

Book Review: The Case of Ariel Sharon and the Fate of Universal Jurisdiction

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The Case of Ariel Sharon and the Fate of Universal Jurisdiction

John Borneman, (Editor)

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181 pages.

Since his massive stroke in January 2006, former Israeli Prime Minister Ariel Sharon has no longer been a living reality. Yet his life and career persist as a high profile reminder that raw power often trumps truth and justice when it comes to political reckoning. Nothing has illustrated the pro-Israeli media spin in the United States more clearly than the ability of Sharon while holding high office to avoid being tarnished as a civilian political leader by his extensive military record of brutality and abuse, which includes well-documented terrorist attacks against Palestinian civilians.¹ Of course, the foremost blemish on Sharon's reputation stems from his connection with the notorious massacres carried out by the Lebanese Christian Phalange in the refugee camps of Sabra and Shatila in the immediate aftermath of the 1982 Israeli invasion and occupation of Lebanon.² Whilst it is perhaps not so surprising that Sharon was internally rehabilitated in Israel as part of the Likud surge at the beginning of the 21st century, it is, however, rather startling that Sharon should have received such a clean bill of health from the international community following his election as Prime Minister in early 2001.

However, Sharon went even further than effectively exempting himself from scrutiny

and criticism of his controversial past. Despite his tarnished reputation, Sharon managed, with the help of Washington, to have his Palestinian counterpart, Yasser Arafat, utterly humbled and discredited as a legitimate political leader on the basis of alleged links to terrorism. This was achieved despite the fact that the allegations of wrongdoing leveled at Arafat were far flimsier than those that had been ignored with respect to himself. At most, during his years as PLO leader, Arafat was accused of speaking inconsistently on the role of violent resistance before different audiences. Even if accurate, this accusation must be balanced against Arafat's well-documented efforts, often undertaken at great personal and political risk, to seek accommodation with Israel within a diplomatic framework adverse to Palestinian interests. By contrast, during Sharon's tenure as Israeli Prime Minister, the raising of doubts over the legitimacy or suitability of Sharon's formal representation of the state of Israel has been deemed by the mainstream media in the US as anti-Israeli, if not anti-Semitic.

The international legitimization of Sharon as the Israeli head of state was, of course, forged by bipartisan American efforts. There was a deferential media and an unconditional governmental acceptance by Washington of the outcome of free and fair Israeli elections in what was incessantly proclaimed as the only democratic government in the region. Nevertheless, the total rehabilitation of Sharon remains surprising, especially given the wider international climate of opinion relating to criminal accountability for crimes against humanity and other forms of official

wrongdoing. The 1990s came to a close with a dramatic renewal of international efforts (which had lapsed since the Nuremberg Judgment in the aftermath of World War II) to hold government officials, including military commanders, individually responsible for crimes of states, and in particular crimes against humanity, torture, and genocidal policies. In 1998, with great drama, the former Chilean dictator, Augusto Pinochet, was indicted in Spain and detained for extradition proceedings in Britain.³ In the following year, 1999, the former President of Yugoslavia Slobodan Milosevic was indicted by the Ad Hoc International Criminal Tribunal for the Former Yugoslavia (ICTY) for his alleged criminal involvement in ethnic cleansing and crimes against humanity in Bosnia, and later in Kosovo. These developments reached a climax with the successful establishment by a global movement of governments and civil society groups of a permanent International Criminal Court (ICC), which came into being in 2002 in the face of vehement opposition from the United States. In other words, a consensus was emerging at the dawn of the 21st century, in relation to the international criminal accountability of leaders, around the idea that there existed a higher law than that decreed by a sovereign state, even during wartime. Further, there were signs that this law was finally now beginning to be implemented, and not just by victors in relation to the defeated. Indeed, it seemed that individuals – former leaders – would be at risk of being prosecuted in the manner of Augusto Pinochet if this trend were to continue.

There were three strands to this accountability movement. The first, following the lead of Nuremberg, emphasized formal initiatives of the international community, including the ad hoc international criminal

tribunals for the former Yugoslavia and for Rwanda (ICTR), established by the authority of the United Nations Security Council in the first half of the 1990s, and whose work continues to this day. As mentioned, the ICC now regularizes and normalizes this approach, although, given the vigor of American governmental opposition, it is uncertain whether or not this new tribunal will be able to function as was intended, namely, by providing the international community with a regular mechanism with which to indict, prosecute, and punish individuals found guilty of international crimes. Reluctantly and after much hassling, the US government agreed to an arrangement by which those alleged to be responsible for the killings in Darfur might be prosecuted for crimes against humanity before the ICC.

