

South Africa Sues International Court Over Israel's Palestinian Genocide under International Law

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Abstract

This article examines the legal and geopolitical implications of South Africa's unprecedented lawsuit against Israel for genocide in Gaza, brought before the International Court of Justice (ICJ). The conflict stems from longstanding tensions between Israel and Palestine, exacerbated during the October 7, 2023 crisis. South Africa's legal action alleges Israel's actions and omissions in Gaza constitute genocide under the 1948 Genocide Convention, citing evidence of extensive civilian casualties, particularly women and children. Israel, however, denies the accusations, attributing civilian deaths to Hamas and asserting its right to self-defense against rocket attacks. The ICJ's role as a peaceful dispute resolution forum is highlighted, emphasizing its authority to adjudicate disputes between nations and provide legal opinions. The research employs a normative legal approach, analyzing international law principles and regulations, using a case study methodology to explore the legal complexities of the case qualitatively. The findings contribute to a deeper understanding of the legal mechanisms governing international disputes and the potential impact of legal proceedings on conflict dynamics.

A. Introduction

On December 29, 2023, South Africa filed a lawsuit with the International Court of Justice (ICJ), accusing Israel of committing genocide against the Palestinian people in Gaza. This marks the first case brought by a nation to the ICJ concerning Israeli genocide. More than 23,000 Palestinians, the majority of whom are women and children, have died since Israel launched its military campaign against Hamas in retaliation.¹ According to South Africa's evidence, Israel committed the crime of genocide through both its actions and omissions, intending to destroy a substantial part of the Palestinian national, racial, and ethnic group. This evidence includes Israeli airstrikes targeting civilians and the large-scale bombing in Gaza, including the use of bombs weighing up to 2,000 pounds.²

South Africa accused Israel of committing genocide, which Convention. The Genocide Convention explicitly governs as a severe violation of international law. Israel, however, rejected these claims. Prime Minister Benjamin Netanyahu asserted that the actions were carried out by Hamas, not Israel, and emphasized Israel's right to defend itself against Hamas rocket attacks. The lawsuit filed by South Africa could influence the dynamics of the ongoing conflict between Israel and Hamas. South Africa requested the court to impose interim measures or provisional measures, ordering Israel to cease its military operations in Gaza to prevent further irreparable harm to the rights of the Palestinian people.³

Genocide is defined under international law as acts committed with the intent to destroy, in whole or in part, a national, ethnic, racial, or religious group. The 1948 UN Genocide Convention codified genocide as a crime under international law, with the convention ratified on January 12, 1951. However, while the ICJ has the authority to resolve international disputes, there are significant concerns about the effectiveness of its rulings, particularly regarding the enforcement of sanctions on countries that fail to comply with its decisions. This enforcement issue is critical in this case, and the types of sanctions applied need to be clarified and discussed.

Additionally, with the death toll continuing to rise, the research timeframe must be updated, and the limitations of the study should be clearly stated, particularly in conclusion, given that Israel's crimes in Gaza are ongoing.⁴ The research problem mentioned in the introduction should focus on legal analysis related to the outcome of the case and the effectiveness of ICJ decisions rather than merely narrating the chronology of events. The study should also review existing literature to identify and address research gaps, contributing to a more in-depth analysis.⁵

There is confusion in the introduction between the Genocide Convention and Indonesia's domestic law, specifically the Human Rights Court Law (Law No. 26/2000), which needs to be clarified. Moreover, the study must clearly distinguish between the International Court of Justice (ICJ) and the International Criminal Court (ICC). The research should also address the specific elements of the crime of genocide and how they directly apply to the Palestinian case rather than issuing a general statement that Israel committed genocide in Gaza.⁶ It is important

¹ NPR, "3 Things to Know About the Genocide Case Against Israel in The Hague," 2024, <https://www.npr.org/2024/01/12/1224363666/israel-hamas-war-palestinians-south-africa-genocide-case-court#:~:text=South Africa tells the U.N.,by Israel%2C including refugee camps>.

