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THE PREDICAMENT OF JUSTICE UNDER GLOBAL ANARCHY

**Introductory remarks at an international roundtable consultation on
“Idea and Politics of Global Justice”**

Singapore, 10 September 2026

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I am pleased to welcome you here, at the Fullerton Building, the grand neoclassical monument that, upon its opening as the General Post Office, was designated as *Mile Zero* for Singapore. The “Fullerton Light” – a giant revolving beacon, mounted on its roof – once guided ships out in the ocean over an impressive distance of 24 nautical miles. May this light symbolically guide us in our deliberations of justice and peace amid all the geopolitical turbulence.

Yet beyond the geographic symbolism, it is the legacy of the Singapore War Crimes Trials after the Second World War (1946-1948), with their vast documentary record, that will be of relevance to our deliberations today, especially as regards the notion of “superior orders” and the jurisprudence on “criminal omissions” in the determination of personal responsibility.

I am glad that, after our roundtable meetings in Vienna, Istanbul and Malta, we can again welcome an interdisciplinary group of scholars representing theory and practice in their respective fields – as our topic, “idea and politics,” would suggest.

As we meet here by the historic old harbor – that long connected the city to the world – allow me to briefly recount the history of our cooperation with Singapore that started in April 1974 with a meeting at the Main Government Building. In preparation of our first international conference later that year in Austria, we discussed issues of international dialogue and peaceful co-existence. Decades later, in October 2004, we took part in a debate on “Cross-Examining Justice: Cultural, Religious and Social Conceptions of

Justice,” hosted by the Asia-Europe Foundation. During this meeting, we also discussed the question of universal jurisdiction and problems of the then-nascent International Criminal Court. In later years, we co-sponsored, in cooperation with the National University of Singapore, a meeting on “Religion and Violence” and took part in a seminar on the “Culture of Durable and Lasting Peace,” organized by Jamiyah Singapore.

Justice: the lessons of history

Against this background of our modest “half-centennial” history of cooperation, let me address the topic of our meeting in the larger historical context. Since hundreds of years, and particularly in the wake of major conflagrations, states have often resorted to exalted, idealistic proclamations. They pledged to reshape their relations, once and for all, according to the principles of law and justice, only to fall back, time and again, into the old habits of power politics and ignite even greater conflagrations:

- o The “Peace and Friendship,” pronounced in and propagated by the **Pax Westphalica** (1648), did not do away with the absolutist assertion of national sovereignty typical of pre-democratic Europe. The political realities at the time stood in stark contrast to the pompous language, e.g., of the *Treaty of Münster*, stipulating, “Pax sit christiana, universalis et perpetua veraque et sincera amicitia (...) ut utraque pars alterius utilitatem, honorem ac commodum promoveat.”¹
- o The “fraternité véritable et indissoluble” [true and indissoluble fraternity] among the monarchs, stated in Article 1 of the **Holy Alliance Treaty** of 1815, was also intended to contain nationalist and democratic tendencies among their populations and eventually served as the legal pretext for a series of military interventions, labeled as “humanitarian.”²
- o The so-called “best efforts” to bring about “the friendly settlement of international disputes” invoked in the **Hague Conventions** of 1899 and 1907³

¹ “That there should be a Christian and Universal Peace, and a perpetual, true, and sincere Amity (...) in order that each party shall endeavour to procure the Benefit, Honour and Advantage of the other.” (*Instrumentum Pacis Monasteriensis*, 28 October 1648, Article 1)

² *Traité de la sainte Alliance entre les Empereurs de Russie et d’Autriche et le Roi de Prusse* [Treaty between Austria, Prussia, and Russia / The Holy Alliance Treaty]. Signed at Paris, 18/26 September 1815. – Cf. Köchler, *The Concept of Humanitarian Intervention in the Context of Modern Power Politics: Is the Revival of the Doctrine of “Just War” Compatible with the International Rule of Law?* (Studies in International Relations, Vol. XXVI.) Vienna: International Progress Organization, 2001, chapter I.

