

PREFACE

“South Africa’s action against Israel seems to have opened a new era in the relations between the Global North and the Global South, and the symbolic impact is profound.”

–*Francesca Albanese, UN Special Rapporteur on the Palestinian Territories*

“Genocide means... deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part.”

–*Genocide Convention, Article II(c)*

With its application to the International Court of Justice on December 29, 2023, South Africa launched a quiet revolution. That this occurred in the decorous and ceremony-bound halls of the world’s highest court should not blind us to its subversive realignment of global legal order. Within the confines of an international system often, and not unjustly, accused of a neo-colonial ethos lending a patina of legitimacy to the hypocrisies of the “free world,” South Africa emerges as a champion of the stateless. A government born of resistance to apartheid takes up the Palestinian cause, using its hard-won status as sovereign nation, and thus as juridical person in international law, to advocate on behalf of a people being ground under the heel of the West’s most darling satellite state. In the weeks following

the application, the justices of the court approved some of the provisional measures requested, accepting that Israel's actions do indeed fall within the scope of the Genocide Convention, with final determination on the question of violations to follow.

For Israel, of course, the historical arc is quite different: the Jewish state born in the wake of the Holocaust now charged with genocide, with the ghoulish declarations of its politicians, army leadership, and common soldiers assembled and brought to light. The Genocide Convention, which came into being through the indefatigable efforts of Raphael Lemkin—the Polish jurist who coined the term genocide, whose entire family was murdered in the Holocaust, and who makes a brief cameo appearance in the South African filing—becomes the mechanism for exposing Israeli crimes. In the current government's view of history, Israel is incapable of genocide. "The charge of genocide leveled against Israel is not only false," remarked Benjamin Netanyahu, "it's outrageous, and decent people everywhere should reject it." Israel was untroubled by the ICJ's approval of some provisional measures requested by South Africa: rather than reevaluating its actions in Gaza, it took aim at UNRWA—the "primary platform for humanitarian assistance to over 2.2 million people in Gaza," as it is put in these pages—claiming that a dozen or so of its thousands of Palestinian workers took part in the attacks of October 7. And rather than taking pause, and taking seriously their duty to prevent and punish genocide, Israel's enablers in the West immediately withheld funding for UNRWA during Gaza's greatest hour of need.

While the Holocaust always enters our minds when the question of genocide is raised, we err if we think no further in our reckoning with genocide as historical phenomenon and as legal category. One point of having an international convention is to push aside imprecise and politically malleable historical analogy in favor of normative rules reflecting global consensus. Nothing in the South African application demands that we see the genocide of Palestinians in Gaza as parallel to the Holocaust, nor that we see the current regime in Israel as

equivalent to the Nazis. Coming to terms with events in Bosnia, Rwanda, and Sudan have all left their mark on the legal and ethical dimensions of genocide. South Africa's action persuasively claims a place for Gaza in this evolving definition, lifting the question out of the casual and hyper-partisan discourse of our moment and into the realm of international law. Despite these many claims to our attention, and despite the ready availability of the text on the ICJ website, this legal filing is not likely to reach a broad audience. It is the fate of documents entering the UN orbit to be widely ignored despite their significance—reports on climate come to mind.

As someone with standing interests in international humanitarian law and the politics of the Middle East, I was glued to every one of the eighty-four pages of the original. Living and working in the United States, an investment in international law can feel like the idle pursuit of a quixotic naif, much more so than in Canada, where I was born and educated. My father emigrated from Egypt in the weeks following the Six-Day War. Israel's expansion in that conflict included not only the Palestinian territories occupied to this day, but also Egyptian land up to the Suez Canal. Port Said, where my parents grew up, became a front line, and my then-teenaged mother was sent with her sisters to live in Cairo, at a safe distance from further conflict. After another war in 1973, the year before I was born, and the signing of a peace treaty that is one of my earliest childhood memories, Egypt regained territory lost in 1967—except for Gaza, on which Sadat settled for assurances of a soon-to-be-formed Palestinian state. Growing up in Canada, the unsettled Palestinian question felt for me both far and near, a remote experience also tied in some way to my personal and family history and to my outlook on the region. Always the lingering questions on the Palestinian cause: *Should I do more? Should Egypt do more? Should the world do more?* Since October 2023, the genocide in Gaza and accelerated ethnic cleansing of the West Bank have answered these with a thundering *YES*.

The literary potential of the South African filing was immediately apparent. Erasure occurred to me as a fitting representation of the

invisible visibility of the document itself and of events in Gaza, both hypervisible and being actively hidden by those perpetrating, and justifying, slaughter and deprivation. Even as the text makes clear Israel's efforts to destroy evidence of its current actions—including killing and disappearing journalists, aid workers, and medical staff—the story is being told. In the current text erasure is an archeological device, excavating and amplifying human voices and experiences from the formal and verbal conventions of a legal document. Experienced UN bureaucrats who have spent decades-long careers observing the consequences of war and famine tell us that the suffering in Gaza is unprecedented, and time and again issue desperate *cris de coeur*. We hear the voices of Palestinians on the ground, and are given sketches of doctors and academics, local heroes and children who have been slaughtered: names and personalities emerge from statistics and rubble. And we hear the menacing chorus of *génocidaires* in Israel's government and military, whose words spill like poison into a civil society all too eager to repeat them. Erasure dims the language of legal procedure. What remains is what must not be erased: the experiences of Palestinians and the record of Palestinian life in Gaza; the heroism of aid workers, health workers, and journalists; the words of Israeli officials making their intentions crystal clear.

Every word of the present text arises from the original legal document, as do instances of italic and boldface type. Page breaks and spaces between lines of text have been altered to meet the needs of this erasure, but the place of each word in each line of text has been preserved. Which is to say that if words from the South African filing and this text were points plotted on an x-y axis, the place on the x-axis would be constant while that of the y-axis would vary widely. The notes section of this text gathers the footnotes of the original: all of the notes are included in some way and none are repeated.

If we read these pages and are convinced by them, we must remind ourselves that the evidence of genocide was already clear in December 2023, already a consensus of the human-rights community

less than three months after the attacks of October 7. South Africa's application to the ICJ feels now like a grim prelude to the enormous and interminable suffering still being inflicted upon Gaza, all with the full complicity of the United States and other governments arming Israel. Bombing and displacement. Starvation as a weapon of war. The murder of aid-seeking civilians. We have come to expect one or more of these in our daily news. The consensus that Israel is guilty of violating the Genocide Convention has only grown, and now includes, notably, Amnesty International and Human Rights Watch, each of whom issued a full report in December 2024; an independent commission of inquiry that presented a report on gender-based violence to the UN's Human Rights Council in March 2025; and the Israeli groups B'Tselem and Physicians for Human Rights-Israel, who issued reports in July 2025. At this writing a much-vaunted ceasefire agreement has brought little relief to Gaza, with Israel still engaging in routine military strikes, severely limiting aid, and obstructing efforts to clear debris and build shelter adequate for the coming winter months. Reporters without Borders has just issued its year-end findings: Israel is the clear world leader in murdering journalists, being responsible for 43% of such killings in the world, a significant increase from the 30% for which it was responsible in 2024. These attacks, often targeted, have been made futile by the dauntless reporting of Palestinians on the ground. Owing to their efforts, the ears of the world have heard the screams, and the eyes of the world have seen the starved infants. The conscience of the world has been moved, and the voices of the world will not be silent. We will bear witness to this genocide, now and for generations to come.

Feisal G. Mohamed, December 2025