² Mohammed Nijim, "Genocide in Palestine: Gaza as a Case Study," *The International Journal of Human Rights* 27, no. 1 (January 2, 2023): 165–200, <https://doi.org/10.1080/13642987.2022.2065261>.

³ Emile Hokayem, "The Gaza War and the Region," *Survival* 65, no. 6 (November 2, 2023): 57–66, <https://doi.org/10.1080/00396338.2023.2285603>.

⁴ Chuck Freilich, "Israel and the Palestinians: The Day After," *Survival* 65, no. 6 (November 2, 2023): 67–73, <https://doi.org/10.1080/00396338.2023.2285602>.

⁵ Yulia Ioffe, "Forcibly Transferring Ukrainian Children to the Russian Federation: A Genocide?," *Journal of Genocide Research* 25, no. 3–4 (October 2, 2023): 315–51, <https://doi.org/10.1080/14623528.2023.2228085>.

⁶ Iryna Marchuk and Aloka Wanigasuriya, "Beyond the False Claim of Genocide: Preliminary Reflections on Ukraine's Prospects in Its Pursuit of Justice at the ICJ," *Journal of Genocide Research* 25, no. 3–4 (October 2, 2023): 256–78, <https://doi.org/10.1080/14623528.2022.2143528>.

to note that the ICJ has yet to issue a final ruling on this case; it has only imposed provisional measures, and a final decision will take much longer to reach. Lastly, the research findings are general and include assessments of issues that require more in-depth discussion. The study needs to adequately address the effectiveness of prosecuting Israel before the ICJ and provide practical recommendations.⁷ The research was conducted in a normative legal nature in compliance with legal concerns relating to the South Africa International Court over Israel's Palestinian genocide according to international law. The research analyses ideas, legal principles, and regulations. Furthermore, the research used a case study approach. The information is obtained from books, legal journals, newspapers, and other sources. Furthermore, the legal documents were examined and categorized based on the discussion and interpretation related to essential ideas to the problems emphasized and qualitatively described using inductive deductive-inductive ways to discover solutions.

B. Discussion

1. The Escalation of Conflict between Israel and Palestine on October 7, 2023 Crisis

October 7, 2023, will be the bloodiest new chapter of the conflict between Israel and Palestine. Hamas's attack and the response from Tel Aviv had a long tail in becoming an arena for massacres of civilians in Gaza. The dispute between Israel and Palestine on October 7, 2023, occurred after Hamas launched an unprecedented attack. Hamas spokesperson Khaled Qadomi revealed that the reason Hamas attacked Israel was as a response to the atrocities that the Palestinian people have felt in recent years and according to Hamas Military Commander Mohammad Deif said that this attack on Israel was a response to the blockade that has occurred in Gaza for 17 years. Palestinians protest along the Gaza border. In negotiations with Qatar, Egypt, and the UN, Hamas is pushing for Israeli concessions that could loosen its long-standing blockade—The financial crisis in Palestine. In the end, this action led to a massive attack on Israel.⁸

Hamas also targeted nearby settlements and Israeli military installations and named this raid Operation Al-Aqsa Flood. This was the first direct conflict on Israeli territory since the Arab-Israeli War of 1948. Israel claims around 3,100 rockets have been fired in the past week from Gaza. Israel's Iron Dome anti-missile system has intercepted more than 1,000 rockets. The Hamas group seized control of Gaza's high-tech border fence and stormed into southern Israel in attacks that killed around 1,140 people, mostly civilians. The surprise attack, which also resulted in the taking of around 250 people hostage, angered Israel and triggered a devastating military response.⁹

The Israeli government responded with a declaration of war by carrying out Operation Iron Sword to the north of the Gaza Strip, Palestine. Israel carried out air artillery strikes targeting many places, including residential buildings and hospitals. The Indonesian Hospital in the north of the Gaza Strip was one of those targeted after 49 days of fighting; more than 15,000 Gazans were killed.

