COMMENTARY

CANNIBAL HOLOCAUST: DIGESTING AND RE-DIGESTING LAW AND FILM

ED MORGAN*

I. INTERNATIONAL LAW DEVOURS ITS OWN

This is an essay about law, film, and, as the General Assembly so deliciously put it in 1947, the "question of Palestine."[1] The raw material on its plate consists of a number of international instruments that contain the rules through which international law has addressed the violent Israeli-Palestinian dispute.[2] In 2004, these legal documents were interpreted for civil liability purposes in the United States' federal courts,[3] and then re-interpreted for international relations purposes in the International Court of Justice ("ICJ").[4] It is this digesting and re-digesting of the Middle East by international law, and the accompanying history and revisionist history of the norms pertaining to the conflict, which this paper seeks to address.

The essay comes as a result of reflecting on the controversy surrounding Mohammad Bakri's documentary film, *Jenin, Jenin*.[5] The issue of factual revisionism and the pain inflicted by cinematographic

* Associate Professor, University of Toronto Faculty of Law. I would like to thank Karen Knop, Ralph Glass, Mathew Goldstein, Darryl Robinson, and Daphne Barak-Erez for their helpful comments.

[1] G.A. Res. 104 (S-1), U.N. Doc. A/310 (May 5, 1947) (establishing a special committee on the question of Palestine). *See* Omar M. Dajani, *Stalled Between Seasons: The International Legal Status of Palestine During the Interim Period,* 26 DENVER J. INT'L. L. & POL'Y. 27 (1997) ("Palestine first appeared on the United Nations agenda as a question.") *See also* EDWARD SAID, THE QUESTION OF PALESTINE 3–9 (Times Books 2nd prtg. 1980).

[2] *See, e.g.*, U.N. Charter art. 51 ("Nothing in the present Charter shall impair the inherent right of individual or collective self-defense if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security . . . ."); International Covenant on Civil and Political Rights art. 1, Mar. 23, 1976, 999 U.N.T.S. 171 [hereinafter ICCPR art. 1] ("All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development."); Fourth Geneva Convention art. 49, Oct. 21, 1950, 75 U.N.T.S. 973 ("The Occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies."); Interim Agreement on the West Bank and the Gaza Strip art. 10, Sept. 28, 1995, 36 I.L.M. 551 ("The Palestinian Police shall be deployed and shall assume responsibility for public order and internal security for Palestinians. . . . Israel shall continue to carry the responsibility for external security, as well as the responsibility for overall security of Israelis for the purpose of safeguarding their internal security and public order.").

[3] Ungar v. Palestinian Liberation Organization, 402 F.3d 274 (2005), *aff'd* Estates of Ungar v. Palestinian Auth., 325 F. Supp. 2d 15 (1st Cir. 2005) (holding that the Palestinian Authority and related entities are not entitled to sovereign immunity in suit brought by terrorism victims).

[4] Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, 2004 I.C.J. 131 (July 9) (stating that Israel's security fence violates international law).

[5] JENIN, JENIN (Arab Film Distribution 2002).

exploration of recent history has been well reviewed by the Israeli courts[6] and expertly explored in the present volume.[7] One can observe, however, that the rights and wrongs in the battle of Jenin, and the doubling of this battle in the controversial film with the double name, echo and amplify the overall normative battles of the region. In the *Jenin, Jenin* affair, the legal principles of societal protection waver between censorship[8] and free expression,[9] while the portrayals of the underlying conflict move between human rights abuse[10] and legitimate self-defense[11]—all in a medium that is alternately journalistic fantasy and wartime documentary. Presentation, representation, misrepresentation: a pattern for law and film seems set in the Middle East.

The title of this article makes reference not to a film about the Israeli-Palestinian confrontation, but to one of the most interesting, if intensely violent films ever produced: Ruggero Deodato's cult classic, *Cannibal Holocaust.*[12] The film is a *mondo*-style[13] exploitation movie that through sheer magnitude of horror satirizes and exposes society's obsession with violence. The protracted and painful nature of the Middle East conflict makes the choice at least superficially appropriate. Moreover, without putting too fine a point on the parallels, the title satirizes through bad taste[14] the reciprocal Israeli and Palestinian fears of annihilation. Although the conflict between these two peoples is deadly serious, there is an exploitative level of obsession with which it is regarded by the parties themselves and by the world at large.[15]

The real parallel between the law and the film, however, lies in the process they share of interpretation and re-interpretation. The most interesting thing about international law is not what its basic instruments say, since the rules set out therein are generalized to the point of being

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[6] Bakri v. Film Censorship Board, [2003] IsrSC 58(1) 249.

[7] Daphne Barak-Erez, The Law of Historical Films: In the Aftermath of *Jenin, Jenin*, 16 S. CAL. INTERDISC. L.J. ## (2007).

[8] Ein Gal v. Films & Plays Censorship Bd., [1978] IsrSC 33(1) 274 (discussed in Barak-Erez, *supra* note 7; and addressed *infra* at Section V).

[9] *Bakri*, [2003] IsrSC 58(1) 249.

[10] *See* David Zangen, *Seven Lies About Jenin*, Nov. 8, 2002, *at* http://www.mfa.gov.il/MFA/Archive/Articles/2002/Seven+Lies+About+Jenin+David+Zangen+views+the+fil.htm.

[11] THE ROAD TO JENIN (Israeli Channel One 2003) (documentary film made specifically to counter the assertions of the film *Jenin, Jenin*). *See also* Aviv Lavie, *The Truth About Jenin*, Ha'aretz.com, Mar. 4, 2003, *at* http://www.haaretz.com/hasen/pages/ShArt.jhtml?itemNo=286916&contrassID=2&subContrassID=14&sbSubContrassID=0&listSrc=Y (describing the differences between the two films, and dubbing *The Road to Jenin* as "Jenin, Jenin, Jenin").

[12] CANNIBAL HOLOCAUST (Grindhouse Releasing 1979).

[13] *See, e.g.*, MONDO CANE (Cineriz 1962) (the 'shockumentary' style of film originated with this film). For an extreme version of an extreme genre, see MONDO TRASHO (New Line Cinema 1969).

[14] *See* J. L. Cros, Review, *Cannibal Holocaust*, 361 IMAGE ET SON: REVUE DU CINÉMA 39 (1981) ("The title alone is enough to stop one in one's tracks.").