The second strand was associated with initiatives of national courts, and has been linked to what is termed by lawyers as ‘universal jurisdiction.’⁴ ‘Universal jurisdiction’ is an old concept in international law, most commonly used to explain the illegal status of piracy. It allowed any court in any country to capture pirates anywhere, seize their possessions, and prosecute them for their crimes. These crimes were likely to have occurred on the high seas against foreign interests; that is, without a link to a particular court. A national court was regarded as an agent of world order, serving the common interest in the suppression of piracy, and its proceedings were not considered an encroachment upon the sovereign rights of any state. Universal jurisdiction is controversial as it allows national courts to indict and prosecute individuals who acted outside of the territory of the court to reach foreign acts and actors, including those who might have been thought to be acting within the rule of the law. The

Israeli prosecution of Adolph Eichmann back in 1961 for his role in overseeing the transportation system that carried Jews to the death camps during the Nazi period was a landmark case in national efforts to extend criminal accountability to foreign acts committed on foreign territory. The Spanish indictment of Pinochet was a more recent breakthrough with respect to this kind of dramatic extraterritorial role for a domestic or national court, especially as the prominence of the defendant and his former status as a head of state gave the case global salience.⁵ Subsequent extradition requests for Pinochet made by several other indicting national courts in Europe were a further indication of a definite trend toward expanding this approach to the enforcement of international criminal law.

The third strand is associated with civil society initiatives lacking in governmental imprimaturs or the backing of the United Nations. These 'tribunals' have been established in various places and under a range of auspices in order to gather evidence relating to an individual or situation that is declared to shock the moral and legal conscience, and yet where political realities block formal legal action. This form of juridical inquiry was initiated in 1967 by the fabled British philosopher, Bertrand Russell, in relation to the alleged criminality of the Vietnam War. Prominent figures of moral authority, including Jean-Paul Sartre and Simone de Beauvoir, formed the jury of the Russell Tribunal, which delivered a decision condemning the American role in Vietnam under international law.⁶ The experience of the Russell Tribunal has given rise to numerous other tribunals dealing with a wide range of issues, including the Permanent Peoples Tribunal, which has been in operation

continuously since its foundation in Rome 1976 by the Lelio Basso Foundation. To date, at least fifteen citizens' tribunals have been set up in countries around the world to assess the legality of the Iraq War and the criminal accountability of the civilian and military leaders who planned and oversaw the war and subsequent occupation. This process culminated in the session of the World Tribunal on Iraq held in Istanbul in June 2005, which received worldwide attention.

The Case of Ariel Sharon illustrates an effort of the second strand variety to impose criminal accountability on an individual accused of complicity in the 1982 massacres at the Sabra and Shatila Palestinian refugee camps. The case was initiated in Brussels by survivors of the massacres, taking advantage of a 1993 Belgian law that allowed such criminal actions to proceed on the basis of universal jurisdiction; that is, in the absence of any link between the country where the court is situated and the locus of the crime and its victims. In this instance, Palestinians of varying nationality resident in Lebanon in 1982 were using the Belgian legal system to charge Israeli individuals with crimes committed on Lebanese territory more than ten years before the Belgian law was adopted. Israel was formally and officially outraged by the idea that the behavior of their elected leader (at the time) would be legally challenged in a foreign court of law, disrupted diplomatic relations and threatened Belgium with adverse economic consequences if it persisted with the legal proceedings. Despite these rumblings, the proceedings went forward. It is not irrelevant to recall that Israel itself initiated such a use of national judicial tribunals for the prosecution and punishment of individuals for war crimes committed in a foreign country by

a non-Israeli citizen in the previously aforementioned Eichmann case. Whilst it is true that many of the victims of Eichmann's crimes were either Jews or Israelis, it should also be noted that the crimes in question were committed more than fifteen years prior to the trial, and that the defendant was brought before the Israeli tribunal after being illegally abducted in Argentina by Mossad agents.