Massive bombing and a ground invasion launched three weeks after the war have reduced much of Gaza to ruins and killed at least 21,822 people, primarily women and children. More than 55,000 people were injured at a time when most hospitals in Gaza were unable to function or were damaged and overwhelmed. Meanwhile, on the west bank, 324 people were recorded

⁷ Amy Maguire and Katie Thompson, "Palestine, Self-Determination and International Justice: Looking Back to The ICJ And Looking Forward to the ICC," *Griffith Law Review* 26, no. 4 (October 2, 2017): 532–62, <https://doi.org/10.1080/10383441.2017.1548000>.

⁸ Raz Segal and Luigi Daniele, "Gaza as Twilight of Israel Exceptionalism: Holocaust and Genocide Studies from Unprecedented Crisis to Unprecedented Change," *Journal of Genocide Research* 1, no. 1 (2024): 1–10, <https://doi.org/10.1080/14623528.2024.2325804>.

⁹ Al Jazeera, "ICJ Hears South Africa's Genocide Case against Israel over Gaza War," 2024, <https://www.aljazeera.com/news/2024/1/11/icj-hears-south-africas-genocide-case-against-israel-over-gaza-war>.

as dead, including around 83 children, and more than 3,800 were reported injured. However, the number of victims in Israel in the Hamas attacks last October was revised from 1,400 to 1,139 people. A total of 173 soldiers were killed and 965 injured.¹⁰

At least a total of 85 journalists have been killed since the Israel-Gaza war began on October 7, according to the Committee to Protect Journalists (CJP) and the International Federation of Journalists (IFJ); a total of 78 Palestinian journalists, 3 Lebanese journalists and 4 Israeli journalists have been killed. 200 Palestinians were killed in 24 hours, and thousands of students were killed. Israeli troops launched 15 attacks, killed 207 Palestinians, and injured 338 people in the last 24 hours in Gaza. Meanwhile, the Palestinian Ministry of Education said that 4,156 students had been killed in Israel's ongoing war in Gaza. At least 381 schools have also been bombed or damaged.

The total number of Palestinians killed in Gaza since October 7 has now reached 22,185. At least 57,000 people were injured. In addition, more than 320 Palestinians have also been killed in the occupied West Bank by Israeli troops and settlers since October 7. According to the UN, as fierce fighting rages on, 85 percent of besieged Gaza's 2.4 million residents have fled, warning of a rising risk of famine and disease as desperate families take shelter in makeshift tents to brave the winter cold.¹¹

From 24 November to 1 December 2023, there was an agreement between Israel and Hamas to hold a humanitarian pause. This humanitarian pause resulted in the release of 105 Israeli civilians from Hamas captivity. They include 81 Israelis, 23 Thai citizens, and one Filipino. In return for the release of the hostages, Israel released 210 Palestinian prisoners. On December 9, Israel said Hamas was still holding 137 hostages in Gaza. After the humanitarian pause, the fighting continued again, becoming even fiercer with casualties, especially residents of Gaza, Palestine.¹²

Reviewing history, the conflict that emerged between these two entities arose since the Balfour Declaration in 1917, where the expansion of Israel's territory resulted in Palestine, which now only has 22% of the territory, the Gaza Strip and the West Bank. Starting from the Israeli occupation, wars over territorial control lasted for hundreds of years and caused widespread violence and impacts on victims who were not involved in the war. The conflict has escalated since the Hamas attack on October 7, 2023, against Israel, which killed more than 1,000 people, and 200 people were kidnapped. This attack prompted a declaration of war from Israel as well as a counterattack, which was claimed to be an act of self-defense as regulated in Article 51 of the UN Charter.

However, this attack does not follow the limits of self-defense as regulated in International Humanitarian Law. This is because the number of victims exceeded 5,500 people in Gaza, of which a third were children, and the rest were civilians who did not take part in the war. Moreover, Israel's counterattack on Palestine using white phosphorus by Israel in military operations in Gaza puts civilians at risk of severe and long-term injury. The use of defense equipment, which is often used in residential areas, is contrary to international humanitarian law.

¹⁰ The Guardian, "Israel Shows 'Chilling' Intent to Commit Genocide in Gaza, South Africa Tells UN Court," 2024, <https://www.theguardian.com/law/2024/jan/11/south-africa-accuses-israel-of-genocide-gaza-the-hague-international-court-of-justice>.

