

“Legal Imperialism” and International Law: Legal Foundations for War Crimes, Debt Collection and Colonization

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Introduction

By now we are familiar with imperial states using their military power to attack, destroy and occupy independent countries. Boatloads of important studies have documented how imperial countries have seized and pillaged the resources of mineral-rich and agriculturally productive countries, in consort with multi-national corporations. Financial critics have provided abundant data on the ways in which imperial creditors have extracted onerous rents, royalties and debt payments from indebted countries and their taxpayers, workers, employees and productive sectors.

What has not been examined fully is the over-arching legal architecture which informs, justifies and facilitates imperial wars, pillage and debt collection.

The Centrality of Imperial Law

While force and violence, especially through overt and covert military intervention, have always been an essential part of empire-building, it does not operate in a legal vacuum: Judicial institutions, rulings and legal precedents precede, accompany and follow the process of empire building. The legality of imperial activity is based largely on the imperial state's judicial system and its own legal experts. Their legal theories and opinions are always presented as over-ruling international law as well as the laws of the countries targeted for imperial intervention.

Imperial law supersedes international law simply because imperial law is backed by brute force; it possesses imperial/colonial air, ground and naval armed forces to ensure the supremacy of imperial law. In contrast, international law lacks an effective enforcement mechanism.

Moreover, international law, to the extent that it is effective, is applied only to the weaker powers and to regimes designated by the imperial powers as 'violators'. The very judicial processes, including the appointment of judges and prosecutors who interpret international law, investigate international crime and arrest, sentence and punish 'guilty' parties are under to the influence of the reigning imperial powers. In other words, the application and jurisdiction of international law is selective and subject to constraints imposed by the configurations of imperial and national power.

International law, at best, can provide a 'moral' judgment, a not insignificant basis for

strengthening the political claims of countries, regimes and people seeking redress from imperial war crimes and economic pillage. To counter the claims and judgments pertaining to international law, especially in the area of the Geneva protocols such as war crimes and crimes against humanity, imperial legal experts, scholars and judges have elaborated a legal framework to justify or exempt imperial-state activity.

The Uses of Imperial Law

Empire-building throughout history is the result of conquest – the use or threat of superior military force. The US global empire is no exception. Where compliant rulers ‘invite’ or ‘submit’ to imperial domination, such acts of treason on the part of ‘puppet’ or ‘client’ rulers usually precipitate popular rebellions, which are then suppressed by joint imperial and collaborator armies. They cite imperial legal doctrine to justify their intervention to repress a subject people in revolt. While empires arose through the direct or indirect use of unbridled force, the maintenance and consolidation of empires requires a legal framework. Legal doctrines precede, accompany and follow the expansion and consolidation of empire for several reasons.

Legality is really an extension of imperial conquest by other means. A state of constant warfare raises the cost of imperial maintenance. Force, especially in imperial democracies undermines the sense of civic virtue, which the rulers and citizens claim to uphold. Maintaining ‘law and order’ in the conquered nations requires a legal system and doctrine to uphold imperial rule, giving the facade of legitimacy to the outside world , attracting collaborator classes and individuals and providing the basis for the recruitment of local military, judicial and police officials.

Imperial legal pronouncements, whether issued directly by executive, judicial, military or administrative bodies, are deemed the ‘supreme law of the universe’, superior to international law and protocols fashioned by non-imperial authorities and legal experts. This does not imply that imperial rulers totally discard international law: they just apply it selectively to their adversaries, especially against independent nations and rulers, in order to justify imperial intervention and aggression – Hence the ‘legal bases’ for dismantling Yugoslavia or invading Iraq and assassinating its rulers.

Legal rulings are issued by the imperial judiciary to force states to comply with the economic demands of multi-national corporations, banks, creditors and speculators, even after the local or national courts have ruled such claims unlawful. Imperial law protects and provides sanctuary and financial protection to convicted former collaborator-rulers charged with human rights crimes, pillage of public treasury and destruction of democratic institutions. Imperial judicial and administrative agencies selectively investigate, prosecute and levy severe fines and even jail sentences on banks, individuals and financial institutions of their competitor imperial countries, thereby strengthening the economic position of their own ‘national’ imperial firms.

Judicial officials are not only ‘instruments’ of closely related imperial political and economic powers; they also instrumentalize and, in some cases, override officials from other branches of their own imperial government and economic sectors. Judges, with ties to particular financial sectors, may rule in favor of one group of creditors thereby prejudicing others. In a recent ruling, a New York judge ruled in favor of the demands by minority creditors that the Argentine government make ‘full payment’ on long-standing national debt in, prejudicing

already agreed upon payments to the majority of creditors who had negotiated an earlier debt-restructuring arrangement.

Imperial legal doctrine has played a central role in justifying and providing a basis for the exercise of international terrorism. Executives, such as US Presidents Bush and Obama, have been provided with the legal power to undertake cross-national ‘targeted’ assassinations of opponents using predator drones and ordering military intervention, in clear violation of international law and national sovereignty. Imperial law, above all else, ‘legalizes’ aggression and economic pillage and undermines the laws of targeted countries, creating lawlessness and chaos among its victims.

Imperial law and judicial rulings form the basis for imperial subjugation on the assumption that the world legal systems are multi-tiered: Imperial-centered legal systems supersede those of less powerful states. Within each ‘tier’ there are further refinements: Competing imperial legal systems adjudicate in favor of their partisan political and economic elites. Imperial clients who obey their imperial overlords are favored by imperial laws while imperial laws are applied against their adversaries.

Conclusion

Clearly in a world imperial system there can be no independent judicial bodies who abide by universally accepted legal codes. Each set of judicial authorities reflect and actively promote policies favoring and extending their imperial prerogatives. There are rare exceptions where a judge will rule against a particular imperial policy but over the long run imperial law guides judicial opinions

Imperial legal doctrines and judicial decisions set the groundwork for imperial wars and economic pillage. The empire’s legal experts redefine assassinations, coercion, torture and arbitrary arrests as compatible with the ‘constitutional order’ by claiming imminent and constant threats to the security of the imperial state.

Law is not simply part of the superstructure “reflecting” the power of economic or political institutions: it also guides and directs political and economic institutions committing material resources to implement imperial doctrines.

In this sense, imperial rulers are not ‘lawless’ as some liberal critics would argue; they function in accordance with ‘imperial jurisprudence’ and are faithful to the legal doctrines of empire building. It is pointless to argue that most imperial leaders trample on constitutional guarantees and international laws. If an imperial ruler pursued a “constitutional agenda” eroding imperial prerogatives or, even worse, applied international law to prosecute those carrying out brutal imperial policy, he would be quickly condemned for dereliction of duty and/or immoral behavior and impeached or overthrown.

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