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by Thierry Meyssan

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South Africa's complaint against Israel

The complaint lodged by South Africa against the State of Israel does not accuse it of genocide, but of allowing elements of its army to practice it. It is based on the stated intentions of certain political and military leaders, on the observation of Israeli practices over the past 75 years towards the Palestinian people as a whole, and finally on the way it is behaving today in Gaza.



South Africa has lodged a complaint against Israel with the International Court of Justice. It is asking the judges to order provisional measures to prevent genocide in Gaza.

The International Court of Justice (ICJ) should not be confused with the International Criminal Court (ICC). The former stems directly from the meetings organized by Tsar Nicholas II at The Hague in 1899 and 1907. It was created under the name of Permanent Court of International Justice (PCIJ) and was the first international jurisdiction. It took on its current name when the United Nations was created, and is its only statutory jurisdiction. It judges disputes between states on the basis of International Law alone, i.e. the written commitments of each state. The second, on the other hand, was invented by the United States (which does not recognize it) and the European Union following the dissolution of the Soviet Union. It judges men, constituting a kind of permanent Nuremberg Tribunal. In practice, it has only judged personalities resisting Western imperialism. One of its prosecutors behaved like a NATO agent, not hesitating to lie to help the Atlantic Alliance in its conquest of Libya. There are other international courts, just as questionable as the ICC: the International Criminal Tribunal for the former Yugoslavia (ICTY), the International Criminal Tribunal for Rwanda (ICTR), the Special Court for Sierra Leone (SCSL) and the Extraordinary Chambers in the Courts of Cambodia (ECCC). They all speak of the justice of the victors. A special mention must go to the so-called "UN Special Tribunal for Lebanon" which, contrary to its name, is not a tribunal per se, but an arrangement between UN Secretary-General Kofi Annan and Lebanon's resigning Prime Minister, Fouad Siniora. Its aim was to convict the Lebanese and Syrian presidents, Emile Lahoud and Bashar al-Assad, but it ended in a farce, with corrupt judges, false witnesses, refusal to examine forensic evidence and so on.

The International Court of Justice, with which we are concerned, is the only court that respects international law, not one that invents its own rules to suit the needs of those who finance them.

This is Israel's first case before the ICJ. However, the Court has already heard a case involving Israel: the question for opinion put to it by Arab states on the legality of the "Separation Wall" between the Hebrew State and the Palestinian Territories. At the time, Tel Aviv did not take part in the debates, and the Court ruled that the Israeli construction violated international law. This ruling was not followed up.

This time, Israel is directly implicated. "The application concerns threats adopted, tolerated, committed and being carried out by the government and army of the State of Israel against the Palestinian people, a distinct national and racial community". "The acts and omissions of Israel denounced by South Africa are genocidal in character because they

are intended to bring about the destruction of a substantial part of the Palestinian national, racial and ethnic group. The acts in question include the killing of Palestinians in Gaza, causing serious bodily and mental harm, and inflicting on them conditions of life likely to bring about their physical destruction".

South Africa interprets the *Convention on the Prevention and Punishment of the Crime of Genocide of December 9, 1948*, in the light of the treatment of Palestinians over the last three-quarters of a century. In its view, the way Israel is pursuing its war against Hamas must be seen in the context of what preceded it. In this way, it can be seen to be genocidal, as it is being waged "with the requisite specific intent (*dolus specialis*) to destroy the Palestinians of Gaza as part of the Palestinian national, racial and ethnic group".

It is therefore a nuanced accusation, since it does not claim that Israel is organizing genocide, but that it is allowing some of its elements to carry it out.

Numerous UN commissions, including the Committee on the Elimination of Racial Discrimination ("CERD"), have "warned against hate speech and dehumanizing rhetoric towards Palestinians, raising serious concerns about the obligation of Israel and other State parties to prevent crimes against humanity and genocide".

Before initiating this procedure, South Africa made 9 official representations to Israel through its Ministry of Foreign Affairs, its President and its Ambassador to the United Nations. All have been rejected.

South Africa is a country of the "Global South" that suffered particularly during the apartheid period from "revisionist Zionism". It was Israelis who came up with the idea and organized the Bantustans to deprive black people of their rights within their own country. It was Israelis who tested their atomic bomb in the South African desert. It was Israelis who financed research into biological weapons, hoping to find a disease that would affect only blacks and Arabs. So heavy is this liability that, as early as 1953, the United Nations General Assembly condemned "the alliance between South African racism and Zionism". Later, President Nelson Mandela declared that South Africans would never be completely free as long as Palestinians lived under Israeli apartheid.