¹¹ Middle East Monitor, "South Africa Presents Its Case against Israel at the ICJ," 2024, <https://www.middleeastmonitor.com/20240111-south-africa-presents-its-case-against-israel-at-the-icj/>.

¹² The Wall Street Journal, "Israeli Air Force Says It Has Dropped 6,000 Bombs on Gaza," 2024, <https://www.wsj.com/livecoverage/israel-hamas-war-gaza-strip/card/israeli-air-force-says-it-has-dropped-6-000-bombs-on-gaza-QK1aSnupiGqytMVO86PU>.

2. South Africa Urges International Court to Declare Israel in Violation of Genocide Convention

The South African government has taken a firm stance by accusing Israel of carrying out alleged genocide against Palestinians through a petition filed at the ICJ in The Hague, Netherlands. On December 29, 2023, South Africa initiated this case. It asked the ICJ to order Israel to immediately stop attacks on Gaza and take responsibility for the alleged crimes of genocide that occurred.

"No armed attack on the territory of a country, however serious, can justify or defend a violation of the 1948 Convention on the Prevention and Punishment of the Crime of Genocide (Genocide Convention) either legally or morally," stated South Africa's complaint to the ICJ Registrar.

Israel is considered to have committed acts and omissions that are genocidal in nature to destroy most of the Palestinian national, racial, and ethnic groups that are part of the Palestinian group in the Gaza Strip. The acts in question include killing Palestinians in Gaza, causing them severe physical and mental suffering, and subjecting them to living conditions that are expected to cause their physical destruction.¹³

Furthermore, South Africa accused Israel of all these things, so that it failed to prevent genocide and instead carried out genocide, which constituted a (serious) violation of the Genocide Convention. As a country party to the convention, South Africa must prevent genocide so it cannot remain silent watching Israel's actions.

This is the view shared by many States Parties to the Genocide Convention, including the State of Palestine itself, which is meeting world leaders to take responsibility for stopping the genocide. UN experts have also repeatedly 'sounded the alarm' (warned) over more than 10 weeks of statements made by Israeli political leaders and their allies, accompanied by military action in Gaza and increasing arrests and killings in the West Bank, that there is a risk of widespread genocide against Palestinian people.

Through this 84-page document, South Africa submitted a request to the ICJ to determine Israel's responsibility for its violations of the Genocide Convention and hold it fully accountable under applicable international law. They also requested the ICJ's assistance to ensure the urgent and maximum possible protection of the Palestinian people in Gaza, who face a grave risk of ongoing genocide. Based on Article IX of the Genocide Convention:

"disputes between the Parties relating to the interpretation, application or provision of funding of this Convention, including obstruction relating to the responsibility of a State for genocide or other acts referred to in Article III, shall be referred to the ICJ at the request of one of the parties to the dispute."

For this reason, South Africa applied the ICJ, considering that its country (South Africa) and Israel are state parties to the Convention. However, this received a response from the Israeli Ministry of Foreign Affairs, which even rejected the claims made because they had no factual and legal basis and branded South Africa's submission as a despicable and insulting exploitation of the Court. As reported by The New York Times, Israel claims it is at war with Hamas and not Gaza civilians.

Even so, South Africa's legal steps have gained support from various parties. One of them, Turkey, supports the lawsuit alleging genocide against Israel, which is rolling out at the ICJ. Turkey welcomed the case filed by South Africa with the ICJ, which accused Israel of violating its obligations under the Genocide Convention. Turkey's attitude towards holding Israel responsible before international law for the heinous acts it committed.¹⁴

¹³ Zoé Samudzi, "'We Are Fighting Nazis': Genocidal Fashionings of Gaza(Ns) After 7 October," *Journal of Genocide Research* 1, no. 1 (2024): 1–9, <https://doi.org/10.1080/14623528.2024.2305524>.

¹⁴ Didier Fassin, "The Rhetoric of Denial: Contribution to an Archive of the Debate about Mass Violence in Gaza," *Journal of Genocide Research* 1, no. 1 (2024): 1–7, <https://doi.org/10.1080/14623528.2024.2308941>.

