

South Africa's Charges of Genocide Against Israel: The World Court Judges' Vote Is Political, Not Legal. Neither "Evidence" Nor "Law" (The Genocide Convention) Will Convict Israel

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If the International Court of Justice, AKA the World Court, convicts Israel of genocide or enjoins it from committing acts that contribute to genocide, it will not be on the basis of evidence or law.

There will be deliberation before the 15 judges announce their decision, but it will have little to do with the reason South Africa is requesting a judgment.

The 15 judges that will meet in the Hague are eminent jurists, but their role is political, not legal.

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They will vote the way their country tells them to vote, not upon conclusions drawn from the proceedings. They were selected by their respective countries on that basis, and elected by a majority vote of the UN General Assembly and Security Council.

That's an odd combination. In the General Assembly, each member has one vote, and in the Security Council, each member also gets one vote. But since all the countries on the Security Council are already represented in the General Assembly, when they vote for judges in the ICJ, they get two votes. And since five members of the SC are permanent, they permanently have two votes.

In addition, the absolute majority requirement means that only the most powerful and influential nations can cajole, influence, threaten or bribe enough votes to meet the requirement. Generally speaking, this means that the US can command enough votes in the court to control most of the decisions of consequence. The haggling is almost certainly taking place right now, before the court has even heard the case.

Of course, the US doesn't control every vote. The judges from China, Russia, Slovakia, Lebanon, Somalia and Morocco, for example, are unlikely to take orders from the US on this issue. But neither are they likely to vote on the basis of law or evidence. They will vote according to what they believe to be in their country's interest. If it happens to accord with the evidence, so much the better for justice. But, barring one or more renegade votes, justice will be coincidental.

Following is an analysis of the probable votes of the judges, based in part on the opinion of Norman Finkelstein as well as views expressed directly by government figures in the countries that nominated the judges.

Judge Joan E. Donoghue of the United States: A no-vote is almost certain to come from Donoghue, given the United States' long and unwavering support for Israel's actions. United States officials blame the large numbers of civilian casualties on Hamas's supposed usage of

civilians as “human shields” and have adamantly denied that Israel’s actions constitute genocide.

Judge Kirill Gevorgian of the Russian Federation: While the Russian government has shown sympathy for the Palestinian cause and [spoken against excessive civilian casualties](#), they may be wary of the potential consequences of such a landmark genocide ruling that could be used against them in the future regarding their military actions in Ukraine. Even so, showing support for the Palestinian people and taking a stand against America and its allies could be advantageous to Russia’s image. For this reason, a yes vote from Russia is possible but uncertain.

Judge Peter Tomka of Slovakia: Slovakia has enjoyed friendly relations with Israel and has refrained from criticism of Israel’s actions in Gaza. However, Slovakia has [voiced concern](#) over illegal Israeli settlements in the West Bank and supports a two-state solution. Slovakia abstained in a recent UN General Assembly vote calling for a ceasefire in Gaza. For this reason, it is difficult to predict how the Slovakian judge may vote, but constituting Israel’s actions as a genocide would be a leap in Slovakia’s foreign policy regarding the matter. Therefore, such a ruling appears more unlikely than likely to come from Judge Tomka.

Judge Ronny Abraham of France: France has remained a strong supporter of Israel and its policies throughout the years, and the two enjoy a friendly and cooperative relationship. However, French President Emmanuel Macron has [harshly criticized](#) Israel’s recent military actions in Gaza, saying there is “no justification” for the bombing campaign and urged Israel to cease its hostilities. The ruling from Judge Abraham could go either way, with significant evidence backing either possibility.

Judge Mohammed Bennouna of Morocco: The Moroccan population has shown unwavering support for the Palestinian cause, with tens of thousands of Moroccans marching in the streets to protest Israel’s bombardment of Gaza. Although Morocco’s government adopted a policy of normalizing ties with Israel in return for recognition of Morocco’s sovereignty over the disputed territory of Western Sahara, Moroccan authorities [continue to voice support](#) for Palestine’s struggle for human rights and statehood. Hence, a yes vote is highly likely to come from Mohammed Bennouna, and the alternative would cause widespread anger and discontent among Morocco’s population.

Judge Abdulqawi Ahmed Yusuf of Somalia: The nation of Somalia unwaveringly supports the Palestinian cause and the liberation of its people. Somalis took to the streets to stand with Gaza and protest Israel’s bombardment of the strip. Somali Prime Minister Hamza Abdi Barre condemned international silence on the Israeli occupation and [praised Hamas](#) for fighting for liberation. A yes vote is highly likely to come from Judge Yusuf.

Judge Xue Hanqin of China: The Chinese government has been a strong critic of Israel’s actions in Gaza and [supports an independent Palestinian state](#) with East Jerusalem as its capital. However, China may be hesitant to set a precedent regarding violations of the Genocide Convention for similar reasons as Russia. Some accuse China of committing genocide against the Uyghurs, a Muslim minority in China. For this reason, a yes vote from China is possible but not assured.