April 11, 1975, at the Prime Minister's residence in Jerusalem. From left to right: Eschel Rhodie (South African Propaganda Director), Yitzhak Rabin (Israeli Prime Minister and revisionist Zionist), Henrik van den Bergh (South African Secret Service Director) and Shimon Peres (Israeli Defense Minister).

I'll summarize the proceedings here.

THE FACTS

"In two months, Israeli military attacks have "caused more destruction than the fighting in Aleppo in Syria between 2012 and 2016, the fighting in Marioupol in Ukraine, or proportionally, the Allied bombing raids on Germany during the Second World War »

By the time the complaint was filed, 21,110 Palestinians from Gaza had been killed and over 55,243 injured. The death toll included more than 7,729 children and 4,700 women. More than 355,000 equipped homes had been destroyed, i.e. 60% of all dwellings. 1.9 million Palestinians, around 85% of the total population, were internally displaced. Only 13 of the 36 hospitals are partially functional, and there are no fully operational hospitals left in northern Gaza. Contagious and epidemic diseases are commonplace among the displaced. The entire population of Gaza is at imminent risk of famine, while the proportion of households affected by acute food insecurity is the highest ever recorded according to the FAO's "Integrated Food Security Phase Classification".

BACKGROUND

For years, Israel has imposed a strict blockade on Gaza, prohibiting fishing and allowing in only the quantity of food essential for nutrition.

Between September 29, 2000 and October 7, 2023, some 7,569 Palestinians, including 1,699 children, were killed, including in "four highly asymmetrical wars", as well as other smaller-scale military assaults, leaving tens of thousands wounded.

In addition, 214 Palestinians, including 46 children, died during the "Great March of Return", a large-scale peaceful demonstration along the separation wall between Gaza and Israel, in which thousands of Palestinians took part every Friday for 18 months, demanding that "the blockade imposed on Gaza be lifted and that Palestinian refugees" return to their homes and villages in Israel, in application of UN resolutions. In all, more than 36,100 Palestinians, including nearly 8,800 children, were injured by Israel, including 4,903 who were shot in the lower limbs, "many while standing unarmed hundreds of meters away" from snipers. The Commission found that the mutilations were not accidental: the rules of engagement adopted by Israel allowed snipers to shoot the legs of the "main inciters". The "United Nations Commission of Inquiry on the Demonstrations in the Occupied Palestinian Territory" found that there were reasonable grounds to believe that Israeli snipers "intentionally shot" children and visibly disabled people, with full knowledge of the facts.

Israel's discriminatory legal regime, policies and practices subject Palestinians to what amounts to an apartheid regime. Palestinians in the West Bank are confined behind a segregation wall, subjected to discriminatory zoning and land-use policies; house demolitions for punitive and administrative purposes; violent incursions by the Israeli army into Palestinian territory including Zone A; routine violent Israeli raids on their homes; arbitrary arrests and indefinitely renewable administrative detention (internment without trial); and a dual legal system whereby Palestinians are tried under Israeli military law while Israeli settlers living on the same territory are subject to a different legal regime and tried in Israel by civilian courts enjoying due process of law.

Prior to October 7, 2023, between January 1 and October 6, 2023, 199 Palestinians had been killed by Israeli soldiers or settlers in the West Bank, and 9,000 injured. Since October 7, Israel has arrested more than 3,000 Palestinians from the West Bank and East Jerusalem, in particular for publications on social networks relating to the situation in Gaza. Israel significantly increased the number of Palestinians held in administrative detention, without trial or charge, to 2070. Thousands of Palestinians from Gaza working in Israel have also been arbitrarily arrested and detained, and 3,200 were forcibly returned to Gaza on November 3, 2023, against a backdrop of large-scale bombardment. Reports

indicate that Palestinian workers were ill treated upon arrest and subjected to violence. Many detained Palestinians, adults and children, from the West Bank released in exchange for Israeli hostages also report serious ill-treatment, notably alongside restrictions on access to food, water, medical care and electricity in Israeli prisons. 6 detained Palestinians from the West Bank have notably died in custody.

Armed attacks on Palestinians by Israeli settlers - openly supported by Israeli politicians - have also escalated dramatically. Settlers - often accompanied by Israeli soldiers - killed at least 8 Palestinians and wounded 85 others, spreading terror among Palestinians, particularly in farming communities, and damaging property. 2,186 Palestinians from the West Bank, including 1,058 children, were displaced.