South Africa's application contains a request to the ICJ to provide temporary or short-term measures for Israel to stop its military campaign in Gaza to protect the rights of the Palestinian people based on the Genocide Convention while ensuring Israel's compliance with the convention and also calls for a long-term solution in the form of granting independence. For a sovereign Palestinian state based on pre-1967 borders, with East Jerusalem as its capital.

In contrast to the ICJ, the International Criminal Court (ICC) 2021 has been investigating war crimes committed by Israel and Hamas, especially since the attack on October 7, 2023. Previously, Algeria, Colombia, and three human rights NGOs from Palestine encouraged the ICC to carry out investigations into alleged crimes What Israel did. On December 3, 2023, the ICC prosecutor asked Israel to respect international rules regarding war and that it would immediately speed up its investigation.

3. Genocide as a Crime under International Law

According to international criminal law, genocide is an exceptional crime that is now illegal, as declared in the 1948 Genocide Convention. Genocide represents a grave breach of human rights and is a highly horrible crime. Genocide encompasses a wide variety of acts that are deemed to jeopardize life and health, including murdering and preventing the existence of progeny.¹⁵

The 1948 Genocide Convention defines genocide as an act committed to eradicating a national, racial, ethnic, or religious group whole or in part. According to Article 1 of the 1948 Genocide Convention, genocide is illegal under international law and cannot be carried out during times of peace or war. Law No. 26 of 2000 on Human Rights Courts and the Statutes of the International Criminal Court (ICC) define genocide. National law has incorporated international tools. According to Article 8 of the Human Rights Court Law, any act carried out to eradicate all or a portion of a national, racial, ethnic, or religious group includes;¹⁶

- a. Killing group members;
- b. Causing severe physical and mental suffering to group members;
- c. Creating living conditions for the group that will result in their physical destruction in whole or in part;
- d. Imposing measures aimed at preventing births within the group; And
- e. Forcibly moving children from certain groups to other groups.

The crime of genocide is often associated with crimes against humans. Still, if we look deeper, the crime of genocide is different from crimes against humans, where the crime of genocide is directed at groups such as nations, races, ethnicities, or religions. In contrast, crimes against humans are aimed at citizens and civilians.¹⁷

The 1948 Genocide Convention, the statute of the International Criminal Tribunals for the Former Yugoslavia (ICTY), the statute of the International Criminal Tribunal for Rwanda (ICTR), and the 1998 Rome statute all declared that the crime of genocide is the most severe crime of concern to the international community as a whole. Genocide is considered an extraordinary crime under international criminal law and has since become a prohibited act. Crimes against humanity, war crimes, crimes of aggression, and genocide are among the

¹⁵ Deborah Mayersen, "Predicting Genocide and Mass Killing," *Journal of Genocide Research* 23, no. 1 (January 2, 2021): 81–104, <https://doi.org/10.1080/14623528.2020.1818478>.

¹⁶ Andrea Purdeková and David Mwambari, "Post-Genocide Identity Politics and Colonial Durabilities in Rwanda," *Critical African Studies* 14, no. 1 (January 2, 2022): 19–37, <https://doi.org/10.1080/21681392.2021.1938404>.

¹⁷ Melissa Khemani LLM Candidate, "The Criminal Law of Genocide: International, Comparative and Contextual Aspects," *Commonwealth Law Bulletin* 34, no. 4 (December 1, 2008): 941–43, <https://doi.org/10.1080/03050710802521747>.

international crimes that, in line with the desires of the International Criminal Court, correspond to such accuracy.¹⁸

The Genocide Convention expressly prohibits genocide. Article 1 of the Convention confirms that genocide is a prohibited crime under international law and states that parties to the convention must prevent and punish genocide. This ban demonstrates an international global commitment to protecting human rights and preventing severe humanitarian tragedies. The Genocide Convention grants jurisdiction to national and international courts to prosecute individuals accused of genocide. Articles 6 and 7 of the Convention stipulate that state parties must punish perpetrators of genocide in their national courts or refer them to international courts having jurisdiction. This ensures that perpetrators of genocide cannot escape responsibility for their crimes.¹⁹