Furthermore, other controversial initiatives were launched in the Belgian legal system during this period, including indictments brought against American high-level officials then still in government for their roles in both the First Gulf War of 1991 and the Iraq War. The indictment of George H.W. Bush and American military and political officials in Brussels in particular induced an explicit American backlash that included a threat by Secretary of Defense Donald Rumsfeld, "to teach Belgium a lesson." More specifically, Rumsfeld threatened to move the headquarters of NATO away from Brussels and to take punitive economic action if Belgium did not immediately abandon criminal proceedings against foreign leaders. As was widely reported in 2003, Belgium backed down, amending Belgian law to severely restrict its application regarding accountability for such crimes, and duly terminated proceedings against American and Israeli officials.

John Borneman's book addressing the case of Sharon remains of great interest both in relation to the impunity of Israeli leaders for crimes committed against the Palestinian people, and in relation to the faltering efforts of international criminal law to establish meaningful ways of addressing grievances arising from the international crimes of political and military leaders, especially those committed by leaders of powerful countries. It can be read both as a rationale for the legal

proceedings in Belgium and as a debate over whether such an undertaking was ever plausible given the nature of world order as presently constituted.

It is of interest that the convener of the workshop of invited participants that led to the publication of the book was John Borneman, a distinguished anthropologist with a strong interest in securing justice in the context of the post-catastrophic aftermath of the commission of crimes against humanity.⁷ Borneman, a professor at Princeton University, recounts the political difficulties encountered in carrying out this project, including the reluctance of colleagues and invited officials to become associated with such a contentious issue. One unnamed professor contacted Borneman a day after agreeing to participate to withdraw from the workshop, reportedly stating that, "She was told not to speak publicly about the case - influential alumni would be certain to threaten to withdraw funds" (p.7). Borneman lists criticisms he received from other Princeton faculty members who questioned the propriety of even holding a workshop on the topic of Sharon's criminal accountability. This opposition is a further indication of the existence of a coordinated and extensive campaign in the United States to prevent open academic debate and inquiry, however seriously conducted, whenever the results might embarrass the state of Israel. It must be considered in the light of efforts made at Columbia University and other academic institutions to attack faculty members perceived to be pro-Palestinian or critics of Israel. Borneman therefore deserves support and admiration for going ahead with the workshop, as does the Princeton Institute for International and Regional Studies for publishing revised versions of the workshop papers as a book.

I do find it somewhat odd, therefore, that Borneman did not acknowledge the prior role played by Princeton in providing the auspices for a high-level project on universal jurisdiction, which produced a set of supporting guidelines for the application of international criminal accountability, including a framework for national courts.⁸ It is odd because many participants in this process were influential jurists, including judges, who lent credibility to the status of universal jurisdiction in the period leading up to the Sharon case. It is also odd that there is no discussion in Borneman's book of the bearing of the extremist leaderships of Ariel Sharon and George W. Bush, nor the intervening significance of the attacks of 11 September 2001. This combination of circumstances defers, if not altogether derails, the encouraging developments of the 1990s with respect to re-establishing post-Nuremberg expectations of holding leaders accountable for international crimes.

Nonetheless, from an academic perspective the publication of revised versions of the presentations given at the workshop is a most welcome addition to the scholarly literature dealing with issues of international criminal accountability. The contents of the volume sustain a high academic standard, and are by no means dismissible as anti-Israeli propaganda. Indeed, the burden of the discussion was directed more toward the viability of this kind of prosecution and the jurisprudential issues raised than towards the guilt of Ariel Sharon, or even the culpability of Israel. As the book's full title suggests, the discussion of the various authors centers on an exposition and evaluation of the concept of 'universal jurisdiction' as a means of imposing accountability for crimes against humanity. Borneman's perceptive introduction

sets the tone, especially by locating the quest for accountability for crimes against humanity within the larger effort by human rights' advocates to establish authoritative universal standards against which to judge behavior and as a guide for the protection of victims. As might be expected, four of the contributors, Borneman included, are anthropologists: Laurie King-Irani, Dan Rabinowitz and Sally Falk Moore. The remaining contributors are lawyers: Chibli Mallat and Luc Walley (both of whom were directly involved in the Sharon case as lawyers for the complainants), Paul Kahn (a professor at Yale Law School), and Reed Brody (a specialist in prosecuting the most serious offenses and offenders who has been long associated with Human Rights Watch, and then served in a high-level position in the UN Human Rights Commission in Geneva). Overall, it is a distinguished group of authors, each of whom raises important questions and provides insights into the basic issues at stake.