³ E.g., *Convention pour le règlement pacifique des conflits internationaux, La Haye, 29 juillet 1899* (Convention for the Pacific Settlements of International Disputes [“Hague Convention I”]), Article 1: “En vue de prévenir autant que possible le recours à la force dans les rapports entre les États, les Puissances

did not in any way result in a stable order of peace.

- o The noble commitment of the **League of Nations**, post-World War I, “to promote international cooperation and to achieve international peace (...) by the firm establishment of the understandings of international law as the actual rule of conduct among Governments” (Preamble to the Covenant) was ultimately proven *ineffective*. The organization “expired” – or was phased out – in the wake of an even greater catastrophe than the one that had triggered its founding.⁴
- o The cycle of *idealistic invocation* and *realistic revocation* of lofty principles has not ended there. World War II brought a new “Charter” – of the **United Nations** – promising “justice and respect for the obligations arising from treaties and other sources of international law” (Preamble). However, because of special procedural regulations, the Charter effectively allowed its drafters to bypass those very obligations. (We discussed the problems at our Istanbul roundtable on “Sovereignty and Coercion.”)

The predicament of justice under the 21st century version of realpolitik

The wars of aggression of the era of the United Nations, often conducted in the name of self-defense or noble humanitarian principles, should by now have made everyone aware that, at the global level, the gap between *idea* and *reality* of justice cannot be bridged by any lofty proclamations of goodwill. The adoption of the UN Charter did not break the seemingly perpetual cycle of invocation and revocation.

As early as during the Gulf crisis of 1990/1991, the I.P.O. spoke out against a false “New World Order” proclaimed in the name of peace, security, freedom and the rule of law.⁵ Also, in the summer of 1991, before the Human Rights Commission of the United Nations in Geneva, it was the International Progress Organization that alerted the international community, for the first time in UN history, of a serious breach of international human rights covenants by the Security Council’s policy of imposing comprehensive sanctions

contractantes conviennent d'employer tous les efforts pour assurer le règlement pacifique des différends internationaux.”

⁴ Treaty of Versailles, Part I: *The Covenant of the League of Nations*, 28 June 1919.

⁵ Cf. lecture meeting on “Democracy and the New World Order: The United Nations Organization in the Present International System.” Instituto Mexicano del Desarrollo (IMED) / Mexican Institute for Development, Mexico City, Mexico, 10 November 1992. – Köchler, *Democracy and the New World Order*. Studies in International Relations, Vol. XIX. Vienna: International Progress Organization, 1993.

on Iraq that, over more than a decade, resulted in the death of a million innocent lives.⁶

In 2026, we are witnessing a new development right before our eyes, indeed a kind of *paradigm change*. Now, the cycle of *invocation* (“idea”) and *revocation* (“reality”) appears to be broken – but simply because there is no more invocation of an ideal. That trend has meant abolishing *principle* in favor of *interest* – along the lines of what Carl Schmitt, according to the logic of the “state of exception,” defined as the *exercise of sovereign power*, above – or more precisely, *beyond* – the law.⁷ Statements and proclamations by the leader of the Security Council’s most powerful member – whether in connection with the war in Gaza, the situations vis-à-vis Venezuela or Canada, the questions of sovereignty over Greenland or the Panama Canal, or the armed conflict with Iran – all point in the same direction. Ideals (e.g., the rule of law) are openly dismissed as irrelevant; in the era of Trump II, there is only the reality of politics, i.e. of the national interest, which – within the logic of his narrative – does not require any justification except the firm and unequivocal assertion of that very interest. Or, in the words of Stephen Miller, the influential White House Chief of Staff for Policy: “ We live in a world in which you can talk all you want about international niceties and everything else, but we live in a world – in the real world (...) – that is governed by strength, that is governed by force, that is governed by power. These are the iron laws of the world that have existed since the beginning of time.”⁸

