

# The Criminalization of International Justice, Putting an End to the Genocide against the People of Palestine. Nuremberg Principle IV

Disobey Unlawful Orders, Abandon the Battlefield under Principle IV of the Nuremberg Charter

By [Prof Michel Chossudovsky](#)  
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Minor Revisions on January 13 2024. Inclusion of Video Interview on January 17, 2024

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## Introduction

*This article examines **the criminalization of International Justice** as well as the stranglehold exerted by Washington over both the International Criminal Court (ICC) and the International Court of Justice (ICJ).*

*While we firmly support and endorse the Republic of South Africa's carefully formulated Legal Procedure against the State of Israel in relation to the Genocide Convention (Click Here to access [84 page Submission](#), Excerpts Below), the fundamental question is whether **it will contribute to repealing the ongoing genocide and saving the lives of tens of thousands of civilians**.*

*Will [the Vote by the World Court's 15 Judges be based on "politics"](#) or on an independent and "honest" legal analysis and documentation of the overwhelming evidence -presented by South Africa's Legal Team- pertaining to "alleged" acts of genocide by Israel?*

**We must recognize that there is "A Sense of Urgency":**

The latter part of this article focusses on **Principle IV of the Nuremberg Charter**.

It is a proposal which has not been the object of media coverage and/or debate by anti-war activists. While it is predicated on international law, its conduct does not require the **political rubber stamp** of either the ICC or the ICJ.

Based on the Nuremberg Charter, what is required is a grass-roots campaign encouraging: **Israeli, American and NATO Combatants to “Disobey Unlawful Orders” and “Abandon the Battlefield”**.

It is based on [Principle IV of the Nuremberg Charter](#) which defines the responsibility of combatants **“to refuse the orders of Government or a superior ... “provided a moral choice [is] possible”**. It can be conducted without delay in the form of a Worldwide grass-roots campaign, concurrently and in solidarity with South Africa’s Procedure at the ICJ.

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## **Video Interview on the Criminalization of Justice**

**Michel Chossudovsky with Caroline Mailloux**

**Video: Youtube version**

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## **Important Questions: Enforcement and Compliance**

A lengthy legal procedure is envisaged. Moreover, there is the issue of **“Enforcement” and “Compliance”**. Paul Larudee in an [incisive article](#) begs the Question:

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

**The Answer is NO:**

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.”** ([Paul Larudee](#))

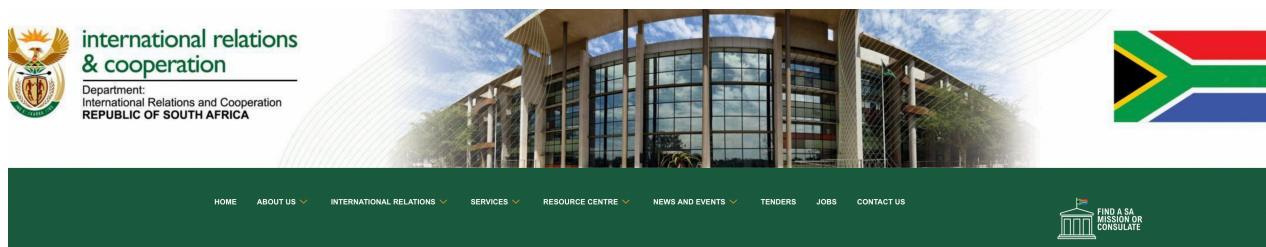
While diplomacy and South Africa's legal procedures at the ICJ should continue, the history of the World Court suggests that these proceedings against Israel **cannot be relied upon to put a rapid end to the genocide.**

## Failure of Diplomacy and Judicial Procedures. The Criminalization of the ICC

It is not through "negotiations" with **Prime Minister Netanyahu** and **President Biden**, both of whom are responsible for "[crimes punishable under International Law](#)" that we will be able to **put an end to the genocidal attack against the People of Palestine.**

Put an End to the Genocide is ultimately our objective, in solidarity with the people of Palestine.

Prior to South Africa's ICJ December 2023 initiative, a referral was sent to the International Criminal Court (ICC)



### South Africa, along with like-minded States, submits joint referral of the situation in Palestine to the ICC

Media Statement

17 November 2023

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On 17 November 2023, South Africa referred the situation in the State of Palestine to the Office of the Prosecutor (OTP) of the International Criminal Court (ICC), pursuant to Article 14 of the Rome Statute. The referral was delivered in person by South Africa's ambassador in the Hague, His Excellency Mr Vusi Madonsela.

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South Africa's referral to the **International Criminal Court (ICC)** immediately led into "**a cul de sac**", namely an impasse.

**WHY. Because the ICC is a criminal entity, which is fully aligned with Israel,** supportive of Netanyahu's genocidal attack against Gaza.

[No meaningful response to the referral was provided by the ICC Prosecutor \*\*Karim A. A. Khan K.C.\*\*](#)

In accordance with the Rome Statute of the International Criminal Court, a State Party

may refer to the Prosecutor a situation in which one or more crimes within the jurisdiction of the Court appear to have been committed requesting the Prosecutor to investigate the situation for the purpose of determining whether one or more specific persons should be charged with the commission of such crimes.

In receiving the referral, my Office **confirms that it is presently conducting an investigation into the Situation in the State of Palestine. This investigation, commenced on 3 March 2021, encompasses conduct that may amount to Rome Statute crimes committed since 13 June 2014** in Gaza and the West Bank, including East Jerusalem. It is ongoing and extends to the escalation of hostilities and violence since the attacks that took place on 7 October 2023. (emphasis added)

Click below to Read:

[-The text of the referral \(pursuant to Art. 14 of Rome Statute\) submitted by South Africa to the ICC Prosecutor Karim A.A. Kahn](#)

[-The ICC Prosecutor's Response](#)

I should mention that while the president and prosecutor of the ICC are corrupt (see analysis below), the President of the World Court (as outlined above) is de facto a U.S. appointee.

