

ICJ: SA Case on GENOCIDE against Israel

January 27, 2024

January 26, 2024: The Hague.: In its Interim Ruling, the **International Court of Justice** (ICJ) ordered Israel to take “all measures within its power” to prevent genocide in Gaza. ICJ did not order ceasefire but demanded that Israel should contain death and damage in Gaza.

For the case to be prosecuted by ICJ, the Judges ordered that Israel must ensure preservation of evidence of alleged genocide.

The Court said that it would not throw out the case brought by South Africa, alleging that Israel was perpetrating genocide in Gaza and that ICJ should take measures to stop the alleged atrocities on Gazans.

The Court has been listening to the arguments by Counsels on the case on Genocide in Gaza against Israel filed by South Africa and 88 countries of the Global South about the “APPLICATION OF THE CONVENTION ON THE PREVENTION AND PUNISHMENT OF THE CRIME OF GENOCIDE IN THE GAZA STRIP”.



January 26, 2024: The Hague: **International Court of Justice**

Reference: <https://www.icj-cij.org/sites/default/files/case-related/192/192-20240126-ord-01-00-en.pdf>

Separate Opinion of **Israeli appointee Judge AD HOC Aharon Barak, 87:**



Some Extracts from Barak's Separate Judgement:

- South Africa came to the Court seeking the immediate suspension of the military operations in the Gaza Strip. **The Court has reaffirmed Israel's right to defend its citizens and emphasized the importance of providing humanitarian aid to the population of Gaza.**
- The Court has emphasized that **"all parties to the conflict in the Gaza Strip are bound by international humanitarian law"**, which certainly **includes Hamas.**
- The Court has also stated that it **"is gravely concerned about the fate of the hostages abducted during the attack on Israel on 7 October 2023 and held since then by Hamas and other armed groups, and calls for their immediate and unconditional release"**.

Reference: <https://www.icj-cij.org/sites/default/files/case-related/192/192-20240126-ord-01-05-en.pdf>

DISSENT by **Ugandan ICJ judge Julia Sebutinde:** Ms Sebutinde cast the only dissenting vote on the 17-judge panel apart from **Israeli appointee Aharon Barak:**

Her arguments:

- The dispute was “essentially and historically a political one” between Israel and the Palestinians rather than a legal matter for the court.
- Provocative statements by senior Israeli officials, relied on by South Africa as evidence of genocidal intent, were “taken out of context” and referred to Hamas rather than the Palestinian people.
- The order to Israel to do everything possible to prevent genocide merely restates its existing duties under international law and “is therefore redundant”.

German judge Georg Nolte voted with the majority “even though he did not find it plausible that the military operation is being conducted with genocidal intent”. He did so because the “dehumanising and discriminate language” used by Israeli officials gives rise to the risk of future violations of the genocide convention, according to a five-page justification of his vote.

Aharon Barak, former Israeli High Court President and Israel’s appointee to the ICJ panel

The **International Court of Justice (ICJ)** is UN’s top court. It was **established in 1945**. It is **based in The Hague** and rules on disputes between countries as well as giving advisory opinions.

The Court is composed of **15 judges**, who are elected for **terms of office of nine years by the United Nations General Assembly and the Security Council**. It is expanded by an additional judge from each side in every case, the Court hears. It is assisted by **a Registry**, its administrative organ. Its official languages are English and French.