As we have seen over the course of recent months, this strategic-cum-ideological repositioning has been accompanied by a hitherto unimaginable *coarsening of manners* and *brutalization of public discourse*, with open threats of genocide and civilizational extinction. In one particular conflict, diplomacy was unscrupulously used as a *ruse of war*. The assassination of state leaders – a historical taboo since the Peace of Westphalia, after the end of the Thirty Years’ War – appears, again, to have become a tool of foreign policy; international humanitarian norms and the rule of law as such have been openly,

⁶ *Presentation by the delegate of the International Progress Organization, Mr. Warren A. J. Hamerman, on the U.N. sanctions against Iraq and human rights:* United Nations – Economic and Social Council, COMMISSION ON HUMAN RIGHTS, Sub-Commission on Prevention of Discrimination and Protection of Minorities, Forty-third session, 10th meeting held at the Palais des Nations, Geneva, on Tuesday, 13 August 1991, at 10 a.m. See official record: U.N. Document E/CN.4/Sub.2/1991/SR.10, 20 August 1991.

⁷ Cf. Köchler, “Carl Schmitt’s Conception of Sovereignty, the UN Security Council, and the Instrumentalization of the ‘State of Exception,’” in: Valur Ingimundarson and Sveinn Jóhannesson (eds.), *Liberal Disorder, States of Exception, and Populist Politics*. (Routledge Studies in Anti-Politics and Democratic Crisis.) Part I: “Liberal Democracy and the Use of Exceptional Powers.” Abingdon (UK)/New York: Routledge, 2021, pp. 27-43.

⁸ Quoted according to: Michael Froman, *Getting Might Right*. Council on Foreign Relations, New York, 9 January 2026, www.cfr.org/articles/getting-might-right.

and repeatedly, dismissed, even ridiculed, by a head of state, that country's Secretary of State, Secretary of War, and a (most influential) deputy spokesperson for the government. Carl von Clausewitz's dictum, "War is the continuation of politics by other means," often quoted by advocates of *realpolitik*, does certainly not cover such an interpretation of political authority in times of war.⁹

The practices and qualifications appear more and more as a *regress into the pre-Enlightenment era* of interstate conduct. The "barbarization" of international relations – a phenomenon we have witnessed since the 2020s in particular – has meant that there are no taboos any more in terms of political language (at least on the part of the most powerful). This has been obvious, as I have already said, in repeated threats to eliminate an entire civilization, commit massive war crimes (such as the total destruction of a country's civilian infrastructure), or even assassinate the people one is negotiating with (who are put on notice that it may be uncertain whether they will return home if they do not agree to one's demands).¹⁰ Curiously, these threats and transgressions of the law mostly have met with the silence of the political establishment even of major powers, not just weak countries. No real, decisive reaction either on the part of the Secretary-General of the United Nations; no concise and unambiguous Presidential Statement by any of the monthly Presidents of the Security Council!

All those leaders should be reminded of the U.S. *Lieber Code* of 1863, promulgated by President Abraham Lincoln, regarding perfidy (Article 16) and political assassinations (Article 148) in times of war.¹¹ Responsible politicians should also be mindful of what a century earlier Emer de Vattel said in his treatise on the law of nations (1758): "L'Assassinat [et l'Empoisonnement] sont donc contraires aux Lois de la Guerre, également proscrits par la loi Naturelle & par le Consentement des Peuples civilisés."¹²

Under the circumstances, the United Nations' protracted effort to adopt the 2019 *Draft*

⁹ "Der Krieg ist eine bloße Fortsetzung der Politik mit anderen Mitteln." (*Vom Kriege* [1812], Book I, Chapter I, Paragraph 24.)

¹⁰ See *Iran weekly briefing: Trump threatens Iran's negotiators as two sides meet for talks*, by Matthew Doran, Middle East Correspondent, Jerusalem, ABC NEWS, Australia, 21 June 2026: "'You close [the Strait of Hormuz] and you won't have a country,' Mr. Trump said he'd told Iranian officials, during a phone interview with Fox News. 'You won't even make it back to your f***ing country.'"

¹¹ General Orders No. 10: *The Lieber Code / Instructions for the Government of Armies of the United States in the Field*, promulgated by President Abraham Lincoln, 24 April 1863.