[15] Obsession with the Israeli-Palestinian conflict has been noted on both sides of the political divide. *See* M. Perry, *America's Arafat Obsession*, 10 PALESTINE REP. 8 (2003); David Tell, *The U.N.'s Israel Obsession*, 7 WKLY. STANDARD 33 (2002). On the obsessive and macabre humor of violence and death, see MIKITA BROTTMAN, FUNNY/PECULIAR: GERSHON LEGMAN AND THE PSYCHOLOGY OF HUMOR 152 (The Analytic Press 2004) ("Only through death can we know that the human smile is the shadow of the skull's hollow grin.").

capable of signifying everything and nothing. Indeed, international doctrines are little more than the battles of Jenin squared: self-defense in the U.N. Charter[16] and self-determination in the International Covenant[17] could apply equally to Israelis and Palestinians, while the West Bank region exhibits an absence of sovereignty in the Fourth Geneva Convention[18] and double sovereignty in the Oslo Accords.[19] Rather, what is interesting is the way in which the norms travel through successive mediums, with the domestic court seeking out international instruments and the international tribunal re-examining what was just examined by its domestic counterpart. The legal doctrines on their own exist in tenuous harmony, but the interpretive exercise in successive tribunals brings out a struggle for dominance.

A similarly interesting phenomenon is showcased in Deodato's film. It is not the cannibals that are interesting to the director and his audience, since it is indeterminate in the film whether the ritualistic violence was indigenously produced or externally introduced. Rather, it is the 'documentary' film supposedly left by the photojournalists who had sought out the tribesmen, and the subsequent expedition by an anthropologist who sought out the journalists and documented their violent end, that holds the audience's attention. What is interesting, in other words, is the process of revision and re-interpretation as the story travels through multiple narrative mediums. The tribesmen on their own exist in a tenuous harmony, but the interpretive exercise by successive investigators brings out a struggle for dominance.

By creating an interpretive universe that shifts from domestic court to international court, the law gets successively re-constituted as its underlying doctrines clash and revise themselves—sometimes into their own opposites. Likewise, by creating a 'mockumentary' within a 'mockumentary'—a *mondo*, exploitative world within a *mondo*, exploitative world—Deodato has exploited violence, the journalistic obsession with violence, and the viewers' obsession with journalistic violence all at once. The largest connotations of the *Jenin, Jenin* sequence are all enmeshed in this package. The only meaningful analysis is one that focuses on the continuously re-focusing lens, which in turn devours the actual subject matter of the film and the law.

II. SATISFYING *UNGAR*

In June 1996, Yaron and Efrat Ungar, the parents of 9 month old Yishai Ungar, were killed in a drive-by shooting while attending a wedding in Israel. As the deceased father, Yaron, and the surviving son, Yishai, were both United States citizens, an American attorney was appointed administrator of his parents' estates and was authorized to realize assets,

[16] U.N. Charter art. 51, *supra* note 2.
[17] ICCPR art. 1, *supra* note 2.
[18] Fourth Geneva Convention art. 49, *supra* note 2.
[19] Interim Agreement on the West Bank and the Gaza Strip art. 10, *supra* note 2.

rights, and causes of action on behalf of the estates.[20] The administrator brought suit in the United States District Court for Rhode Island under the Anti-Terrorism Act of 1991.[21] The individual defendants were members of a Hamas[22] cell that had been convicted of the murders in the Israeli criminal courts,[23] while the organizational defendants included the Palestine Liberation Organization that encouraged and in various ways supported their activities and the Palestinian Authority from whose administered territory the individual perpetrators operated.[24]

While the court had little problem awarding substantial damages against the individual defendants and Hamas,[25] the case against the Palestinian Authority ("PA") raised a significant legal controversy. Specifically, the question raised by the PA in its defense was that of immunity under the Foreign Sovereignty Immunities Act.[26] The point was a complex one for international lawyers. In the first place, on a theory of state responsibility, it is the sovereign state, by virtue of its very sovereignty, that is liable to its neighbors for acts of violence emanating from its territory.[27] On the other hand, of course, unlike a non-state organization, a sovereign is immune from civil liability for acts and omissions falling under the rubric of governmental authority.[28] In other words, the court was forced to think through international law's first principles of sovereignty,[29] taking into account the normative and factual environment of the Oslo Accords.

The PA's underlying legal argument was that of self-determination. That is, that the Palestinians, in exercising their rights under the various international covenants,[30] have fulfilled the relaxed requirements for emergence into statehood that obtain where "the putative state [has] a right to statehood and where there [is] not a competing entity seeking statehood

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[20] Estates of Ungar ex rel. Strachman v. Palestinian Auth. (Ungar I), 153 F. Supp. 2d 76, 91 (Dist. Ct. R.I. 2001).

[21] 18 U.S.C.A. § 2333 (1992) (originally enacted as Public L. No. 101-519, 132, 104 Stat. 2250-2253 (1990); reenacted as part of Federal Courts Administration Act of 1992, Public L. No. 102-572, Title X, 1003(a)(1)–(5), 106 Stat. 4521-4524 (1992); amended October 31, 1994 to Public L. No. 103-429, 2(1), 108 Stat. 4377) (establishing a cause of action in U.S. courts for U.S. nationals injured in their person, property or business "by an act of international terrorism").

[22] The "Hamas-Islamic Resistance Movement" (a.k.a. Harkat al-Muqawama Al-Islamiyya) was specifically identified by the District Court for Rhode Island. Estates of Ungar v. Palestinian Auth., 315 F. Supp. 2d 164, 168 (Dist. Ct. R.I. 2004).

[23] *Id.* at 168–71 (discussing background of the case).

[24] The Amended Complaint was upheld as setting out a valid cause of action in Estates *of Ungar v. Palestinian Auth. (Ungar II)*, 228 F. Supp. 40 (Dist. Ct. R.I. 2002).

[25] Marcella Bombardieri, *$116 Million Awarded in Terrorism Suit,* BOSTON GLOBE, Jan. 29, 2004, *available at*, http://www.boston.com/news/local/rhode_island/articles/2004/01/29/116m_awarded_in_terrorism_suit/.

[26] 28 U.S.C. § 1604 (1976) ("A foreign State shall be immune from the jurisdiction of the courts of the United States and of the States except as provided in sections 1605 to 1607 of this chapter.").

[27] Reparation for Injuries Suffered in the Service of the United Nations, Advisory Opinion, 1049 I.C.J. 174 (Oct. 7) (holding State of Israel responsible for terrorist killing of U.N. official in Jerusalem).

[28] Tel-Oren v. Libyan Arab Republic, 726 F. 2d 774 (D.C. Cir. 1984) (holding Libya immune and PLO not immune); Klinghoffer v. S.N.C. Achille Lauro, 937 F. 2d 44 (2d Cir. 1991).

[29] Estates of Ungar, 315 F. Supp. 2d 164, 176 (Dist. Ct. R.I. 2004) ("Only states enjoy sovereign immunity" and "[i]nternational law determines statehood.").

