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Invoking Genocide Convention, International Court of Justice orders Israel to halt Rafah offensive

On Friday, the International Court of Justice (ICJ) issued an emergency order against Israel under the 1948 Genocide Convention. Citing reports that “800,000 people have been displaced from Rafah” as of May 18, the ICJ ruled by 13 votes to 2 that “Israel must immediately halt its military offensive” and cease actions that “inflict on the Palestinian group in Gaza conditions of life that could bring about its physical destruction in whole or in part.”



Smoke rises following an Israeli airstrike in Rafah, southern Gaza Strip, Tuesday, May 7, 2024. [AP Photo/Ramez Habboub]

Political leaders in the United States and Israel immediately responded to the ruling with arrogant ferocity, insisting that Israel’s offensive in Rafah must continue.

Israel's far-right finance minister Bezalel Smotrich responded to the ruling by comparing the ICJ, in the same breath, to "Nazis," " Hamas" and "ISIS." US Senator Lindsey Graham, who earlier this month called for Gaza to be bombed like Hiroshima and Nagasaki, responded to the ruling by declaring that "the ICJ can go to hell."

"It is long past time to stand up to these so-called international justice organizations associated with the UN," Graham declared. "This will and should be ignored by Israel."

The responses of US and Israeli officials to the ICJ ruling once again recall the words of US Supreme Court Justice Robert Jackson in his opening statement at the Nuremberg Trials of Nazi war criminals in 1945. Jackson said:

[T]hese men are surprised that this is the law; they really are surprised that there is any such thing as law any law at all was to these men simply a propaganda device to be invoked when it helped and to be ignored when it would condemn what they wanted to do.

The ICJ ruling massively discredits and exposes US-NATO imperialism, which has backed the Gaza genocide to the hilt while at the same time draping its war plans against Russia, China and Iran in the guise of "preserving a rules-based international order."

The defiant responses to the ICJ ruling by US and Israeli political leaders have far-reaching historical implications, both as a milestone in the collapse of the postwar international order, which has accelerated following the dissolution of the USSR, and in the inevitable impact on global popular consciousness.

The ICJ ruling vindicates the participation of millions of people around the world in demonstrations against the Gaza genocide in the face of dishonest attempts to label them as "antisemitic."

The ruling will be celebrated by students and academic workers, like those who voted to strike at the University of California, who have braved a bipartisan campaign of police beatings, rubber bullets, pepper spray, expulsion, slander, and mass arrests for attempting to say out loud, in peaceful demonstrations, what the chief justice of the ICJ said Friday in The Hague.

The ICJ, the highest court of the United Nations, issued its ruling Friday in response to the latest request by South Africa for "preliminary measures," or emergency interim orders, as part of proceedings against Israel under the Genocide Convention that have been under way since December. In hearings last week, South Africa's representatives accused Israel of pursuing a "coordinated plan aimed at the destruction of the essential foundations of Palestinian life."

The ICJ's ruling Friday places particular emphasis on the Israeli military assault on Rafah, the "last refuge" of hundreds of thousands of people who have been displaced from other areas of Gaza, often multiple times. Under these conditions, Israel's mass "evacuation orders" amount to orders for the affected people to cease to exist, because there is nowhere else in Gaza left for them to go.

After previously calling an Israeli military offensive in Rafah a "red line," the Biden administration allowed the operation to go forward this month. To date, this operation—a murder spree targeting starving refugees, not a military offensive in any conventional sense—has in fact displaced nearly a million people in total.

In addition to demanding an immediate halt to the assault on Rafah, the ICJ's ruling insists that Israel allow access to Gaza by UN war crimes investigators. It also accuses Israel of violating its January order requiring the "preservation of evidence related to allegations of acts within the scope of" the Genocide Convention.

While the ICJ's ruling is written in a formal, mechanical style, these details send an unmistakable signal that prosecutions for the crime of genocide are not foreclosed. The ICJ also accused Israel of ignoring its March 28 order requiring the "unhindered provision at scale by all concerned of urgently needed basic services and humanitarian assistance."

The ICJ's ruling comes days after the chief prosecutor of the International Criminal Court announced that he would seek arrest warrants against Israel's prime minister Benjamin Netanyahu and minister of defense Yoav Gallant, accusing them of "murder" and "extermination" of civilians.

The Biden administration responded to the requests for arrest warrants by calling them "outrageous," despite having celebrated the ICC arrest warrant against Russian president Vladimir Putin last year. But while the ICC was created by a treaty that neither Israel nor the US has signed, the ICJ derives its authority from the UN charter, which the US ratified in 1945. The US formally ratified the Genocide Convention in 1948.

The ICJ's ruling is significant. At the same time it is long overdue and lacking any means of enforcement within the existing imperialist framework. The Israeli government, as South Africa's representatives have effectively demonstrated throughout the ongoing ICJ proceedings, disregards international law, the binding decisions of the UN Security Council, and the rulings of the ICJ with impunity.

Barrister Vaughan Lowe, arguing the case on behalf of South Africa last week, directly told the assembled judges that "the Palestinian people are facing genocide in Gaza, and your previous orders have not succeeded in protecting them against that."

In response to ICJ proceedings in January, Netanyahu openly boasted that he would ignore any rulings the court handed down. “No one will stop us—not The Hague, not the axis of evil, and not anyone else,” he declared.

With the support of the Biden administration in the US, Israel is expected to continue its military operation in Rafah without regard for the ICJ ruling. “We are strengthening our effort in Rafah,” Gallant said Thursday. “This operation will grow, with more forces on the ground and more forces from the air.”

The global protest movement against the Gaza genocide will justifiably be encouraged by the ICJ ruling. Lately, these protests have seen the working class begin “flexing its muscle on a political issue,” to use a phrase employed by the *Los Angeles Times* in connection with the powerful strike movement among academic workers in the University of California system.

The power of the international working class is, in fact, a thousand times stronger than the forces behind genocide and repression. But bringing that power fully to bear requires a struggle for its political independence, freeing it from the crippling influence of bourgeois political institutions and ideas in each country, and orienting it towards socialism.

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