

The International Court of Justice: A Glimmer of Hope and a Cloud of Doubt

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If the International Court of Justice rules that Israel has committed and is committing genocide, will it save Gaza?

On January 11-12 the ICJ will hear the accusation brought to it by South Africa. Specialists in International law [Francis Boyle](#) and (independently) [Daniel Machover](#) firmly believe that this is how the ICJ will rule, and that it will invoke the requirement that all 152 countries belonging to the genocide convention – including Israel and the US – must comply by desisting (in the case of Israel) and stopping all contact and services that enable Israel to commit the crime (in the case of the US and all other parties to the convention).

Such a judgment would require Israel to comply with the cessation of very specific terms regarding the offending actions and policies, and with positive remedial actions and reparations to the damage already done, such as provision of food, medicine, shelter, fuel and other requirements of survival that Israel has taken from the population of Gaza. The judgment is also binding on all nations that enable the genocidal actions, such as (and especially) the US. Furthermore, all leaders and individuals who participated in genocidal actions and policies, as well as those who aid and abet, are prosecutable under the Genocide Convention.

A lot of hope is being placed in the ruling of the ICJ. But even if the decision is, as expected, a powerful one, the only enforcement mechanism is the agreement of the parties to the convention that they will take all necessary actions to end the culpable actions and prosecute the perpetrators.

Will Israel comply with the court's decision? Will the US? Neither nation has much respect

for international law, so we may assume that neither country will do anything but denounce the ICJ and South Africa as antisemitic and offer angry excuses as for refusing to comply to the convention to which they both agreed. Nevertheless, the ruling may be effective in ending the genocide, in other ways, as follows:

1. The South African complaint contains massive amounts of evidence, the most damning of which have not been widely reported by the western mainstream press, which is sympathetic and/or beholden to Israel. The publicity surrounding the court case will help to expose these facts and bring them to the attention of a wider audience.
2. Legislators and policy makers that have thus far followed the dictates of the powerful Israel Lobby may detect weakness in Israel's position, and simultaneously their own vulnerability before their constituents if they do not back the ICJ ruling, challenging the "special relationship" between Israel, the US and other NATO countries.
3. There will be great public agitation to hold Israel accountable. Demonstrations will become larger and more widespread. Calls and letters to legislators and other public officials will increase in number and frequency.
4. Tainted by the ICJ decision, the Biden administration and the Democratic Party will feel increasingly threatened by loss of seats and power in the 2024 elections. Already, seventeen staffers of Biden's reelection committee have published a [letter](#), calling on him to use US power to create a ceasefire now in Gaza or face disastrous consequences in the November elections.
5. In the face of an ICJ conviction of Israel, nations that have until now not taken a strong position will feel empowered to respect their obligations under the convention, and engage more fully in a concerted effort to pressure Israel through sanctions and diplomatic measures. China, Russia, India and the Arab monarchies, in particular, may find it untenable to maintain normal relations, and will participate in a growing consensus to compel Israel to end the genocide.

I did not include in the above points any consequences from within Israel itself, whether at the political or popular level. This is because I do not expect that an ICJ conviction *per se* will cause a change. The Israeli government, armed forces and even the population have become so radicalized and bloodthirsty that only practical measures such as suspension of arms deliveries, economic aid and loss of markets for Israeli products and services (mainly military in character) are capable of effecting a halt to Israeli determination to continue the genocide to its conclusion.

But the results that I describe above are by no means certain. They are only the best case that we can realistically hope for. They depend upon principled actions in great numbers around the globe, and we don't even know if that will be enough, only that it will not happen without such action.

Furthermore, the most that the ICJ ruling is likely to produce in the short run is an indefinite (but not necessarily permanent) ceasefire and humanitarian aid to the Gaza population. There is increasing discussion in Israel, the US and the UN about what Gaza will look like after the fighting ends. As usual, the voices of the people in Gaza and the rest of Palestine will be disregarded. Israel wants the population to disappear, but its fallback position is to eliminate Hamas, install a compliant puppet government and return to a sealed

concentration camp that will impoverish and crush the hopes of the people.

The US and Europe will undoubtedly accept this “solution”, after halfheartedly arguing for better economic opportunity and more freedom. But it is totally unrealistic, because the Palestinians themselves will never accept the *status quo ante*. Neither is it feasible to eliminate Hamas, because its goals and methods will remain with unlimited replacements for the leaders, fighters and adherents. You can’t kill an idea. Any solution that denies them the freedom enjoyed by all countries, to travel to and trade directly with other nations and to provide for their own defense, among other normal rights of nations, will most definitely be rejected. They expect and will demand these rights, and reparations as well, for the crimes committed against them.

Some have suggested a comprehensive Palestinian-Israeli agreement that finally creates two states, which has eluded negotiators for many decades. But there is no reason to suppose this will be any more achievable now than with the Oslo Agreement. The Israelis will readily agree to such negotiations, with the interim solution being a return to the Palestinian concentration camp, with continuing encroachment by Israeli settlements. Israel loves endless negotiations that go nowhere, but the Palestinians are not fools. They will never accept it, even if the puppet Palestinian Authority does.

Even if the fanciful possibility of a two-state solution is achieved, with a Palestinian state alongside an Israeli one, the problem will not end. How and why did the genocide come about in the first place? The answer is simple: it’s because genocide is at the [core of the Zionist objective](#): a Jewish state. Such a state must be founded on genocide, because it is impossible to create or maintain it without removing or eliminating most or all of the non-Jews. Since the founding of the Zionist movement in the 19th century, this has been a foundational principle, set forth in its formative documents.

That principle is not going to go away with the creation of two states. In the ideology of Zionism, two states would be a temporary accommodation on the road to its mission. If there are two states, the Jewish one will continue to repress and expel its 20% Palestinian minority in order to prevent it from becoming too large, which many Israelis think it already is. It will still have plans to retake Sinai, south Lebanon, the East Bank, and of course the West Bank and Gaza, and to use forms of genocide in all of the territory that it controls.

Legal scholar Daniel Machover, who predicts and sees the need for an ICJ ruling of genocide against Israel, nevertheless fails to see this source of the problem. He insists on preserving the existence of a racist Zionist state that will ultimately destroy the two-state solution that he foresees. So do many other shortsighted scholars, analysts and politicians.

But don’t worry. The two-state “solution” will never see the light of day. Palestinians will insist on the same rights and privileges as all persons in all countries, as embodied in the Universal Declaration of Human Rights. And they will continue to resist until they get them. The only workable alternative to annihilation of one side by the other is most likely the South African model of a single state with equal rights for all, in which case the destructive, self-destructive, racist and supremacist ideology of Zionism will vanish into the dustbin of history.

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