[30] The right to self-determination referenced in ICCPR art. 1, *supra* note 2, is repeated in the International Covenant for Economic, Social and Cultural Rights, Dec. 16, 1966, 993 U.N.T.S. 3.

in the same territory."[31] The argument therefore asserts that the principle of self-determination is an international law trump card which, in the words of the European Commission on the former Yugoslavia, weighs in to establish by declaration something "commonly defined as a community which consists of a territory and a population subject to an organized political authority; that such a State is characterized by sovereignty."[32]

To put matters another way, by speaking to self-determination and sovereignty as the governing international concepts, the PA asserted its essential equality with Israel and all other sovereigns. Since sovereignty, international scholars point out, is a shorthand or "brief term for the State's attribute of more-or-less plenary competence,"[33] it stands to reason that all sovereigns are equal in their non-hierarchical relations.[34] The self-determination argument therefore dovetailed neatly with the claim of immunity in domestic litigation, since the immunity doctrine is itself premised on the "perfect equality and absolute independence of sovereigns."[35] In order for immunity to not equate with impunity, it is generally settled that responsibility for harms between sovereigns exists, but must be vindicated at the level of international relations rather than in the courts of any one nation. Domestic immunity statutes are accordingly designed with the international stature and liabilities of sovereign states clearly in sight.[36]

When self-determination migrated to the domestic courts it therefore surfaced in the form of an immunity argument; and the sovereign immunity doctrine, in turn, spoke to international responsibility for the acts emanating from the territory of the entity asserting its own sovereignty.[37] The PA, in other words, in declaring itself immune from the terror victims' suit, declared itself simultaneously responsible for the violence and equal to the Israeli state in which the victims of the violence were found.[38] By posing self-determination as the positive answer to the sovereign immunity question, the defense set the doctrinal stage for a future clash not between the PA and individual terror victims but between the PA and the victims' own state.

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[31] John Quigley, *The Israel-PLO Interim Agreements: Are They Treaties?*, 30 CORNELL INT'L L.J. 717, 724 (1997) (article submitted as part of expert evidence for defendant PA in *Ungar*).
[32] Conference on Yugoslavia, Commission Advisory Opinion, 92 I.L.R. 162, 165 (Nov. 29).
[33] JAMES CRAWFORD, THE CREATION OF STATES IN INTERNATIONAL LAW, 26–27 (Clarendon Press 1979).
[34] *See* North Atlantic Fisheries Case, (Gr. Brit. v. U.S.), Hague Ct. Rep. (Scott) 141 (Perm. Ct. Arb. 1910) (stating that hierarchical territorial relations between sovereign states are impermissible under international law).
[35] Schooner Exch. v. McFaddon, 11 U.S. 116, 137 (1812).
[36] Argentine Republic v. Amerada Hess Shipping Corp., 488 U.S. 428 (1989) ("Congress had violations of international law by foreign states in mind when it enacted the FSIA.").
[37] *See* Princz v. Fed. Republic of Germany, 26 F.3d 1166, 1179 (D.C. Cir. 1994) (Wald, J., dissenting) (stating Nazi officials' criminal responsibility at Nuremberg demonstrates that, despite sovereign immunity for Germany in civil litigation, "the international community, and particularly the United States . . . would not have supported a broad enough immunity to shroud the atrocities").
[38] Corfu Channel Case (U.K. v. Albania), 1949 I.C.J. 57 (Apr. 9) (holding Albania responsible an for explosion where mines laid in an area of sea were under its control).

The counterweight to the invocation of self-determination and immunity by the defense was the invocation of the rules of sovereignty by the plaintiffs. As it turned out, the former set of rights was no match for the latter group of rules, since self-determination was seen more of a right held in trust for the future than a presently crystallized entitlement.[39] Although at first it appeared as though self-determination would devour civil liability through immunity in the courts, in the end, international law's own attributes of statehood wasted the defense argument from within its own logic. Just as legally ambiguous entities can unilaterally assert their self-determination and statehood, others can equally determine them to be legally nothing at all.[40]

In the end, the court could do little better than to agree with the Palestine Liberation Organization's ("PLO") own legal advisor in concluding that "the authority of the Palestinian governing institutions established by the [Oslo Accord's Declaration of Principles] is entirely local in character."[41] Indeed, the court found that none of the four standard attributes of sovereign statehood had been achieved by the PA,[42] and that, in particular, the constituting instruments of the PA expressly deny it the capacity to engage in foreign relations.[43] Along with an analysis of the lack of effective control by the PA over its designated territory,[44] this lack of legal capacity in the foreign relations field constitutes a failing of one of the most fundamental criteria of state sovereignty.[45]

With the PA's incapacity and lack of effective control came the denial of immunity, allowing civil liability to be imposed on a governing authority

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[39] Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970), Advisory Opinion, 1971 I.C.J. 16, at ¶¶ 52–53 (June 21) ("These developments leave little doubt that the ultimate objective of the sacred trust" in Article 22, paragraph 1 of the Covenant of the League of Nations "was the self-determination . . . of the peoples concerned".).

[40] *See* M. Salimoff & Co. v. Standard Oil Co. of N.Y., 186 N.E. 679 (N.Y. 1933).

[41] Omar M. Dajani, *Stalled Between Seasons: The International Legal Status of Palestine during the Interim Period*, 26 DENV. J. INT'L. L. & POL'Y. 27, 61 (1997).

[42] *Ungar*, 402 F.3d 274, 282–92 (2005) ("Under international law, a state is an entity that has a defined territory and a permanent population, under the control of its own government, and that engages in, or has the capacity to engage in, formal relations with other such entities.") (citing RESTATEMENT (THIRD) OF THE FOREIGN RELATIONS OF LAW OF THE U.S. § 201). These criteria are originally found in Convention on the Rights and Duties of States art. 1, Dec. 26, 1933, 49 Stat. 3097, 165 L.N.T.S. 19.

[43] *Ungar*, 402 F.3d at 282–92. *See also* GEOFFREY R. WATSON, THE OSLO ACCORDS: INTERNATIONAL LAW AND THE ISRAELI-PALESTINIAN PEACE AGREEMENT 68–72 (Oxford Univ. Press 2000).

[44] The criteria of effective governmental control traces its judicial source to Gov't of the Republic of Spain v. Arantzazu Mendi, (1939) A.C. 256, 264–65 (H.L.) ("By 'exercising de facto administrative control' or 'exercising effective administrative control', I understand exercising all the functions of a sovereign government, in maintaining law and order, instituting and maintaining courts of justice, adopting or imposing laws regulating the relations of the inhabitants of the territory to one another and to the government.").