Moore's chapter includes a lucid examination of the background of universal jurisdiction, and a useful, brief narrative of the development of international criminal law since Nuremberg. King-Irani offers readers an illuminating discussion by grounding the case against Sharon in the wider context of the struggle against impunity associated with crimes against humanity. King-Irani further demonstrates how the combination of American leverage and the absence of a broader transnational mobilization of support for this pursuit of justice by this particular class of victims, which might have balanced the geopolitical pressures, heightened the political vulnerability of the proceedings. She notes in particular the disappointing failure of Arab governments to lend any support to the Belgian law when it came under attack (p.98). Her

concluding point is a fascinating one, which raises many questions, including whether or not the concept of universal jurisdiction presupposes the existence of a functioning 'international community.' Bringing to bear an anthropological emphasis, as well as the engagement of an activist, uncommon among legal analysts, King-Irani insists that such a community, if it is to be other than what she describes as "an occasionally useful abstraction... must begin in and through embodied relationships between actual people in real, not just virtual, spaces" (p.98). That is, an effort organized through the Internet, while useful, cannot get the necessary work done. In this anthropological sense, the challenge posed by the failure in Belgium is a matter of concern with respect to the agency of global civil society, as well as a reflection of the rather timid inter-governmental engagement with the struggle against impunity. Support for universal jurisdiction as a mechanism for such a politics of accountability is currently too fragile to overcome any determined show of geopolitical opposition to its exercise in specific instances. This is perhaps the lesson that most observers will draw from the Sharon case.

In some ways, the most striking essay in the book is that written by the well-regarded legal scholar Paul Kahn. It is striking, in part, because it provocatively contests the viability of universal jurisdiction in a world of sovereign states, and exhibits a sympathetic understanding of the moves made by Israel and the United States to oppose proceedings that would impose criminal accountability on their leaders. Kahn writes in a mode that contrasts sharply with that of Sally Falk Moore, who regards the Belgian effort as a noteworthy move, despite its failure in this instance. She views the Sharon case as prefiguring the sort

of moral community on a global scale that Kant projected long ago as the foundation of 'perpetual peace' (p.129).

Kahn also diverges from the main thrust of Borneman's contention that a *political* community that identifies victims and wrongdoers is in the process of constituting itself as a *moral* community, and that it is this process that lends interest to the claims of universal jurisdiction and to the specifics of the Sharon case. What Kahn insists is that any argument for *international* accountability is solely a moral argument at this stage of history, and that the effort to impose legal standards is doomed because it is insensitive to the political realities of a national polity, which is bound together by its own affinities based on emotion and a sense of legal authority limited to the procedures of national lawmaking. He associates this idea of legitimate law with some specifically American perspectives, including Abraham Lincoln's stress on the authority of popular sovereignty of the citizenry as channeled through Congress and the Supreme Court, and as opposed to the outlook of Thomas Jefferson, who derived legal authority from universal principles of justice. Kahn has harsh words for the rationale underlying the initiative: "The Belgian claim of universal jurisdiction simply ignored the reality of politics" (p.135), and reverting to the distinction between Lincoln and Jefferson: "This, then, is my complaint about universal jurisdiction. It is all justice and no legitimacy" (p.145).

For Kahn, the United States (and Israel) have taken a decisive Lincolnesque turn, and thus it is to be expected that they would turn their backs on universal jurisdiction, seen as a purely 'moral' challenge, lacking any foundation in the legitimating processes of national lawmaking. Kahn does qualify his

comments by noting that the European turn toward internationalism in law and politics is a reflection of their disastrous experience with popular sovereignty over the course of the 20th century, which contrasts with an American sense of self-satisfaction over its self-sufficient *national* standards of accountability.⁹ Israel, without the benefit of Lincoln's authority, shares the American orientation. Israel's position was illustrated by its defiant rejection of a near unanimous Advisory Opinion by the International Court of Justice (ICJ) on the illegality of the security wall being built on Palestinian territory, and its simultaneous compliance with an Israeli Supreme Court ruling that required the government to re-route several segments of the wall, at considerable expense, to avoid some of the harm being inflicted on Palestinian communities. Israel's rejection of international standards with respect to its conduct reflects a somewhat paranoid view of the outside world's hostility to the existence of a Jewish state. Israeli security policy, initially shaped by the traumas of the Holocaust, was premised on the necessities of self-reliance in order to survive. Over the years, as Israel has gained in strength, this outlook has fused with an ultra-realist sense of the world as well as with expansionist national and territorial ambitions, according to which the powerful do what they will, and the weak do what they must.

