Sometimes even now I think of committing suicide. It was terrible. It was like a crematorium, bodies and more bodies and blood everywhere. Till I die I will never forget what I saw there.’⁴⁶

At least the Council devoted some time to Congo and Sri Lanka, even if it was only a fraction of the time and resources devoted to Israel. Many other situations were altogether ignored. No special sessions were called on Chechnya, Egypt, Kenya, Tibet or Zimbabwe, despite the crises that have taken place since the Council’s creation. Beatings, torture and killings in the run-up to Zimbabwe’s 2008 elections were not even discussed at the Council. Kenya’s ethnic violence, which has subsequently led to accusations of crimes against humanity,⁴⁷ flew under the

FAILING TO PROTECT

body's radar. Violence in Egypt, during the Arab Spring and beyond, did not concern Council members sufficiently for them to convene a special session. The list goes on. And throughout that time, Israel has been given vastly disproportionate time and resources.

Excessive scrutiny of Israel has not gone unnoticed. It was so obvious during the Council's first year that the then Secretary-General Kofi Annan called on it to stop focusing on Israel while being silent on other grave situations.⁴⁸ But little notice was taken.⁴⁹ OIC members dominate at the Council. They are the drivers behind the excessive focus on Israel. Their objectives include political, religious, cultural and regional ties with the Palestinians and with affected neighbouring states. Crucially, those countries also use Israel to divert attention away from systemic violations within influential OIC members such as Pakistan, Algeria and Egypt.

Another reason that some countries overtly politicise the UN in relation to Israel is because of its ties with the US. Israel is seen as the US foothold in the Middle East. That relationship encourages anti-US states, such as Cuba, China, Venezuela and Russia, to use Israel as a way of attacking US hegemony and interference. The Cold War might long be over, but the practices learnt during those times still persist.

Israel is also viewed by some as a remnant of colonialism. Israel occupies Palestinian lands and has racist and discriminatory practices towards the indigenous people. That is then used as justification for Israel receiving excessive scrutiny. But that justification does not stand up when thinking about the lack of focus on other similar occupations. Tibet and Kashmir are obvious examples that receive some media attention but almost no scrutiny at the UN. And what about Turkey's occupation of Northern Cyprus since 1974? That self-declared state has been an occupied territory for four decades and yet has flown under the radar at UN human rights bodies.

Of course, decolonised states identify with the Palestinian cause. The political links between many African and Asian states and the Organisation of Islamic Cooperation—and historically with the former Soviet bloc—have resulted in Israel becoming a *cause célèbre* amongst decolonised countries from those regions. What is striking is that many of the states that propose or support excessive action on Israel themselves commit as grave human rights abuses within their own territories. History, it seems, does repeat itself. It is likely that the UN will have another 'success story' when Israel finally ceases to violate Palestinians' rights. But at what price will the UN claim that success?

LOOK! WE DID SOMETHING

One lesson learnt from the UN's treatment of South Africa and Israel is that it can do something to protect human rights violations. But it seems that only one such situation can be focused upon at any one time. And there is no direct link between the gravity of the situation and the decision to focus attention on that country. No one would suggest that attention ought not to have been devoted to the ending of apartheid in South Africa or to the occupation of Palestinian land. The fundamental problem is that those two situations are held up as UN successes when really they mask abject and abysmal failures elsewhere. Tens of millions of people have been forgotten. Why? Because politics trumps human rights each and every time.