[45] JAMES CRAWFORD, THE CREATION OF STATES IN INTERNATIONAL LAW 47 (Clarendon Press 1979) (stating the capacity to engage in relations with other states is a *sine qua non* condition of statehood). *See also* Hurst Hannum & Richard B. Lillich, *The Concept of Sovereignty in International Law*, 74 AM. J. INT'L. L. 858, 872 (1980) (citing a U.S. State Department study finding that the lack of capacity to conduct foreign relations is a typical characteristic of non-sovereign entities). On the specifics of the PA's powers, see Joel Singer, *Aspects of Foreign Relations Under the Israel-Palestinian Agreements on Interim Self-Government Arrangements for the West Bank and Gaza*, 28 ISR. L. REV. 268, 283 (1994) (stating that the PA's lack of constitutional capacity to engage in foreign relations was a result of the specific negotiations between Israel and the PLO in concluding the Oslo Accords).

that can barely govern at all. Instead of self-determination swallowing liability, as the Palestinians would have had it, civil jurisdiction chewed up and spit out sovereign authority. When visited by the domestic civil court, two otherwise friendly international law concepts turned mutually incompatible. One or the other of them had to consume its counterpart so that the process of interpreting the law could move along.

III. UNSAVORY NORMS

Ruggero Deodato's *Cannibal Holocaust* ends with the officials of the Pan American television studio that have been watching salvaged footage of a lost expedition of journalists agreeing that, for the sake of the viewing public, the material must be destroyed. As one critic put it, the film's horror "is so atrocious to the sensibilities of the television executives that one of them orders it to be burnt – after we have viewed it, of course."[46]† As the comment suggests, the film is one that manages to both condemn and exploit the grossest excesses of violence. It has accordingly produced a chorus of condemnatory reactions, for the most part reflecting the view that the nudity, violent sexual encounters, dismemberment, and anthropophagi all combine to challenge the spectator "not to abandon himself to the one desire that this film excites: censorship."[47]

True to that early prediction, reality has followed the film's own mock reality and *Cannibal Holocaust* has in the decades since its release been eaten alive by prosecutors, regulators, and audiences all over the world. Most of the controversy has focused on the director's use of live animals in the jungle sequences—in particular one notable scene in which the living flesh of a giant sea turtle is ripped fresh from its pried open shell.[48] The film's bigger legal troubles, however, came as a result not of the film's actual killing of living creatures but of the director's artfulness in bringing celluloid fantasy alive. Shortly after its release, a French magazine claimed that the film was an authentic 'snuff' movie, and that the unsavory lust after human body parts—the "*mangiati vivi*" for which this spaghetti Southern is best known—was indeed real.[49] Copies of the film were seized by the Italian police barely a month after it opened in early 1980 and, although the apparent on-screen homicides were eventually acknowledged as nothing

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[46] Alain Garsault, Review, *Cannibal Holocaus*t, 243 POSITIF 65 (1981).

†Editors' Note: All quotations and sources in which the original is in a foreign language were translated by the author. Where possible the editors have diligently attempted to verify the accuracy of such sources through English translation.

[47] Francois Gère, Review, *Cannibal Holocaust*, 326 CAHIERS DU CINÉMA 63 (1981).

[48] For a full description, see Epinions.com, *Cannibal Holocaust and the Apathy of the Modern Viewer*, *at* http://www.epinions.com/content_54841609860 (last modified May 15, 2002) (". . . numbering amongst [the animal cruelty scenes] are the poor monkey, the top of whose head is chopped off and his brains scooped out, the sea turtle—now an endangered species—ensnared, flipped over, decapitated, dismembered, its shell prised (sic) open and its insides molested, the muskrat, stabbed in the neck and disembowelled (sic) and the pig, callously shot and whose twitching death throes we are exposed to in a gratuitous zoom shot.").

[49] DAVID KEREKES & DAVID SLATER, KILLING FOR CULTURE: AN ILLUSTRATED HISTORY OF DEATH FILM FROM MONDO TO SNUFF 69 (Annihilation Press 1996).

more than "realistic special effects and fake blood,"[50] the cruelty to animals was found to be the real item and lead to a real conviction and fine. Regulators followed suite in the United Kingdom, where the film was banned under the infamous *Video Nasties Act*.[51] After a protracted legal battle the film was re-released three years later, where it became "a huge *succès de scandale* in Italy and elsewhere in Europe,"[52] and, it would seem, one of the highest grossing (and grossest) movies in the history of Japan.[53]

Although *Cannibal Holocaust* is by any standard an interesting film, it admittedly requires some explanation as to why it is an appropriate medium through which to contemplate the arguments surrounding the Middle East conflict and its cinematographic representations. After a long underground existence in the English speaking world, the film was released on DVD in 2000 accompanied by a new interview with Ruggero Deodato. A quarter century after its creation, the director finally explained that it was the late 1970's obsession of the Italian press with the urban terrorism of the Red Brigades and the consequent "rape of the senses" experienced by the public that motivated the gruesome work.[54] In other words, the movie evinces a fascination not so much with cannibalism (read: terrorism) and its attendant violence, but with the public appetite for and depiction of the cannibalistic (terroristic) violence. Thus, the script combines staged killings of humans with real killings of animals, the latter of which are real, but presumed to be staged, and the former of which are staged, but presumed by the press to be real.[55] This "honed abhorrence," as critics have dubbed it, "increases the potency of all subsequent acts of violence ten-fold."[56]

The significant point to note about the film's relentlessly *vomitif* quality,[57] and the consequent revulsion of its contemporary critics, is that it is all contained within a film whose ostensible message is anti-violent. The orgy of mutilation ends with Professor Monroe, the anthropologist, voicing aloud the cliché that has accompanied all such treks into tropical environs and tribal societies since the literature of the late nineteenth century introduced Englishmen to their own *Heart of Darkness*.[58] "I wonder who

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50 The Z Review, *Cannibal Holocaust Movie Review*, *at* http://www.thezreview.co.uk/reviews/c/cannibalholocaust.htm (last visited Feb. 14, 2007).

51 *See Dark Angel's Realm of Horror*, *at* http://www.angelfire.com/darkside/realmofhorror/ nasties.htm (last visited Feb. 14, 2007) (for reviews of the 52 films investigated and the 39 successfully prosecuted under Britain's pre-1984 legislation). *See* DAVID KEREKES & DAVID SLATER, SEE NO EVIL: BANNED FILMS AND VIDEO CONTROVERSY (Headpress 2000) (for an account of British censorship policy under the rubric of "video nasties").

52 MIKITA BROTTMAN, OFFENSIVE FILMS: TOWARD AN ANTHROPOLOGY OF CINÉMA VOMITIF 132 (Greenwood Press 1996).

53 Mariko McDonald, *Enter the Den of Sin: Filmakers, Cannibals, and Zombies, Oh My!*, Film Threat (Apr. 8, 2004), *at* http://www.filmthreat.com/Features.asp?Id=1029.

54 Carolina G. Jauregui, *'Eat it alive and swallow it whole!': Resavoring Cannibal Holocaust as a Mockumentary*, Invisible Culture (2004), *at* http://www.rochester.edu/in_visible_culture/ Issue_7/Jauregui/jauregui.html#fn19 (discussing the significance of the Red Brigades reference and the "rape of the senses").