The Genocide Convention imposes an obligation on states that are parties to prevent and punish genocide. Article 4 of the Convention confirms that states must avoid genocide by all means available. In addition, they must also cooperate in the investigation, prosecution, and extradition of perpetrators of genocide. This obligation underscores the importance of international cooperation in preventing genocide. The Genocide Convention encourages international cooperation in preventing and resolving genocide. States are required to provide cooperation to other states in the investigation, prosecution, and extradition of perpetrators of genocide. It creates a framework for international collaboration that protects human rights and universal justice.²⁰

According to international law, disputes over the crime of genocide can be resolved in two ways, namely peaceful settlement and settlement by force or violence. A peaceful settlement occurs when the disputing parties agree to an amicable resolution. Meanwhile, a solution using force or violence is when the solution is taken using violence. This settlement solution is carried out if a peaceful settlement cannot be carried out so that it requires force.²¹

4. International Court of Justice Ruling on South Africa's Claims against Israel

The ICJ in The Hague has given its decision on the heinous act of genocide committed by Israel against Palestine. This ruling came after South Africa filed a lawsuit against Israel at the International Court of Justice for alleged genocide in Gaza on December 29. In the lawsuit, South Africa accused Israel of violating its obligations under the 1948 Genocide Convention. The ICJ also gave its decision on Friday (27/1/2024).²² In its decision, the World Court did not order a ceasefire in Gaza but asked Israel to take preventive and punitive measures a direct military campaign to carry out genocide. Israel has also been instructed to allow humanitarian aid into Gaza and asked to report back to court within a month. South Africa accused Israel of violating the 1948 UN Genocide Convention, which was created after World War II and the Holocaust.²³ During Israel's military campaign in Gaza, which was triggered by the Hamas attack on October 7. Then, the court did not provide an assessment of whether Israel committed

¹⁸ PëLlumb Kelmendi, "Determinants of Individual Support for International Criminal Tribunals," *Ethnopolitics* 23, no. 3 (May 26, 2024): 294–316, <https://doi.org/10.1080/17449057.2023.2176585>.

¹⁹ Sarah Ihmoud, "Love in a Time of Genocide: A Palestinian Litany for Survival," *Journal of Palestine Studies* 52, no. 4 (October 2, 2023): 87–94, <https://doi.org/10.1080/0377919X.2023.2289363>.

²⁰ Benjamin Meiches, "Genocide and the Brain: Neuroscience, Mental Harm, and International Law," *Journal of Genocide Research* 24, no. 1 (January 2, 2022): 23–44, <https://doi.org/10.1080/14623528.2021.1911131>.

²¹ Noam Schimmel, "Genocide: The Act as Idea," *The International Journal of Human Rights* 22, no. 3 (March 16, 2018): 470–71, <https://doi.org/10.1080/13642987.2017.1371141>.

²² International Court of Justice, "Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)," 2024, <https://www.icj-cij.org/case/192>.

²³ Raz Segal, "The Modern State, the Question of Genocide, and Holocaust Scholarship," *Journal of Genocide Research* 20, no. 1 (January 2, 2018): 108–33, <https://doi.org/10.1080/14623528.2017.1412887>.

genocide or not. However, it issued an emergency order while considering the broader allegations.²⁴

Instead of submitting to and implementing the decision of the International Court of Justice, Israel seems to have ignored the decision and continued to kill hundreds of civilians in just a few days in Gaza after the provisional measures decision was read. In its ruling, the ICJ stated that there was a reasonable risk of genocide from attacks carried out by Israel in the Gaza Strip. Six temporary measures were ordered based on the provisional measures decision that was determined. Among other things, Israel must prevent acts of genocide in Gaza, preventing and punishing public incitement to genocide; immediately allow humanitarian aid into Gaza to preserve evidence of genocide; and Israel submit a report to the Court within one month.

Instead of implementing the Court's decision ordering Israel to prevent acts of genocide in Gaza, the IDF (Israel Defense Forces) continued to launch military attacks in Gaza, killing nearly a thousand Palestinians. To be precise, the number of fatalities since the ICJ decision was issued on January 26 until Thursday (1/2/2024) reached 936 people based on a report by the United Nations Office for the Coordination of Humanitarian Affairs (OCHA) based on the Gaza Ministry of Health.