¹² M. de Vattel, *Le Droit des Gens ou Principes de la Loi Naturelle. Appliqués à la Conduite & aux Affaires des Nations et des Souverains*. Vol. I., Leiden, 1758, p. 55. ("Assassination [and poisoning] are therefore contrary to the laws of war, and equally condemned by the law of nature and the consent of all civilized nations.")

Articles on the Prevention and Punishment of Crimes Against Humanity appears rather anachronistic¹³ – in an environment where the leader of the most powerful nation declares his open contempt for rules that are binding upon all states.

According to the rationale of “my country first!” what counts, as expressly and publicly stated, is the leader’s “*reason*” and his personal “*conscience*,” not “abstract,” universally valid principles of morality or the rules of international law.¹⁴ To decisions of a Schmittian ruler of this sort, acting as the master of the “state of exception” and declaring national emergencies at will, *there is no remaining corrective to power*, and certainly not by way of UN resolutions – if that sovereign represents a permanent member of the Security Council.¹⁵ One is reminded here of the famous critique of Senator Fulbright, one of the architects of the United Nations: “Power confuses itself with virtue and tends also to take itself for omnipotence.”¹⁶

This has become particularly obvious in the promulgation of the statute of a so-called “Board of Peace,” an entity endorsed by the Security Council¹⁷ – in an act by which the Council quasi-voluntarily stripped itself of its coercive authority, delegating it to a permanent member state’s leader who *alone* possesses the power of veto under that Board’s statute, *written by himself*, and who *alone* selects the members of that Board.

Anyhow, we should have no illusions about the UN Charter. The provisions of Article 28(3) have made the prohibition of the use of force effectively non-existent for any of the permanent members. Under the Charter, there is no consistent restraint on the arbitrary exercise of power.

Also, what the two Western founders of the United Nations feared most in the final negotiations on the wording of the Charter in San Francisco, in 1945 – namely the sidelining of the UN (i.e., the Security Council) as guarantor of collective security in favor of regional arrangements (an idea Nelson Rockefeller strongly promoted at the time in regard to Latin America) – and what they eventually were able to prevent through a

¹³ See, for instance, General Assembly resolution A/RES/79/122 of 12 December 2024.

¹⁴ “Trump Lays Out a Vision of Power Restrained Only by ‘My Own Morality.’” *The New York Times*, 10 January 2026.

¹⁵ On the dilemma, cf. Köchler, “The Dual Face of Sovereignty: Contradictions of Coercion in International Law,” in: *The Global Community – Yearbook of International Law and Jurisprudence 2019*, Part 6: *Recent Lines of Internationalist Thought*. New York: Oxford University Press 2020, pp. 875-885.

¹⁶ J. William Fulbright, *The Arrogance of Power*. New York: Vintage Books / Random House, 1966, pp. 3-4.

¹⁷ Resolution 2803 (2025), adopted by the Security Council at its 10046th meeting, on 17 November 2025. See also Annex 1: *President Donald J. Trump’s Comprehensive Plan to End the Gaza Conflict*.

compromise enshrining a right of “collective self-defense” in the Charter¹⁸ – is now taking shape in the new *National Security Strategy of United States* that rehabilitates – or revives – the Monroe Doctrine of the 19th century. Thus, the guideline of international relations is not anymore *peace through justice* (as in the UN Charter), but a balancing of interests among regional hegemons – with national sovereignty, defined in an exclusivist sense, reigning supreme.