55 KEREKES & SLATER, *supra* note 49.

56 KEREKES & SLATER, *supra* note 49, at 48.

57 BROTTMAN, *supra* note 52, at 3 ("By displaying the nauseating, *cinéma vomitif* induces nausea.").

58 JOSEPH CONRAD, *Heart of Darkness*, *in* THE WORKS OF JOSEPH CONRAD (J.M. Dent & Sons Ltd. 1923).

the *real* cannibals are," the good professor muses. Rarely, however, does the message seem so hypocritical, coming as it does on the heels of the very gluttony that it purports to criticize. As one reviewer noted, the apparent bad faith of the film's moral message threatens to discredit it completely,[59] making it all the more prone to producing a physical effect and "excit[ing] the most repulsion in the contemporary spectator."[60]

Much of this quality is shared by the international law advocacy at stake in the Israeli-Palestinian confrontations of the *intifada* era. First, it should be noted that the film and the law parallel each other in the sense that both are a step removed from their own violent subject matter. That is, the film is not so much about the violence of those whose cannibalism is the starting point of the script, but rather it is about the journalistic treatment of cannibalism and the ethos that the documentary filmmakers exhibit in pursuit of that treatment. In similar fashion, the *Ungar* case is not so much about the violence of those whose terrorism is the starting point of the suit, but rather it is about the legal treatment of state sovereignty and the norms that international lawyers deploy in pursuit of that treatment. This burying of extreme violence—the Ungar family's fate on the Israeli road is almost as gruesome, and every bit as final, as the film crew's fate in the South American jungle—under professional norms, only serves to accentuate the tensions at hand.

More than that, the significance of moving the film one step away from the cannibals is that the plot is not about them at all; rather, it is about the filmmakers that cover the cannibals and the ethics of their trade. In that, of course, the parallels with the *Jenin, Jenin* debate could not be more stark. There is as little debate about the fact that deaths occurred in the refugee camp as there is about the fact that deaths occurred in the jungle—"[t]he injury is deep and real,"[61] although the numbers may be contentious,[62] in both settings. Rather, the substantive debate is about the propriety of the staging, fulfilling the audience's desire for violence by doing violence to historical truth. As the television executive screening the cannibalistic mockumentary observes, "Today people want sensationalism…the more you rape their sense, the happier they are."[63] The comment, and the debate that it spawns, is as aptly applied to Muhammad Bakri's celluloid assault

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[59] Garsault, *supra* note 46, at 35.

[60] *Id. See also* BROTTMAN, *supra* note 52, at 3 ("Essentially, *cinéma vomitif* is the kind of cinema that produces physical effects on the body of the spectator.").

[61] Bakri v. Film Censorship Bd., [2003] IsrSC 58(1) 249, 284 (Procaccia, J., concurring).

[62] On April 7, 2002, Palestinian Authority Secretary-General Hassan Abdel Rahman informed the NBC television network that, "The victims so far has [sic] been over 250 Palestinians killed . . . ." On April 10, 2002, Palestinian spokesman Nabil Sha'ath advised Agence France Presse that, "We have 300 martyrs in Jenin in the last few days." Later on April 10th, PA cabinet member Saeb Erekat proclaimed on CNN that, "I'm afraid to say that the number of Palestinian dead in the Israeli attacks have reached more than 500 now." *See* Camera, *Background: A Study in Palestinian Duplicity and Media Indifference* (2002), *at*
http://www.camera.org/index.asp?x_context= 7&x_issue=14&x_article=217. Following its own investigation, the United Nations concluded that 52 Palestinians died in the fighting in Jenin, along with 23 Israelis. *UN Says No Massacre in Jenin*, BBC News, Aug. 1, 2002, *available at*
http://news.bbc.co.uk/2/hi/middle_east /2165272.stm.

[63] CANNIBAL HOLOCAUST, *supra* note 12.

on sensibility as it is to Ruggero Deodato's (and his fictional director, Alan Yates') libel against human nature.[64]

IV. SITTING ON THE INTERPRETIVE SECURITY FENCE

The interpretive quest next moved back to the international forum by means of a question posed by the U.N. General Assembly: "What are the legal consequences of the construction of a wall in the Occupied Palestinian Territories?"[65] After addressing the challenges to its jurisdiction to issue an advisory opinion on such a hotly contested political issue,[66] the ICJ went on to consider the legality of Israel's security fence under international law.[67] Much as its domestic counterpart had done, the international tribunal sought out the principle of legal sovereignty and in the process set up a contest between two of its contested meanings: self-defense and the sovereignty of the nation,[68] or humanitarian norms of military occupation and the sovereignty of the law.[69]

Some of the more basic aspects of self-defense in international law did not, of course, have to be reviewed, as the court had already pronounced definitively on them in previous decisions. Specifically, the court was spared the need to consider the question of whether a guerrilla campaign, as opposed to a classic interstate war, qualifies as a military attack, since it had already determined this to be the case in the 1986 *Nicaragua v. United States* case.[70] Likewise, there was no need for the court to consider as a matter of first instance whether the laws of warfare, and the prohibition on using force against a civilian population, apply to an internal, non-internationalized war as well as to a traditional international conflict. The International Criminal Tribunal for Yugoslavia had already resolved this

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[64] *See* MARY DOUGLAS, RISK AND BLAME: ESSAYS IN CULTURAL THEORY 86 (Routledge 1992) (discussing blood libels involving homicide and cannibalism).

[65] G.A. Res. ES-10/14, U.N. Doc. A/RES/ES-10/14 (Dec. 12, 2003).

[66] Article 96 (1) of the Statute of the International Court of Justice authorizes the General Assembly to request an advisory opinion from the Court; the Court has on occasion expressed a view as to the relationship between such an opinion and the political issues confronting the General Assembly. *See* Interpretation of Peace Treaties with Bulgaria, Hungary and Romania, Advisory Opinion, 1950 I.C.J. 65 (July 8); Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion, 1966 I.C.J. 226 (Mar. 30).

[67] *See* Legal Consequences of the Construction of a Wall, *supra* note 4, at ¶ 67 (discussing the use of terminology for the security fence: "the 'wall' in question is a complex construction, so that that term cannot be understood in a limited physical sense. The other terms used, either by Israel ('fence') or by the Secretary-General ('barrier'), however, are no more accurate if understood in the physical sense. In this Opinion, the Court has therefore chosen to use the terminology employed by the General Assembly.").

[68] *See* D.W. BOWETT, SELF-DEFENSE IN INTERNATIONAL LAW 185 (1958) (speaking of self-defense as an incident of sovereignty: "the [article 2(4)] prohibition left the right of self-defense unimpaired"). *See also* North Atlantic Treaty art. 5, Apr. 4, 1949, 63 Stat. 2241, 34 U.N.T.S. 243 (discussing national and collective self-defense).