Judge Julia Sebutinde of Uganda: Uganda’s position regarding the situation in Palestine

is nuanced and not apparent. Uganda has tentatively friendly relations with Israel and supports a two-state solution. However, during a visit to Uganda from Israeli Prime Minister Benjamin Netanyahu, Ugandan President Yoweri Museveni repeatedly [referred to the land as Palestine](#), including describing relations between “Palestine and Africa.” Uganda’s Minister of State for International Affairs confirmed that Uganda supports Palestine and its right to an independent State. Uganda’s votes in the UN General Assembly regarding conflicts in Palestine have been inconsistent, with the Ugandan representative voting no on resolutions critical of Israel in several cases. However, Uganda recently voted for a resolution calling for a ceasefire of hostilities in Gaza. Judge Sebutinde’s ruling is somewhat unpredictable, but either decision is possible.

Judge Dalveer Bhandari of India: While in the past India has shown support for the Palestinian cause, the modern Hindu-majority government has shifted India to a nation described as pro-Israel. India views Israel’s actions in Gaza as a “counterterrorism operation” but called for international humanitarian law to be maintained in the strip. India was one of the first to condemn Hamas’s October 7th attack on Israel and [banned protests in support of Palestine](#). Therefore, a no-vote is a probable ruling to come from India.

Judge Patrick Lipton Robinson of Jamaica: Jamaica’s history of oppression at the hands of the British has caused them to be a defender of resistance against unjust governments. They were the first nation to issue sanctions against the apartheid state of South Africa, paving the way for others to follow suit. However, the Jamaican government’s silence on Israel’s bombardment of Gaza has drawn [criticism from the Jamaican population](#), who generally support the Palestinian cause. A yes vote from Jamaica would answer calls to take a clear stance on the conflict, and for that reason, it is the more likely possibility.

Judge Nawaf Salam of Lebanon: A yes vote is almost certain to come from the Lebanese Judge, as the struggle of the Palestinians is historically intertwined with Lebanon’s struggle against Israel. The Lebanese population staunchly supports the Palestinian cause and views Israel as an occupying and oppressive state. The Lebanese militia Hezbollah has led successful military campaigns against Israeli forces in the past and is currently shelling the northern areas of the territory that Israel controls. Over 270,000 Palestinian refugees reside in Lebanon, and scores took to the streets to protest Israel’s actions in Gaza. Lebanon and Israel have no official diplomatic relations.

Judge Iwasawa Yuji of Japan: Japan advocates for a two-state solution and maintains a hesitant and tentative foreign policy approach regarding the conflict. Japan unequivocally condemned Hamas’s October 7th attack and voiced support for a cessation of hostilities. Japan is a strong Asian ally of the United States and Western European states, and Japan’s foreign policy often aligns with the positions of those states. Hence, constituting Israel’s actions as genocide [would be a large leap](#) from the country’s current position, and a no-vote would be most probable.

Judge Georg Nolte of Germany: Germany has been a strong supporter of the Israeli government and its actions, and the two maintain a “special relationship” based on Western values and historical perspectives. Some analysts suggest Germany’s unwavering support of the Jewish state is an attempt to make amends for the atrocities committed against the Jewish population by the Nazis during WWII. Following October 7th, German Chancellor Olaf Scholz offered military aid to Israel and dismissed calls for a ceasefire. Germany also [banned demonstrations](#) in support of Palestine. As such, a no vote is highly likely to come from Judge Nolte.

Judge Hilary Charlesworth of Australia: Australia supports a two-state solution and often defends Israel’s policies and actions. Australia’s foreign policy is often reflected by its strong relationships with Western states such as the United States. However, the Australian population is split in its stance on the conflict, and [large demonstrations](#) have taken place in support of Palestine. Still, a no vote is the most likely ruling to come from Judge Charlesworth.

Judge Leonardo Nemer Caldeira Brant of Brazil: Brazil strongly supports a Palestinian state according to its 1967 borders (including the West Bank and Gaza), and the Brazilian population is split in its support for either side. President Lula has attempted to [walk the diplomatic line](#) between either side, emphasizing the need for de-escalation. The potential for a cessation of hostilities in the event of a conviction of Israel violating its obligations may sway the Brazilian judge to rule accordingly. Therefore, a yes vote is a more likely possibility.

Considerations:

Each of the judges on the court has highly esteemed experiences, academics, and careers, and their knowledge and insights should not be ruled out in predicting their decisions. They do not officially represent their nation and are required to be uninfluenced by politics and policies. However, powerful nations have ways of “persuading” weaker nations and individuals to vote as directed. It is therefore unlikely that evidence and law will be more than window dressing in the outcome of the case against Israel.

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