## ICC Prosecutor in Israel

**ICC Prosecutor, Karim A. A. Khan K.C.** was in Israel in early December 2023. He was in Tel Aviv and Ramallah, **but he did not go to Gaza to see with own eyes what was happening.** Amply documented, he is a puppet and a de facto mouthpiece for the Netanyahu regime.

[\(Read his complete statement\)](#)

**We should call for his immediate resignation.**



## ICC President at UN Headquarters

The **ICC President Piotr Hofmański is also a proxy. On December 7, 2023, three weeks after South Africa's submission to the ICC (see above) he met U.N. Secretary-General Guterres**



ICC President Piotr Hofmański and Secretary-General António Guterres meet at UN Headquarters © UN Photo/Evan Schneider

“During the meeting, President Hofmański “conveyed to the Secretary-General his deep sense of gratitude ... which is particularly important as the **Court is facing pressures and attacks on account of its independent work in addressing the most serious crimes under international law**”, ([See his complete statement](#))

“Pressures and attacks”, WHY?

No concern by the ICC regarding the People of Palestine, namely ICC President Hofmanski’s unbending support of Netanyahu.

## **Principle IV of the Nuremberg Charter**

In view of the failures of The Hague based Judicial Procedures, specifically the ICC, this section presents **a possible solution to put an end to the ongoing genocide**. It is a proposal which has not been the object of debate by anti-war activists in solidarity with Palestine.

It is based on [Principle IV of the Nuremberg Charter](#) which defines the responsibility of combatants **“to refuse the orders of Government or a superior ... “provided a moral choice [is] possible”**.

Based on Nuremberg, what is required is a campaign encouraging:

**Israeli, American and NATO Combatants to “Disobey Unlawful Orders” and “Abandon the Battlefield”.**

**The Campaign would focus on making that “moral choice” possible, namely to enable enlisted Israeli, American, and NATO service men and women to “Abandon the Battlefield”.**

The **Abandon the Battlefield campaign** will in large part be waged in Israel. In regards to Israel, already there are unfolding divisions in the IDF command structures, political divisions, coupled with a protest movement against Netanyahu.

IDF soldiers must be informed and briefed on the significance of **Nuremberg Principle IV**.

Inasmuch as the U.S. and its allies are waging a hegemonic war in major regions of the World, **Abandon the Battlefield** should be a call for action by the anti-war movement Worldwide.

## **Principles of International Law Recognized in the Charter of the Nürnberg Tribunal and in the Judgment of the Tribunal**

1950

Text adopted by the International Law Commission at its second session, in 1950 and submitted to the General Assembly as a part of the Commission’s report covering the work of that session. The report, which also contains commentaries on the principles, appears in *Yearbook of the International Law Commission, 1950*, vol. II, para. 97.

Now let me turn my attention to Nuremberg Principle VI, which defines the crimes punishable under international law, which are casually dismissed both by the President and Prosecutor of the International Criminal Court (ICC)

## **Nuremberg Charter. Principle VI**

Both **Prime Minister Bibi Netanyahu** as well as **President Joe Biden** are responsible for “war crimes”, “crimes against peace” and “crimes against humanity” as defined under [Principle VI of the Nuremberg Charter](#):

The crimes hereinafter set out are **punishable as crimes under international law**:

### **(a) Crimes against peace:**

- (i) Planning, preparation, initiation or waging of a war of aggression or a war in violation of international treaties, agreements or assurances;
- (ii) Participation in a common plan or conspiracy for the accomplishment of any of the acts mentioned under (i).

### **(b) War crimes:**

Violations of the laws or customs of war which include, but are not limited to, murder, ill-treatment or deportation to slave-labour or for any other purpose of civilian population of or in occupied territory, murder or ill-treatment of prisoners of war, of persons on the seas, killing of hostages, plunder of public or private property, wanton destruction of cities, towns, or villages, or devastation not justified by military necessity.

### **(c) Crimes against humanity:**

**Murder, extermination, enslavement, deportation** and other inhuman acts done against any civilian population, or persecutions on political, racial or religious grounds, when such acts are

## **Disobey Unlawful Orders, Abandon the Battlefield**

According to [Principle IV of the Nuremberg Charter](#):

“The fact that a person [e.g. Israeli, U.S.soldiers, pilots] acted pursuant to order of his [her] Government or of a superior does not relieve him [her] from responsibility under international law, provided a moral choice was in fact possible to him [her].”

Let us make that **“moral choice” possible**, to enlisted Israeli, American, and NATO service men and women.

**Let us call upon Israeli and American soldiers and pilots “to abandon the battlefield”, as an act of refusal to participate in a criminal undertaking against the People of Gaza.**

South Africa’s legal procedure at the ICJ should be endorsed Worldwide. While it **cannot be relied upon to put a rapid end to the genocide, it provides support and legitimacy to the “Disobey Unlawful Orders, Abandon the Battlefield” campaign under [Nuremberg Charter Principle IV](#)**.

As we recall: Pursuant to Article 41 of the Statute, The Republic of South Africa had requested “**provisional measures to protect the rights invoked herein from imminent and irreparable loss**”.

These **provisional measures** envisaged under South Africa’s ICJ Legal Procedure should also include reference to [Nuremberg Principle IV, namely the legitimacy to “Disobey Unlawful Orders”](#)

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