[69] Regulations Respecting the Laws and Customs of War on Land, annexed to the Fourth Hague Convention, Oct. 18, 1907, *available at* http://www.vbs.admin.ch/internet/gst /KVR/e/e-Hague07-IVReg.htm (stating that occupier is trustee for local population).

[70] *See* Military and Paramilitary Activities in and Against Nicaragua (Nicar. v. U.S.), 1986 I.C.J. 14 (June 27).

question in the affirmative less than a decade before.[71] In short, international law had already accepted the proposition that an attack by irregular forces from within a country is not normatively distinguishable from an attack by regular forces from a neighboring country. The identical laws of war apply to intrastate as to interstate conflict.

This settled feature of international legality signaled a potentially positive and negative response to the question of the Israeli security barrier. In the first place, it made it highly unlikely that the court would have or could have agreed with Israel's position on the non-application of the Fourth Geneva Convention to the territories occupied by it and governed by its military administration.[72] Accordingly, the court commenced its judgment with a recitation of the General Assembly's request for an advisory opinion, which itself contained a preamble that reaffirmed the position of the United Nations ("U.N.") on the applicability of the Convention to the post-1967 occupation of the West Bank and Gaza regions.[73] From the outset there was little doubt that the court would require Israel, in administering the territories under occupation and in constructing in those territories whatever installations were deemed necessary, to adhere to general humanitarian norms.[74] Indeed, the Israeli Supreme Court in its own consideration of the question posed to the international tribunal, had observed that Israeli policy tracks those very norms.[75]

The next logical step in the analysis would be for the court to extend to the conflict in the West Bank the principles of self-defense that form an

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[71] Prosecutor v. Tadic, Case No. IT-94-1-T, ICTY Trial Camber (May 7, 1997); *aff'd* Prosecutor v. Tadic, Case No. IT-94-1-A ICTY Appellate Chamber (July 15, 1999).

[72] This position traces to the post-June 1967 writings of former Israeli Chief Justice Meir Shamgar. *See* Meir Shamgar, *The Observance of International Law in the Administered Territories*, 1 ISR. Y.B. on H. R. 262, 263 (1971); Meir Shamgar, MILITARY GOVERNMENT IN THE TERRITORIES ADMINISTERED BY ISRAEL, 1967-1980: THE LEGAL ASPECTS 33 (Alpha Press 1982).

[73] G.A. Res. ES 10/14, U.N. Doc. A/RES/ES-10/14 (Dec. 8, 2003) ("*Reaffirming* the applicability of the Fourth Geneva Convention as well as Additional Protocol I to the Geneva Conventions to the Occupied Palestinian Territory, including East Jerusalem") (footnotes omitted).

[74] The Israeli Supreme Court has long held that the military administration in the occupied territories must abide by the norms of belligerent occupancy contained in the Fourth Geneva Convention, whether by virtue of the treaty's applicability or by application of customary international law reflected in the treaty. *See* Ayub v. Minister of Defense, [1978] IsrSC 33 113 (holding that land seizures by a military administration are only authorized for purposes of meeting an existing danger); Abu Rian v. Commander of IDF Forces, [1988] IsrSC 42 770; Wafa Ali v. Minister of Defense, [1996] IsrSC 50 848 (authorizing the construction of bypass roads); Hilu v. Government of Israel, [1972] IsrSC 27 129 (severing Gaza strip from Sinai); Zalum v. Regional Military Commander, [1986] IsrSC 41 528 (authorizing security measures for Israeli civilians in West Bank).

[75] HCJ 2056/04 Beit Sourik Village Council v. Gov't of Israel, [2004] IsrSC 46(2) 1 (English version *available at* http://www.mfa.gov.il/ NR/rdonlyres/75671100-3248-4196-888B-362D6425D3AA/0/HCJ_ Fence_ruling_300604.doc). The Israeli Supreme Court has been at pains to clarify that the government's adherence to the principles of international humanitarian law is a matter of domestic policy, not international legal obligation. *See* Daphne Barak-Erez, *The International Law of Human Rights and Constitutional Law: A Case Study of an Expanding Dialogue*, 2 INT'L. J. CONST. L. 611, 615–16 (2004) ("[T]he official position of the State of Israel has always been that the Fourth Geneva Convention relative to the Protection of Civilian Persons in Times of War . . . does not apply to the occupied territories.").

integral part of the customary laws of war.[76] That is, if force is restricted by the ordinarily applicable rules it must also be authorized under the terms of those same ordinary rules. While the use of armed force as an instrument of national policy has long been outlawed,[77] and the pre-World War II use of force in self-help enforcement of legal rights has been supplanted by the prohibition on force contained in article 2(4) of the U.N. Charter,[78] the international community has not adopted a rule of passivism.[79] Rather, force is carefully regulated so that its use in self-defense is proportional to the threat at whose prevention or eradication it is aimed, and so that it does not unduly threaten the territorial or political integrity of the target of the force.[80]

As it turned out, however, the question of whether the construction of a wall represents an appropriate level of force in self-defense against attacks from Palestinian territory was not an issue for the court.[81] Despite the obvious level of violence reflected in *Ungar* and similar cases, defense against such violence was not debated at the international judicial level.[82] Rather, the court took seriously the Palestinian argument that although the right to self-determination is a collective right and its breach by Israel is a violation of duties owed to the world at large,[83] the Palestinians themselves have not achieved national stature and therefore their attacks do not qualify as "armed attacks" for the purposes of self-defense under the U.N.

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[76] *See* Military and Paramilitary Activities, 1986 I.C.J. 14, at ¶¶ 187–90 (concluding that the principle of self-defense, as articulated in Article 51 of the U.N. Charter reflects, but does not supplant, the customary law of self-defense).

[77] Treaty Providing for the Renunciation of War as an Instrument of National Policy art. 1, Aug. 27, 1928, 46 Stat. 2343, 94 L.N.T.S. 57.

[78] *See* Corfu Channel, 1949 I.C.J. 57 (Apr. 9) (setting out pre and post-War prohibitions on force).

[79] See Thomas M. Franck, *Who Killed Article 2(4)?*, 64 AM. J. INT'L. L. 809 (1970) (discussing further the international law community's debate on the use of force and proclaiming the Cold War end of the prohibition on the use of force). *See also* Louis Henkin, *The Reports of the Death of Article 2(4) are Greatly Exaggerated*, 65 AM. J. INT'L. L. 544 (1971) (describing Thomas Franck as a "pathologist for the ills of the international body politic"). For an update of the Franck/Henkin debate, see Pal Wrange, *Downtown, Midtown, Uptown*, 68 NORDIC J. INT'L L. 53 (1999) and THOMAS M. FRANCK, FAIRNESS IN INTERNATIONAL LAW AND INSTITUTIONS (Oxford Univ. Press 1995). *See also* YORAM DINSTEIN, WAR, AGGRESSION AND SELF-DEFENSE 78–134 (3d ed., Cambridge Univ. Press 2001) (1988) (reviewing the state of the contemporary prohibition on use of force).

