

South Africa's Memorial to the ICJ: More Evidence on Israel's Genocide

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The timing, as with so much in the ongoing wars in Gaza and Lebanon, was most appropriate. The Israeli Knesset had signalled its intent on crippling and banishing the sole agency of humanitarian worth for Palestinian welfare by passing laws criminalising its operations by 92 to 10 on October 28.

The attack on UNRWA also came with a contemporaneous legal effort, this time from South Africa. Pretoria had already made its wishes clear on December 28, 2023 in [filing an application](#) in the International Court of Justice alleging “violations by Israel regarding the [United Nations] Convention on the Prevention and Punishment of the Crime of Genocide [...] in relation to Palestinians in the Gaza Strip.” Acts and omissions by Israel, argued the South African government, were alleged to be of a “genocidal” nature, “committed with the requisite specific intent ... to destroy the Palestinians in Gaza as part of the broader Palestinian national, racial and ethnical group”.

By May 10, South Africa had filed four requests seeking additional provisional measures with modifications to the original provisional measures laid down by the ICJ. The momentum, and frequency of the actions, even gave [certain commentators room to wonder](#): Was Israel's own due process rights regarding judicial equality and the right to be heard compromised? Israel had promised to submit written observations by May 15 to the ICJ when faced with the sudden announcement on May 12 that the court would be holding an oral hearing instead.

These debates have been taking place before the concerted, dedicated, enthusiastic pulverisation of Gaza, and the ongoing killing, terrorisation and displacement of Palestinians in the West Bank. In these cases, due process remains fantasy and distant speculation, especially concerning civilians. With increasing regularity, there is chilling evidence that Israeli units have a programmatic approach to destroying a viable infrastructure and means of living on the strip.

On October 22, the Israeli human rights organisation B'Tselem [expressed](#) horror at the sheer scale “of the crimes Israel is currently committing in the northern Gaza Strip in its campaign to empty it of however many residents are left [...] impossible to describe, not just because hundreds of thousands of people enduring starvation, disease without access to medical care and incessant bombardments and gunfire defies comprehension, but because Israel has cut them off from the world.”

In a chilling [overview](#) of the exploits of the IDF's 749 Combat Engineering Battalion written by Younis Tirawi and Sami Vanderlip for Drop Site News, a record of systematic elimination of cultural, structural and intellectual life in the Gaza Strip is evident. As members of the

battalion's official D9 company stated: "Our job is to flatten Gaza." In an operation that saw the destruction of the Al-Azhar University, First Sergeant David Zoldan, operational officer of Company A of the battalion, rejoices with fellow soldiers on seeing the explosion: "Hiroshima and Nagasaki combined, did you see?!"

Statements of this sort are frequent and easily found up the chain of command. They are also uttered with ease at the highest levels of government. On October 21, Israeli Minister for National Security **Itamar Ben-Gvir** [had told](#) a "settlement" conference held in a restricted military zone that Gaza's inhabitants would be given the chance to "leave from here to other countries". His reasoning for this ethnic cleansing has remained biblically consistent: "The Land of Israel is ours."

In a [media statement](#) from its Department of International Relations and Cooperation dated October 28, the South African government announced its filing of a Memorial to the ICJ pertaining to its ongoing case against Israel. The Memorial itself runs into 750 pages, with 4000 pages of supporting exhibits and annexes. (Its December 2023 application had run into 84 pages.) "The problem we have is that we have too much evidence," [remarked](#) South Africa's representative to The Hague, **Ambassador Vusimuzi Madonsela** to Al Jazeera.

Zane Dangor, director-general of the Department of International Relations and Cooperation, was [more practical](#). Israel might well inflate its dossier of bloody misdeeds, but some line had to be drawn in the submissions. "The legal team will always say we need more time, there's more facts coming. But we have to say you have to stop now. You [have] got to focus on what you have."

While the formal contents of the Memorial remain confidential, the clues are thickly obvious. It contains, for instance, evidence that Israel "has violated the genocide convention by promoting the destruction of Palestinians living in Gaza, physically killing them with an assortment of destructive weapons, depriving them access to humanitarian assistance, causing conditions of life which are aimed at their physical destruction and ignoring and defying several provisional measures of the International Court of Justice, and using starvation as a weapon of war to further Israel's aims to depopulate Gaza through mass death and forced displacement of Palestinians."

Despite that comprehensive assortment of alleged crimes, the legal commentariat wonder how far this latest effort will necessarily go in linking the decisions of Israeli officialdom with genocidal intent. That Israel is committing war crimes and violating humanitarian law is nigh impossible dispute. The threshold in proving genocide, as [international jurisprudence has repeatedly shown](#) over the years, is a high one indeed. The *dolus specialis* - that specific intent to destroy in whole or in part the protected group - is essential to prove.

Cathleen Powell of University of Cape Town, for instance, has her [reservations](#). "If they can find genocidal statements from state officials and show that that directly led to a particular programme that led to the destruction on the ground, then that's probably a very strong case". But making that link would be "very difficult".

Dangor has no doubts. "Genocidal acts without intent can be crimes against humanity. But here, the intent is just front and centre." Suffice to say that Israeli lawmakers and officials, aided by the exploits of the IDF, are making proving such intent an easier prospect with each passing day.

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