

# Genocidal Tremors: Taking Israel to the International Court of Justice

By [Dr. Binoy Kampmark](#)

Global Research, January 01, 2024

Region: [Middle East & North Africa](#)  
Theme: [Law and Justice](#), [United Nations](#)  
In-depth Report: [PALESTINE](#)

All Global Research articles can be read in 51 languages by activating the Translate Website button below the author's name (only available in desktop version).

To receive Global Research's Daily Newsletter (selected articles), [click here](#).

Click the share button above to email/forward this article to your friends and colleagues. Follow us on [Instagram](#) and [Twitter](#) and subscribe to our [Telegram Channel](#). Feel free to repost and share widely Global Research articles.

\*\*\*

*"2023 has been a challenge for Global Research, but we know 2024 will be no different. That's why we need your support. Will you make a New Year [donation](#) to help us continue with our work?"*

\*

*Litigating against countries is the stuff of esoteric delight for international lawyers. Such matters become yet more complex when it comes to claims of genocide or broader crimes against humanity. Accusations, however motivated, are always easy to make. Proving them in a court of law is quite another proposition. International law remains a terrain of punctures and potholes, rather than smooth lines and fine paving. Working around those punctures is a skill worthy of prize and praise.*

The ongoing flattening, mauling and extirpation of the Gaza Strip by Israel's armed forces has drawn interest from jurists and litigants. The potholes and punctures, in that sense, seem to be filling up. It's hard not to see why, when you have such startlingly grotesque [admissions](#) as those from Rear Admiral Daniel Hagari, a chief spokesman for the IDF, that "the emphasis is on damage and not on accuracy."

Then come such [background briefs as those](#) from retired Colonel Pnina Sharvit Baruch, former director of the wing celebrated for advising IDF commanders about complying with the rules of war. A dive into the short overview from Baruch makes for grim reading. The aim, not method, is what matters, namely, the destruction of Hamas.

"Without achieving this goal, Hamas will succeed in de facto denying Israel the exercise of its sovereignty in the areas adjacent to the border with the Gaza Strip. In light of this significant military advantage, even if many civilians in Gaza are harmed during the attacks, this is not necessarily excessive incidental damage and therefore would not be

disproportionate attacks that are illegal.”

Mass murder can thereby be excused.

Leonard Rubenstein, a professor of practice at the Johns Hopkins Bloomberg School of Public Health, was [sufficiently troubled by such reasoning to suggest](#) that Israel had “asserted a theory of justifiable conduct in war that, contrary to this body of [humanitarian] law, elevates claims of military necessity in achieving the war’s aims over protection of civilians, particularly in a just war.”

In the international community, a number of actions are testing the waters of legality regarding Israel’s novel view of waging what is increasingly looking like a war of ghoulish extermination. In November, the New York Center for Constitutional Rights (CCR) [filed a suit](#) on behalf of Palestinian human rights groups, US citizens with relatives in Gaza and Palestinians in Gaza arguing that the Biden administration had been complicit and failed to prevent “the Israeli government’s unfolding genocide”. It notes the language of various Israeli government figures that demonstrate “clear genocidal intentions” while deploying “dehumanizing characterizations of Palestinians, including ‘human animals’”.

That same month, South Africa, Bangladesh, Bolivia, Comoros and Djibouti, according to Karim Khan, the chief prosecutor of the International Criminal Court, [expressed the view](#) that an investigation of “the situation in the state of Palestine” should take place. Khan accordingly [declared](#) that an investigation into the events in the Gaza Strip and the occupied West Bank from March 2021 was duly expanded to include “the escalation of hostilities and violence since the attacks that took place on October, 2023.” Despite Israel not being a member of the ICC, the prosecutor called “upon all relevant actors to provide full cooperation with my office.”

South Africa has decided to test the validity of Israel’s methods of war in Gaza through the offices of the International Court of Justice, a body of feeble, if acceptable dignity. On December 29, Pretoria filed an application regarding, in the words of the [relevant press release](#), “alleged violations by Israel regarding the Convention on the Prevention and Punishment of the Crime of Genocide [...] in relation to Palestinians in the Gaza Strip.” The application makes the claim that “acts and omissions” by the Israeli government “are genocidal in character, as they are committed with the requisite specific intent ... to destroy the Palestinians in Gaza as part of the broader Palestinian national, racial and ethnical group”.

It further claims that

“the conduct of Israel – through its State organs, State agents, and other persons and entities acting on its instructions or under its direction, control or influence – in relation to Palestinians in Gaza, is in violation of the obligations under the Genocide Convention.”

The [application instituting proceedings](#) gives more detail to the South African case, noting such alleged genocidal acts as “killing Palestinians in Gaza, causing them serious bodily and mental harm, and inflicting on them conditions of life calculated to bring about their physical destruction.”

South Africa requests a number of provisional measures in its ICJ application, namely, that

Israel immediately suspend military operations in and against Gaza; ensure all its military or irregular units under the state's control "take no further steps in furtherance of the military operations" aforementioned; "desist from the commission of any and all actions within the scope of Article II" of the Genocide Convention (killing, causing serious bodily or mental harm to the members of the group); intentional infliction upon the group of conditions "calculated to bring about its physical destruction in whole or in part"; and "imposing measures intended to prevent births within the group".

The response from Israel was hardly one of chastened reflection. Its government [rejected](#) "with contempt the blood libel by South Africa in its application to the International Court of Justice (ICJ)." The Israeli Foreign Ministry [scorned](#) the South African claim as lacking any "factual and judicial basis and is a despicable and cheap exploitation of the court." Pretoria was, in effect, "collaborating with a terror group that calls for the destruction of Israel."

In some ways, South Africa, with its historically thick layering of scar tissue regarding racial hatred, segregation, policing and administrative detention may be better suited than most in understanding the zealots prosecuting the war in Gaza. Far from proving a blood libel, the case may turn out to be something of a bloody revelation.

\*

Note to readers: Please click the share button above. Follow us on Instagram and Twitter and subscribe to our Telegram Channel. Feel free to repost and share widely Global Research articles.

*Dr. Binoy Kampmark was a Commonwealth Scholar at Selwyn College, Cambridge. He currently lectures at RMIT University. He is a Research Associate at the Centre for Research on Globalization (CRG). Email: [bkampmark@gmail.com](mailto:bkampmark@gmail.com)*

*Featured image: Eve of Destruction – by Mr. Fish*

The original source of this article is Global Research  
Copyright © [Dr. Binoy Kampmark](#), Global Research, 2024

---

[Comment on Global Research Articles on our Facebook page](#)

[Become a Member of Global Research](#)

Articles by: [Dr. Binoy  
Kampmark](#)

**Disclaimer:** The contents of this article are of sole responsibility of the author(s). The Centre for Research on Globalization will not be responsible for any inaccurate or incorrect statement in this article. The Centre of Research on Globalization grants permission to cross-post Global Research articles on community internet sites as long the source and copyright are acknowledged together with a hyperlink to the original Global Research article. For publication of Global Research articles in print or other forms including commercial internet sites, contact: [publications@globalresearch.ca](mailto:publications@globalresearch.ca)  
[www.globalresearch.ca](http://www.globalresearch.ca) contains copyrighted material the use of which has not always been specifically authorized by the copyright owner. We are making such material available to our readers under the provisions of "fair use" in an effort to advance

a better understanding of political, economic and social issues. The material on this site is distributed without profit to those who have expressed a prior interest in receiving it for research and educational purposes. If you wish to use copyrighted material for purposes other than "fair use" you must request permission from the copyright owner.

For media inquiries: [publications@globalresearch.ca](mailto:publications@globalresearch.ca)