There is an important zone of insensitivity in Kahn's presentation. His analysis blandly assumes the adequacy of the state system for representing the peoples of the world. Such insensitivity helps explain Kahn's inattention to the fact that the Palestinian experience unfolds outside of the protective structures of sovereign states. What is a stateless people supposed to do in such a world order? The issue also pertains to minority nations enclosed

within a hostile state. It is not possible to suppose that the fifteen million Kurds living in Turkey can be adequately represented or protected by the Turkish government. This issue of sensitivity to the Palestinian circumstance, with its multi-faceted urgency, might have been mitigated if one or more Palestinians had contributed chapters to Borneman's book. It is probable that a Palestinian, especially if living under occupation, would be actually aware of the representational inadequacy of the international structure of authority from the perspective of upholding minimal legal entitlements and human rights.

Why, though, should Kahn reinforce these expressions of militant nationalism at this historical moment? On one level, Kahn is telling readers not to be disappointed. This is the way things are, and other expectations are naïve and misleading. I disagree. It has never been more important to resist militant nationalism, even from the American and Israeli perspective of self-interest. American federalism carries this nationalist logic to extremes, with the state of Texas recently insisting, for instance, that its sovereignty supersedes that of the ICJ over the treaty rights of Mexicans condemned to death to a hearing in the presence of a representative of their consulate.¹⁰ The dynamic of globalization, which has gathered force in recent decades, will generate perpetual war if not conditioned and constrained by the emergence of an effective international criminal law that is binding on all actors, large and small. As I think Kahn argues, and Borneman indirectly acknowledges, the prospects for universal jurisdiction in high profile cases will be dismal until the underlying norms of accountability have been internalized by the elites of the world's major societies. Such a development,

if forthcoming, will be slow and contested at every stage. Even so, there is no good reason why the United States and Israel cannot live within the constraints on behavior established by the global rule of law. These constraints are the constraints that were imposed after World War II on those leaders who had represented Nazi Germany and Imperial Japan, and more recently on those who acted officially on behalf of the former Yugoslavia, Rwanda, and Sierra Leone. Further, there is very good reason why *all* leaders should be subject to international standards of accountability. The pretense that such procedures are *political* rather than *legal* when applied to a superpower is a feeble excuse for international lawlessness. The alleged anxiety is not at all borne out by the practice of international judicial procedures, whether exercised by international or national courts. This practice has been consistently responsible.

What makes Kahn's views especially disturbing is the failure to address the factual grounds of concern associated with the Sharon case, the point of which was to struggle against bland assumptions of political realism and militant nationalism. It is not surprising that Belgium backed down under pressure, but it is notable that the concept of the criminal accountability of leaders around the world is gaining in credibility.¹¹ In the 18th and 19th centuries, it would have been quite plausible to have made Kahn's argument as a justification for the US Supreme Court's deference to slavery in the American south. It required decades of struggle to make political projects of moral imperatives. So, too, is it likely to be with the spread of universal jurisdiction and the emergence of effective international procedures for imposing criminal responsibility on leaders charged with committing crimes against humanity and other international crimes that cause massive human

suffering. That there will be ebbs and flows in this struggle is certain. John Borneman may well be right when he concludes that "[t]he Sharon case may in fact signal the end of a short period in which the doctrine of universal jurisdiction was extended and possibilities of international accountability were developed" (p.6). When and if that day eventually arrives, when the promise of international accountability is fulfilled, I am confident that the opening of the Sharon case will be remembered, along with the earlier Pinochet case, as one of the landmark efforts, in Reed Brody's words, "to destroy the wall of impunity behind which the world's tyrants had always hidden to shield themselves from justice" (p.149). Borneman's small volume, with the exception of Kahn's contribution, can be read as an endorsement of and rationale for this historic effort. A further observation is that, although this wall of impunity has started to crumble, for now it provides ill-deserved shelter from legal prosecution to the most dangerous political actors in the world, namely, the political and military leaders of the strongest sovereign states.

As matters currently stand, the fight against impunity is being conducted with an implicit exemption of the geopolitical actors who control global policy, especially the United States. The selective prosecution of war criminals highlights a reliance on a double standard in the present shaping of world order. In such a surreal atmosphere, Saddam Hussein was prosecuted to the full extent of the law by the new Iraqi regime in a show trial, received the death penalty and was executed, while George W. Bush has been received in capitals around the world without the slightest reluctance. What challenge to his impunity exists is of a purely symbolic and ethical character, made incarnate only by protesters

in the streets, kept at a safe distance by police. While such demonstrations keep the struggle alive to an extent, they offer little solace to such victims as those of Sabra and Shatila, who were hoping, however innocently, for some kind of formal judicial acknowledgement of the severe injustices and barbarous crimes they endured over twenty years ago.

