

ICJ Stops Short of Ordering Gaza Ceasefire to Stop Genocide

The ICJ ruled that Israel's military shall not commit acts forbidden by Article 2 of Genocide Convention but stopped short of ordering Israel to cease its military operation in Gaza.

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The World Court [ruled](#) on Friday that the Israeli military must ensure that it is not committing acts in Gaza that are in violation of Article 2 of the Genocide Convention; Israel must pursue legal action against Israelis who made statements of genocidal intent; it must facilitate humanitarian aid into Gaza and Israel must report back to the Court on measures it is taking to fulfill these orders in one month.

The Court ordered that:

"The State of Israel shall, in accordance with its obligations under the Convention on the Prevention and Punishment of the Crime of Genocide, in relation to Palestinians in Gaza, take all measures within its power to prevent the commission of all acts within the scope of Article II of this Convention, in particular: (a) killing members of the group. ..."

The Court's actions amount to little more than what the United States has been saying publicly about Israel's conduct, that it must not commit acts that amount to war crimes. The U.S. has not gone as far as to tell Israel not to commit genocide but the Court's action falls far short of what South Africa and much of the world has been demanding.

The Court said South Africa has a plausible claim in at least some instances in its request for provisional measures to stop what it argues is Israel's ongoing genocide against Palestinians in Gaza. But the provisional measures South Africa requested — namely to stop the killing — were denied.

The Court established that there was a dispute against Israel and South Africa to give the Court jurisdiction. The Court also presented a litany of overwhelming evidence that Israel is plausibly committing genocide and that the Court would allow the case to go forward, namely putting Israel on trial for genocide. That will take years to adjudicate.

Naledi Pandor, South Africa's foreign minister, tried to put a positive spin on the Court's decisions in remarks to reporters outside the Palace of Justice in The Hague. "I am satisfied that our request for provisional measures was addressed," she said.

Pandor said she was disappointed the word "cessation" of hostilities was not included in the Court's orders, but said that to fulfill the orders to provide humanitarian services to Gaza Israel must stop its military operation.

"I believe to execute these orders there would have to be a ceasefire," Pandor said. However, she added: "In no way will I say that I am disappointed" in the court's ruling. "I had hoped for it [a ceasefire order], but to provide services would require a ceasefire."

Pandor said she thought it "very significant" that Israel must report back to the World Court in one month to show how it is preventing its forces from committing genocide. It is unclear if there is a procedure for the Court to act if it is not satisfied with Israel's report that Israel is fulfilling the order to do everything it can to prevent genocide.

Given that the Court's directives amount to little more than public statements made by the U.S., Washington should be pleased with Friday's ruling.



Israeli legal team listens to Court's ruling on Friday. (U.N. TV Screenshot)

The Palestine Authority also tried to portray the ruling in a positive light.

"The ICJ order is an important reminder that no state is above the law," PA Foreign Minister Riyad al-Maliki said in a video statement. He said the ruling "should serve as a

wake-up call for Israel and actors who enabled its entrenched impunity.”

The people who count most, Gazans, were [crushed](#) by the ruling.

Most of 50-minute statement read by Judge Joan Donoghue, the American president of the court, was taken up by a recitation of evidence that sounded like it came directly out of South Africa’s complaint.

She relied heavily on statements by top U.N. officials, including the secretary-general and senior aid officials, to paint a picture of abject horror being imposed on the people of Gaza. She also read into the record clear statements of genocidal intent by the Israeli defense minister and the Israeli president.

Israel has been saying all along and stated it clearly in its argument before the Court on Nov. 12 that it is providing humanitarian aid and that it is working very carefully to avoid civilian casualties. It can likely be expected that Israel’s one-month report will repeat similar statements, which have already been refuted by U.N. officials, including the secretary-general.

BREAKING: BENJAMIN NETANYAHU OFFICIAL STATEMENT ON ICJ RULING

“Israel’s commitment to international law is unshakable. Equally unshakable is our sacred commitment to continue to defend our country and protect our people.

Like any country, Israel has an inherent right to defend...
pic.twitter.com/yRsMyGFALj

— Sulaiman Ahmed (@ShaykhSulaiman) [January 26, 2024](#)

Israeli Prime Minister Benjamin Netanyahu, who was described by Al Jazeera as pleased with the outcome, took to Twitter to state that the claim of Israel committing genocide was “rightly rejected” by the Court and to eviscerate anyone who dared suggest Israel could commit such a thing as genocide.

“Israel’s commitment to international law is unwavering,” Netanyahu wrote. “Equally unwavering is our sacred commitment to continue to defend our country and defend our people. Like every country, Israel has an inherent right to defend itself.” He said:

“The vile attempt to deny Israel this fundamental right is blatant discrimination against the Jewish state, and it was justly rejected. The charge of genocide leveled against Israel is not only false, it’s outrageous, and decent people everywhere should reject it.”

Netanyahu clearly believes that Israeli military actions the Court believes could amount to genocide is Israel’s “fundamental right.” He continued to present Israel as the victim and Hamas as the war criminal.

“On the eve of the International Holocaust Remembrance Day, I again pledge as Prime Minister of Israel – Never Again,” he said. “Israel will continue to defend itself against Hamas, a genocidal terror organization.”

Defense Minister Yoav Gallant, who was singled out for his alleged incitement by the Court, said that Israel “does not need to be lectured on morality” by the Court.

“The International Court of Justice in The Hague went above and beyond, when it granted South Africa’s antisemitic request to discuss the claim of genocide in Gaza, and now refuses to reject the petition outright,” he said in a statement.

“Those who seek justice, will not find it on the leather chairs of the court chambers in The Hague — they will find it in the Hamas tunnels in Gaza, where 136 hostages are held, and where those who murdered our children are hiding,” he said. “They will find it in the ‘Spirit of the IDF,’ a document that outlines the values and conduct of our moral and professional soldiers.”

International lawyer Francis Boyle, who won provisional measures against Yugoslavia at the ICJ in 1993, [told](#) the Institute for Public Accuracy:

“This is a massive, overwhelming legal victory for the Republic of South Africa against Israel on behalf of the Palestinians. The U.N. General Assembly now can suspend Israel from participation in its activities as it did for South Africa and Yugoslavia. It can admit Palestine as a full member. And — especially since the International Criminal Court has been a farce — it can establish a tribunal to prosecute the highest level officials of the Israeli government, both civilian and military.”

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Featured image: Judge Joan Donoghue of the U.S., president of the ICJ, reading the Court’s ruling on Friday. (U.N. TV Screenshot)

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