Not only eliminating the lives of civilians, Israel continues to target hospitals, increasingly burdening the health service system in Gaza. The Palestine Red Crescent Society (PRCS) Sunday (4/2/2024) stated that it condemned the Israeli occupation forces who opened fire directly at the Society's Building in Khan Younis and Al Amal Hospital, which is a shelter for thousands of refugees.

It seems that Israel is reluctant to stop its attacks and heed the ICJ's decision; instead, several hours after Gallant's statement in his speech to troops from the IDF 98th Division, Israel increased its attacks on Rafah, which is located south of Khan Younis. And it now hosts at least half of Gaza's 2.3 million residents who previously fled Khan Younis and Gaza City north of Gaza.

It is known that Rafah is the largest urban area in Gaza and has never been attacked by Israeli troops before. It is the last refuge for Palestinians seeking safety from the Israeli war. Various parties are starting to worry that the military attack that hit Gaza City and Khan Younis will focus on Rafah and could become a tipping point for humanity.²⁵

To date, there has been no public announcement regarding the action that Israel will take against Israeli ministers and officials who issue statements inciting genocide as mandated by the ICJ. Even on the same day, the ICJ issued an order for Israel to take temporary measures to ensure that essential services and humanitarian aid could reach civilians; they instead accused 12 employees of the UN Relief and Works Agency for Palestine Refugees (UNRWA) of being directly involved in the October 7 attack. This statement caused countries such as the United States, Britain, Germany, and other large donor countries to suspend their funding to UNRWA. UNRWA is the leading humanitarian agency in Gaza, providing food, shelter, and medical supplies.

5. Conclusion

The acts of war crimes and crimes against humanity committed by Israel are indeed egregious violations of various international laws, including the laws of war, humanitarian law, and international criminal law. Israel's actions violate multiple international conventions, such

²⁴ Karen Wells et al., "Israel's War on Gaza and the Violation of Children's Rights," *Children's Geographies* 1, no. 1 (2024): 1–4, <https://doi.org/10.1080/14733285.2024.2316752>.

²⁵ Al Jazeera, "ICJ Demands Implementation of Gaza Measures, but No New Action on Rafah," 2024, <https://www.aljazeera.com/news/2024/2/16/icj-demands-implementation-of-gaza-measures-but-no-new-action-on-rafah>.

as the International Convention against Torture, the International Convention on the Elimination of All Forms of Racial Discrimination (1965), the Convention on the Elimination of All Forms of Discrimination Against Women, the Convention on the Rights of the Child, and the Convention Concerning the Status of Refugees. Furthermore, Israel's systematic violence against the Palestinian people fulfills vital elements constituting the crime of genocide: mass murder, systematic targeting, religious discrimination, and the intent to eliminate an ethnic or minority group. However, while the conclusion that Israel's actions meet the criteria for genocide is clear, it remains necessary to address the issue of criminal responsibility and the consequences for the perpetrators under international law. Genocide, as established under the Genocide Convention, is an international crime that entails individual criminal responsibility. The ICC, established to prosecute such crimes, has jurisdiction to hold individuals accountable for genocide, war crimes, and crimes against humanity. Thus, it is imperative to consider the avenues through which those responsible—whether political or military leaders—may be held criminally liable before the ICC or other competent tribunals. Although proving genocide is a significant step, the effectiveness of international justice depends on whether the perpetrators are brought before a competent court. The ICC, for instance, has the authority to investigate and prosecute individuals for genocide, but this is contingent on the cooperation of states and the broader international community. Therefore, while the actions of Israel may satisfy the legal elements of genocide, the pursuit of justice requires concrete steps toward accountability, either through ICC prosecution or other international mechanisms. In conclusion, while Israel's actions constitute the crime of genocide under international law, a comprehensive approach to justice must not only identify the crime but also ensure that the responsible individuals are prosecuted before the appropriate legal bodies. The challenge remains ensuring that the international legal system effectively addresses such crimes and prevents impunity.

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