In the context of the United Nations, up until recently virtually every act of aggression by a major power was accompanied by a legalistic or humanitarian justification, whether it was in Korea, Vietnam, Iraq, former Yugoslavia, Libya, or Ukraine. In the new framework of realpolitik emerging among major powers, *ideals* (principles) are flatly done away with in favor of (national) *interests*. This is indeed a dramatic paradigm shift in terms of the *narrative* of great power politics, brought about by unilateral actions against which the United Nations is utterly impotent. According to the underlying rationale, legal justification would be a waste of time. Stating one’s vital interest and acting upon it will be sufficient. As the world has witnessed, the narrative even includes bragging about acts such as “eliminating” a country’s leadership *twice*,¹⁹ abducting the head of state of a sovereign country, seizing that country’s petroleum resources, or confiscating Iran’s cryptocurrency accounts.²⁰

In a Schmittian world – where decisions on war and peace are solely made by the sovereign ruler, the master of the state of exception – justice at the global level becomes meaningless. *What counts is the “art of the deal”*: namely, how the major players – acting in a space *beyond* the law – delimit their spheres of interest vis-à-vis each other on the basis of mutual agreement.²¹ According to this rationale, the method of bargaining does not require any substantial definitions in terms of morality, law or logical consistency. In such a Machiavellian context – where, to reiterate, diplomacy becomes a ruse of war and

¹⁸ For details, see Stephen C. Schlesinger, *Act of Creation: The Founding of the United Nations*. Cambridge/MA: Westview Press, 2003, chapter 11: “Rockefeller’s Bounty: The Regional Option,” pp. 175ff.

¹⁹ “The one regime was decimated, destroyed, they’re all dead. The next regime is mostly dead, and the third regime – we’re dealing with different people than anybody’s dealt with before ...” (Quote from Air Force One, according to *The Times of Israel*, 30 March 2026: Jacob Magid, “Trump insists killing of Iran’s leaders ‘truly is regime change,’ deal to end war ‘could be soon’.”)

²⁰ Cf. U.S. Department of the Treasury, Press Release: *Economic Fury Targets Iran’s Largest Digital Asset Exchange for Terror Finance and Sanctions Evasion*, 2 June 2026. – See also, Institute for the Study of States of Exception (ISSE), Washington DC, USA, January 5, 2026: Global Events – *ISSE Statement on the U.S. Capture of Nicolas Maduro*.

²¹ Cf. Köchler, “Foreword by the Editor,” in: *Sovereignty and Coercion: The United Nations in the Web of Power Politics*. Studies in International Relations, Vol. XL. Vienna: International Progress Organization, 2025, p. xii.

the assassination of a country's leaders is left to the discretion of the attacking party – a system of international criminal justice risks becoming completely *dysfunctional*. The opinion article by the U.S. Secretary of State in the Wall Street Journal – “Why We’re Dismantling the International Criminal Court”²² – says it all. The representative of a superpower – permanent member of the Security Council, not party to the Rome Statute – speaks of international law as “so-called,” and announces that they will “dismantle” the Court, “brick by brick, if necessary.” The UN’s “international rule of law” is not only being marginalized, it is declared irrelevant, indeed *phased out* and replaced by a purely transactional “order,” a loose framework of deals and bargains in utter contempt for the law and beyond any considerations of morality.

As organization in consultative status with the UN, the I.P.O. has followed the development of global power dynamics since the middle phase of the Cold War, all through the collapse of the bipolar balance of power and the unipolar interlude, up to the present chaotic repositioning – or better, power struggle – between the major players amidst the emergence of a new *multipolar constellation*. Allow me to take this opportunity to remember, with special appreciation, the role of *Ramsey Clark*, Assistant Attorney-General and later Attorney-General of the United States under Presidents Kennedy and Johnson, and Nobel Peace Laureate *Seán MacBride*, then President of the International Peace Bureau in Geneva, who both over many years substantially and enthusiastically contributed to our efforts in matters of criminal justice, peace and the rule of law. Their contributions have shaped our organization’s public legacy.

We were among the first and most-outspoken critics of the unipolar era’s so-called humanitarian interventions and the Security Council’s entanglement in coercive measures that violated basic human rights.²³ Our monitoring role at the Lockerbie Trial, on the basis of a Chapter VII resolution of the Security Council, made us aware of the dilemma of judicial independence – when powerful state interests, whether foreign or domestic, interfere with the operation of a court. In the Lockerbie case, this became most obvious in the U.K. government’s issuing of “Public Interest Immunity” (PII)

²² *The Wall Street Journal*, New York, July 13, 2026, 10:00 am ET: “Marco Rubio: Why We’re Dismantling the International Criminal Court: America never agreed to a world tribunal that can override our own courts and the Constitution,” <https://wsj.com/opinion/why-we-are-dismantling-the-icc-0af0a8a6>.