[80] *See* Anthony D'Amato, *Israel's Air Strike Upon the Iraqi Nuclear Reactor*, 77 AM. J. INT'L. L. 584 (1983) (noting that the destruction of the nuclear reactor was a proportional measure given Israeli defense needs); Judith G. Gardam, *Proportionality and Force in International Law*, 87 AM J. INT'L. L. 391 (1993); Jack M. Beard, *America's New War on Terror: The Case for Self-Defense under International Law*, 25 HARV. J.L. & PUB. POL'Y. 559 (2002); Thomas M. Franck, *Terrorism and the Right of Self-Defense*, 95 AM J. INT'L. L. 839 (2001).

[81] *See* Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, 2004 I.C.J. 20 (July 9) ("[T]he construction of the Barrier is consistent with Article 51 of the Charter of the United Nations, its inherent right to self-defence and Security Council resolutions 1368 (2001) and 1373 (2001) . . . .").

[82] The question of the requirements of self-defense was, of course, debated in the Israeli Supreme Court's deliberations on the security fence. *See* Beit Sourik Village Council v. Gov't of Israel [2004], ¶ 3, English version *available at* http://www.mfa.gov.il/ NR/rdonlyres/75671100-3248-4196-888B-362D6425D3AA/0/HCJ_ Fence_ruling_300604.doc ("The purpose behind the decision was 'to improve and strengthen operational capability in the framework of fighting terror, and to prevent the penetration of terrorists from the area of Judea and Samaria into Israel.'").

[83] *See* Case Concerning East Timor (Port. v. Austl.), 1995 I.C.J. 4, at ¶ 29 (June 30) (concluding that self-determination is a right *erga omnes*).

Charter.[84] In other words, the Palestinians put forward a position in the international court that ran directly contrary to the position taken by the Palestinian Authority in the federal court in *Ungar*. In the ICJ's opinion, "the threat which [Israel] regards as justifying the construction of the wall originates within, and not outside, that territory… Consequently, the Court concludes that Article 51 of the Charter has no relevance in this case."[85]

The implications of all of this for international law run in several directions. In the first place, of course, the Palestinians are pronounced to be both a self-determining and a non-self-determining people;[86] their plight as a non-self-governing people justifies their violence while their political identity is sufficiently separate from their adversary to remove it from the law's regulation of domestic conflicts and civil wars.[87] Moreover, the law of war is declared limited in its jurisdictional ambit to the states that lie behind an insurgency rather than to the insurgency itself—a situation that stands in opposition to the previously accepted attribution of belligerency status to similar conflicts.[88] Indeed, the very point of the Court's analysis of the geographic breaches of Palestinian territory embodied by Israel's security wall is to emphasize the belligerent status of Israel's presence in those territories.[89] The effect of the ruling, therefore, was to drive a wedge into the law of war. The applicability of the law's humanitarian aspects[90] was potentially undermined by the declared inapplicability of the rule of self-defence.

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[84] Legal Consequences of the Construction of a Wall, *supra* note 4, at ¶ 139 ("Article 51 of the Charter thus recognizes the existence of an inherent right of self-defence in the case of armed attack by one State against another State. However, Israel does not claim that the attacks against it are imputable to a foreign State.").

[85] *Id.*

[86] *See* De Lima v. Bidwell, 182 U.S. 1 (1901) (discussing the legal status of Puerto Rico and revealing that this contradictory possibility may not be unique to the Palestinians); Nguyen v. United States, 540 U.S. 935 (2003) (discussing the legal status of Guam).

[87] *See* Prosecutor v. Tadic, Case No. IT-94-1-T, Indictment (October 2, 1995) (discussing domestic warfare as a subject regulated by the law of war along with inter-state conflicts). *See also* Theodor Meron, *International Criminalization of Internal Atrocities*, 89 AM. J. INT'L. L. 554 (1995).

[88] *See* RICHARD A. FALK, THE INTERNATIONAL LAW OF CIVIL WAR 12 (John Hopkins Press 1971) (stating that international law applies where there is "a civil war accompanied by a state of general hostilities; occupation and a measure of orderly administration of a part of the insurgent forces acting under a responsible authority"). *See also* ROSALYN HIGGINS, *International Law and Civil Conflict*, *in* THE INTERNATIONAL REGULATION OF CIVIL WARS 169 (Evan Luard, ed., 1982).

[89] Legal Consequences of the Construction of a Wall, *supra* note 4, at ¶ 89 ("[R]ules laid down in the [Hague] Convention [of 1907] were recognised by all civilised nations, and were regarded as being declaratory of the laws and customs of war" and are binding on Israel in the occupied territories.). *See also* Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion, 1996 I.C.J. 8, at ¶ 75 (July 8).

[90] *See, e.g.*, G.A. Res. 58/97, ¶ 1, U.N. Doc. A/RES/58/97 (Dec. 17, 2003) (reaffirming "that the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, is applicable to the Occupied Palestinian Territory, including East Jerusalem, and other Arab territories occupied by Israel since 1967"); G.A. Res. 56/60, ¶ 1, U.N. Doc. A/RES/56/60 (Feb. 14, 2002); S.C. Res. 237, ¶ 1, U.N. Doc. S/RES/237 (June 14, 1967) ("[A]ll the obligations of the Geneva Convention relative to the Treatment of Prisoners of War . . . should be complied with by the parties involved in the conflict."); S.C. Res. 271, ¶ 4, U.N. Doc. S/RES/271 (Sept. 15, 1969) (calling upon "Israel [to] scrupulously observe the provisions of the Geneva Conventions and international law governing military occupation").

V. CROSSING THE GREEN INFERNO LINE

The contradictions and revisionist tendencies of the law are all but replicated in the combined historical realities/fantasies of *Cannibal Holocaust*. In the first place, the sheer voyeurism that is the hallmark of the film's success[91] does two things at once. That is, the excesses of violence—as *Variety* put it, "Deodato's inclusion of much extraneous gore effects and nudity"[92]—is both scintillating and repulsive.[93] It thus simultaneously reveals and critiques its audience's lust for violence, whether 'staged' or 'real.'[94] And so while it evidences a hypocrisy well documented by critics,[95] it also exposes the hypocrisy of those who cannot remove their gaze from the *mondo*-style spectacle.[96] Applying this logic to the battles of the Middle East, the physical violence of *Ungar* is bad, but the normative revisions of the ICJ, which reverberate worldwide, are worse. Likewise, one might be tempted to say that Jenin was bad but *Jenin, Jenin* was twice as bad—exposing the hypocrisy and revisionism of the filmmaker and his audience, all of which reverberate beyond the original battle.