GENOCIDAL ACTS

Israel is reportedly dropping "dumb" (i.e. unguided) bombs on Gaza, as well as heavy bombs weighing up to 900 kg, which have a predicted lethal radius of "up to 360 m" and "cause serious injury and damage up to 800 meters from the point of impact".

For Palestinian children in particular, "death is everywhere" and "nowhere is safe". In total, more than 7,729 Palestinian children have been killed in Gaza to date. That's more than 115 Palestinian children killed every day. It is estimated that more Palestinian children were killed in the first three weeks of the current conflict in Gaza alone (a total of 3,195) than the total number of children killed annually in the world's conflict zones since 2019. The unprecedented rate of Palestinian child casualties has prompted Unicef's spokesperson to call Israel's attacks on Gaza a "war on children".

To date, Israel has killed: more than 311 doctors, nurses and other health workers, including physicians and ambulance drivers, killed in the line of duty; 103 journalists, more than one a day, and more than 73% of the total number of journalists and media professionals killed worldwide in 2023; 40 civil defense workers - tasked with helping to extract victims from the rubble - were killed while on duty; and more than 209 teachers and educational staff; 144 United Nations employees were also killed, "the highest number of aid workers killed in the history of the UN in such a short time".

More than 55,243 Palestinians have been injured in Israeli military attacks on Gaza since October 7, 2023, most of them women and children. Burns and amputations are common injuries, with around 1,000 children having lost one or both legs. There are reports of Israeli forces using white phosphorus in densely populated areas of Gaza: as described by the World Health Organization, even small amounts of white phosphorus can cause deep and severe burns, penetrating even through bone and capable of reigniting after initial treatment. With no functioning hospitals left in northern Gaza, injured people are reduced to "waiting to die", unable to seek surgery or medical treatment beyond first aid, slowly agonizing from their wounds or the resulting infections.

Even before the latest attack, Palestinians in Gaza were suffering from severe trauma as a result of previous attacks: 80% of Palestinian children had experienced high levels of bombardment. They suffered from emotional distress, nocturnal enuresis (79%) and reactive mutism (59%), as well as self-harm (59%) and suicidal thoughts (55%). Eleven weeks of relentless bombardment and displacement will have inevitably led to a further increase in these figures, particularly for the tens of thousands of Palestinian children who have lost at least one parent, and for those who are the only surviving members of their families.



In parallel with its military campaign, Israel has engaged in the dehumanization and cruel, inhuman and degrading treatment of the Palestinian inhabitants of Gaza. Large numbers of Palestinian civilians, including children, were arrested, blindfolded, forced to strip naked and stand outside in the cold, before being forcibly loaded into trucks and taken to unknown locations. Many Palestinian detainees who have been released report being subjected to torture and ill treatment, including deprivation of food, water, shelter and access to toilets. Images of mutilated and burned corpses - as well as videos of attacks by Israeli soldiers - presented as "exclusive content from the Gaza Strip", circulated in Israel on the Telegram channel "72 Virgins", uncensored.

On December 1, 2023 - the end of the temporary eight-day truce between Israel and Hamas - Israel began dropping leaflets urging Palestinians to leave the southern areas to which they had previously been asked to flee. As the UN Special Rapporteur on the Human Rights of Internally Displaced Persons put it, "Israel has reneged on promises of security made to those who obeyed its order to evacuate northern Gaza two months ago. Today, they have been forcibly displaced once again, alongside the population of southern Gaza". Israel also published a detailed map online, dividing the Gaza Strip into hundreds of small areas. It was ostensibly intended to inform of Israeli orders to evacuate. However, as Ocha notes, "the publication does not specify where people should evacuate to".

According to UN Secretary General Antonio Guterres, "Many of our vehicles and trucks were destroyed or abandoned following our forced and hasty evacuation from the north, but the Israeli authorities have not authorized the use of additional trucks in Gaza. This is seriously hampering the aid operation. Getting goods to the north is extremely dangerous

because of the active conflict, unexploded ordnance and badly damaged roads". Everywhere, frequent communication breakdowns make it virtually impossible to coordinate aid distribution, inform people how to access it and resume commercial activities. "Shelves are empty; wallets are empty; stomachs are empty". Only one bakery is operating in the whole of Gaza.