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End Notes

* I would like to thank Lisa Hajjar and Maivan Clêch Lam for their illuminating suggestions made in response to an earlier draft of this book review.

1 See Avi Shlaim, *The Iron Wall: Israel and the Arab World* (New York: W.W. Norton, 2000) at 90-92, 406-417.

2 The Kahan Commission, established by the Israeli government to investigate the massacres, issued its report on 7 February 1983. The Kahan Commission found Sharon (along with several high-ranking military officers) “indirectly responsible” for the massacres. Sharon was not held criminally responsible on the grounds that he played only a “facilitative” role. According to the Kahan Commission, no Israeli was directly responsible for the events which occurred in the camp; however, it recommended that Sharon be removed as Minister of Defense. This recommendation was followed in a literal sense, but Sharon was immediately rehabilitated by being retained in the government as a Minister Without Portfolio. See also the report of “The MacBride Commission,” *Israel in Lebanon: The Report of the International Commission to Enquire into Reported Violations of International Law by Israel during its Invasion of Lebanon* (London: Ithaca Press, 1983) at 162-186 on the massacres; and BBC Documentary “Panorama,” broadcast in 2002, which recounts the role played by Sharon and other Israeli officials in the 1982 events at Sabra and Shatila.

3 Although the House of Lords eventually approved of extradition for Pinochet’s relationship to torture during part of his tenure as Chilean leader, he was nevertheless finally allowed to return to Chile after being found by the British Foreign Secretary unfit to stand trial. For an overview, see Richard Falk, “Assessing the Pinochet Litigation: Whither Universal Jurisdiction?” in Stephen Macedo (ed.), *Universal Jurisdiction: National Courts and the Prosecution of Serious Crimes under International Law* (Philadelphia: University of Pennsylvania Press 2004) at 97-120.

4 It is somewhat misleading to believe that universal jurisdiction is the only means by which national courts can deal with crimes committed outside national territory. Under international law, national courts can also deal with international crimes on the basis of other jurisdictional doctrines such as links to the victim or perpetrator, or on the basis of the impact that a given act may have on the state where the prosecution takes place. For a broad general discussion, see Macedo, supra note 3, at 15-35.

5 See also the important extension of American national legal authority to address international crimes

committed in Paraguay. *Filartigia v. Pena-Irala*, 630 F.2d 876 (2d Cir, 1980).

6 For the full record, see John Duffett (ed.), *Against the Crime of Silence: Proceedings of the International War Crimes Tribunal* (New York: Simon and Schuster, 1968).

7 See John Borneman, “Reconciliation after Ethnic Cleansing,” 14 *Public Culture* 281 (2002); see also responses, “Reconciliation and Response,” 15 *Public Culture* 181 (2003). This discussion pertains directly to the issues raised by the still open wounds of the Sabra and Shatila massacres.

8 For a description of the project, see Macedo, supra note 3, for the ‘Princeton Principles’ governing reliance on universal jurisdiction, at 1-35.

9 In reviewing Anatol Lieven’s, *America Right or Wrong: An Anatomy of American Nationalism*, Walter Russell Mead makes a typically chauvinistic remark: “But although these [criticisms] are interesting (if not completely original) insights, one awaits Lieven’s explanation of why a state with such a deeply dysfunctional culture has succeeded so brilliantly on the international stage for so long.” Published in 84(2) *Foreign Affairs* 157 (2005). The whole point of universal jurisdiction is to challenge ‘success’ measured by power and wealth alone. Incidentally, Lieven’s book is notable because of its critique of the sort of nationalistic absolutism that has been espoused in recent years by both the United States and Israel, generally at the expense of weak adversaries, and, as Borneman points out, unrepresented Palestinian victims, stateless from the perspective of international law.

10 Adam Liptak, “U.S. Says It Has Withdrawn From World Judicial Body,” *New York Times*, 10 March 2005, A14. A Texas state official is quoted as saying, “The state of Texas believes no international court supersedes the laws of Texas or the laws of the United States.”

11 See the Princeton Principles as presented and discussed in Macedo, supra note 3, at 18-25.