Moreover, *Cannibal Holocaust* does graphically what international law does rhetorically in reversing the roles of public and private violence. In the movie, the most private, intimate instant of life—the moment of death—is made public by the incessant filming of the tribesmen's attack and the film crew's own demise. Conversely, the public spectacle of provocative violence is kept private through the final destruction of the film and the secret of the savagery of the filmmakers themselves. As if to accentuate the point to its fullest, the anthropologist's party announces its arrival and its non-threatening intentions at the Amazon camp by sending Miguel, their guide, to greet the tribesmen stark naked—making public display of his private parts and converting a declaration of innocence into a pornographic scene.

In its own twisted way, the disrobed message of the film is reminiscent of that of the law. The Ungars' most private, final moment is on public, litigious display, and the public policy of Israel's national defense is converted by the ICJ into a private moment of pain for the Palestinians of the West Bank. Along with all of that, the Palestinian Authority asserts sovereign immunity by cloaking itself in public norms equal to those of its

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[91] Jean Roy, Review, *Cannibal Holocaust*, 270 CINÉMA 125 (1981) (describing "[t]he famous ignominious footage, with occasional breaks to tell us how disgusting it all is").
[92] Review, *Cannibal Holocaust*, VARIETY, June 19, 1985, at 72.
[93] Roy, *supra* note 91, at 125 ("And yes, it certainly is [disgusting]."). *See also* MIKITA BOTTMAN, HIGH THEORY/LOW CULTURE 141 (Palgrave Macmillan 2005) ("This chain of desire/frustration is unending. If these [violent and pornographic] forms of popular culture ever reached the *ends* of the various desires they intimate and envisage, they would cease to exist, since desire cannot exist without lack, without a gap between satisfaction sought, and satisfaction obtained.") (emphasis in original).
[94] *See* Review, *supra* note 92, at 72 (describing "the genre's usual (and disgusting) killing of animals on camera").
[95] Garsault, *supra* note 46, at 35 ("The last phrase of the dialogue—'I wonder who the real cannibals are'—carries with it an assertion that is not only clichéd, but rarely employed with such total and evident bad faith.").
[96] BROTTMAN, *supra* note 52, at 128 ("Deodato appropriates the Italian *mondo* tradition, and, while pretending to denounce it, makes a film that is, in its way, even more gruesome, even more exploitative, and even more scandalous.").

national adversary, and challenges the security fence by greeting the international tribunal with its private parts fully exposed. The reversals are so complete that each successive legal analysis eats the last one for dessert.

The most lasting message of Deodato's extraordinary film, however, is that fantasy and reality are intimately, almost lasciviously intertwined. It is this theme that ultimately wraps international law, the *Jenin, Jenin* controversy, and the problem of revisionist interpretation into one self-contained package. In crossing the line from 'civilization' to 'savagery,' Deodato's characters enter the Amazon to make a documentary called "The Green Inferno"—the name given to this area of searing jungle. The filmmakers set out on their quest armed with a plan to prompt murder among the tribesmen in the name of journalistic art.[97] The plot is ultimately revealed by the television executives who sponsored the journey, who disclose that the same film crew's previous documentary, entitled "The Road to Hell," which chronicled brutal military dictatorships in Africa, contained firing squads and scenes of massacres in which the soldiers were paid to do their dirty work. In other words, Alan Yates and his crew, who had already mastered the technique of the 'snuff' film in their previous venture, got themselves 'snuffed' in the process of becoming the lead characters in the Pan American studio's 'snuff' film, all within Deodato's mock 'snuff' film that was mistaken for the real thing.[98] 'Snuff' to make one's head spin.

The interesting thing about "The Road to Hell"—i.e. the film that preceded the film within the film—is that it is presented as a flickering, unfocused piece of work. But behind the superficially low-brow quality is an intriguingly high-brow paradox. "The Road to Hell"—a fictional concoction by Deodato—purports to be a real documentary but looks like a fake; and, indeed, it is related to in that way by Yates' fictional audience. However, when it is revisited by the studio executives who reveal that its murderous soldiers were actually paid actors, the fictional film turns into a fake documentary that is in the most violent sense real; and, indeed, is related to in that way by Deodato's real life audience. The line between reality and fantasy, like that between self-defence and self-determination, or sovereignty and its abeyance, is revealed as being manipulable at the artist's will.

The relationship between film and history therefore parallels that between one legal doctrine and another. *Cannibal Holocaust* savors "The Green Inferno" as mockumentary and re-digests it as history revealed, while *Jenin, Jenin* savors the battle of Jenin as documentary and re-digests it as history revised. In much the same way, the *Ungar* court samples international sovereignty and re-consumes it as domestic liability, while the ICJ samples domestic self-defense and re-consumes it as international

[97] In yet another ironic mixture of 'fantasy' and 'reality', the central characters in *Cannibal Holocaust* are portrayed as actually doing what the director of the film was later falsely accused of doing—i.e making an authentic 'snuff' film. *See* KEREKES & SLATER, *supra* note 49.
[98] *See* KEREKES & SLATER, *supra* note 49.

responsibility. Each successive take devours and transforms the one that came before it.

When we cross the line from the Pan American TV studio into what one reviewer calls "*l'enfer vert déodato-amazonien*,"[99] we get a glimpse of imaginary fantasy masqueraded as "unimaginable reality."[100] With its twists and turns of interpretation and revision, it's all *Jenin, Jenin* and more Jenin. The graphic image of "The Road to Hell" as simultaneous truth and falsehood has been called "a secret token hidden inside *Cannibal Holocaust.*"[101] Likewise, the graphic and contradictory images of *Cannibal Holocaust* are a hidden medium for unwinding international legal cases. The film's successive interpretations, reconstitutions and revisions parallel the law's own movement down the road to hell and across the Middle East's infernal green line,[102] consuming all meaning even as each successive meaning is engaged. In regurgitating the past, law and film both make a meal of themselves.[103]

[99] Raymone Lefevre, Review, *Cannibal Holocaust*, IMAGE ET SON, May 1981, at 39.
[100] BROTTMAN, *supra* note 52, at 144.
[101] BROTTMAN, *supra* note 52, at 145.
[102] The term "Green Line" refers to the armistice lines established between Israel and Syria, Jordan (West Bank), and Egypt (Gaza Strip) at the end of the 1948 Israeli-Arab War. The reference comes from the green pencil used to draw the line on the map during the armistice talks. *See* David Newman, *The Functional Presence of an "Erased" Boundary: The Re-Emergence of the "Green Line*", *in* WORLD BOUNDARIES: THE MIDDLE EAST AND NORTH AFRICA 71 (Clive H. Schofield & Richard N. Schofield eds., Routledge 1994).
[103] Much as the critics did of the film. *See* BROTTMAN, *supra* note 52, at 145.