UNRWA's Commissioner General describes "desperate, hungry and terrified people", who are now "stopping aid trucks, taking the food and eating it immediately".

According to the World Food Program, only 1.5 to 1.8 liters of clean water are available per person per day, for all uses (drinking, washing, food preparation, hygiene). This figure is well below the "emergency threshold" of 15 liters per day for "war or famine conditions", or the "survival threshold" of 3 liters per day.

According to the World Health Organization, there is on average "only one shower for every 4,500 people". UNRWA shelters now average just one toilet for every 486 people, while other places where people seek shelter often have no toilets at all.

There have now been over 238 attacks on "health centers" in Gaza. Only 13 of the 36 hospitals and 18 of the 72 health centers are still functioning - some of them barely at all. - The Israeli army targeted hospital generators, solar panels and other equipment, such as oxygen stations and water tanks. Ambulances, medical convoys and first responders were also targeted. 311 health workers were killed (an average of 4 per day), 344 of whom at least 22 were killed in the line of duty.

Israel left Gaza City's main public library in ruins. It also damaged or destroyed countless bookshops, publishing houses, libraries and hundreds of educational establishments. Israel targeted each of Gaza's four universities, including the Islamic University.

Israel damaged or destroyed some 318 Muslim and Christian religious sites, demolishing places where Palestinians had worshipped for generations. These include the Great Omari Mosque, originally a fifth-century Byzantine church, a landmark of Gaza's history, architecture and cultural heritage, and a place of worship for Christians and Muslims for over 1,000 years. The Israeli bombardment also damaged the Church of Saint Porphyrius, founded in 425 AD and considered the third oldest Christian church in the world.

CONFESSIONS BY LEADING ISRAELI FIGURES

It is rare for perpetrators of genocide to express their intentions in advance. Yet South Africa has put together 6 pages of quotations. At the preliminary hearing, Israel pleaded that these were merely political speeches, rhetoric, but that none of the personalities cited had attempted to put them into action. Let's take a look at the facts quoted above.

Addressing the Knesset, Prime Minister Benjamin Netanyahu described the war as "a struggle between the children of light and the children of darkness, between humanity and the law of the jungle". Later he told his soldiers: "You must remember what Amalek did to you, says our Holy Bible. And we remember. The relevant biblical passage reads: "Now go and attack Amalek and proscribe everything that belongs to him. Spare no one, but kill men and women, infants and sucklings, oxen and sheep, camels and donkeys".

President Isaac Herzog told a press conference: "It's a whole nation that's responsible. This rhetoric about civilians not knowing and not being involved is not true. It's absolutely not true. ... and we will fight until we break their backbone".

Defense Minister Yoav Gallant, in an Israeli army "situation update" on October 9, 2023, reported that Israel was "imposing a complete siege on Gaza (...) No electricity, no food, no water, no fuel. Everything is closed. We are fighting human animals and we are acting accordingly".

Knesset Deputy Speaker and member of the Foreign Affairs and Security Committee Nissim Vaturi tweeted on October 7, 2023: "Now we all have a common goal: to wipe the Gaza Strip off the face of the earth".

SOUTH AFRICA'S CONCLUSIONS

South Africa calls for precautionary measures to put an immediate stop to the massacre. In particular, it calls on

(1) The State of Israel will immediately suspend its military operations in and against Gaza.

(2) The State of Israel will ensure that military units or irregular armies which may be directed, supported or influenced by it, as well as all organizations and persons likely to be subject to its control, direction or influence, take no action in pursuit of the military operations referred to in (1) above.

(3) The Republic of South Africa and the State of Israel will each take, in accordance with their obligations under the Convention on the Prevention and Punishment of the

Crime of Genocide, with respect to the Palestinian people, all reasonable measures within their power to prevent genocide.

(4) The State of Israel shall, in accordance with its obligations under the Convention on the Prevention and Punishment of the Crime of Genocide, in relation to the Palestinian people as a group protected by the Convention on the Prevention and Punishment of the Crime of Genocide, refrain from acts falling within the scope of Article II of the Convention.

(8) The State of Israel shall submit to the Court a report on all measures taken to give effect to this Order within one week of the date of this Order, and thereafter at such regular intervals as the Court may order, until a decision is reached. The Court shall make the final decision on the matter.

To date, no other state has indicated its willingness to join the proceedings. However, Turkey has provided a wealth of video archives confirming South Africa's claims.

Translation

Roger Lagassé

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