²³ Cf., *The Iraq Crisis and the United Nations: Power Politics vs. the International Rule of Law. Memoranda and declarations of the International Progress Organization (1990–2003)*. Ed. Hans Köchler. Studies in International Relations, Vol. XXVIII. Vienna: International Progress Organization, 2004.

certificates that prevented the disclosure of vital evidence in the name of national security.²⁴

Justice – forever in the web of power politics?

In the face of a global order where the most powerful countries – the Security Council’s P5 and some of their allies – are virtually immune from any enforcement action, and where the leader of the preeminent power declares that international law holds no meaning for them, and they face no consequences, the question whether it is possible to cut the Gordian knot and establish a sound foundation on which courts can operate as *courts of law* – instead of as instruments of power politics or captives of a political agenda imposed upon them – sadly, may seem rhetorical. In a purely transactional framework of inter-state relations, and in view of the reality of conflicting national interests, will global justice not forever remain what Immanuel Kant describes as *regulative idea* – instead of an actionable framework of competencies and procedures that allow the administrators of justice to check executive power *sine ira et studio*?

The “unsigning” of the Rome Statute by states – three of them nuclear powers – that took part in its drafting: the United States (2002), followed by Israel (2002), Sudan (2008), and Russia (2016), was not only disingenuous, but also an early indicator of mistrust and institutional contempt. The imposition of sanctions by the United States on several key officials of the ICC, including its President, has been a further ominous sign.

To put it bluntly: The global community has not yet found the magic formula for firmly establishing international criminal law in a world of sovereign states – so that it could be more than just a few ad hoc steps taken here and there whenever national interests permit. At present, *double standards* are the unintended consequence. In regard to the ICC, we have to ask: *Can there truly be a world court without a world state?*²⁵ Also, we must not ignore a counter-trend of countries, particularly from the Global South, who

²⁴ For details, see Köchler, *Statement by Dr Hans Koechler, International Observer appointed by the United Nations, at the Scottish Court in the Netherlands (Lockerbie Trial), on the withholding of supposedly secret evidence from the Defense by order of the Government of the United Kingdom*. Los Angeles, 25 February 2008, <https://i-p-o.org/Lockerbie-statement-koechler-25Feb08.htm>.

²⁵ Cf. Köchler, “Justice and Realpolitik: The Predicament of the International Criminal Court,” in: *Chinese Journal of International Law*, Vol. 16, Issue 1 (2017), pp. 1-9. – For a general evaluation upon the entering into force of the Rome Statute in 2002, see Köchler, *Global Justice or Global Revenge? International Criminal Justice at the Crossroads – Philosophical Reflections on the Principles of the International Legal Order Published on the Occasion of the Thirtieth Anniversary of the Foundation of the International Progress Organization*. SpringerScience. Vienna/New York: Springer, 2003.

withdrew or announced that they would withdraw from the Rome Statute, accusing the Court, *inter alia*, of “selective justice.”²⁶

Finally, in view of the organization’s structural paralysis on virtually all major issues of conflict involving the great powers, one cannot evade the single ominous question: Is the United Nations, in its present shape and statutory form, the adequate framework to implement a global agenda of *justice and the rule of law*, as promised in its Charter?

At the heart of the international order lies an inescapable dilemma: how to reign in arbitrary power – how to curb the often ruthless and destabilizing unilateral assertion of national interests by some of today’s major players – through a statute that reflects, and perpetuates, the power balance of an earlier era, shielding those very powers and their actors from legal scrutiny?

²⁶ See *inter alia*, Joint Communiqué of the States of the AES [Alliance of Sahel States: Burkina Faso, Mali, Niger] Confederation Relating to the Withdrawal from the Rome Statute of the International Criminal Court, 22 September 2025.