

International Court of Justice hearings expose “coordinated plan aimed at the destruction of the essential foundations of Palestinian life”

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On Thursday and Friday, the International Court of Justice, located in The Hague, held emergency hearings in the pending case brought by the government of South Africa accusing Israel of committing genocide in violation of the 1948 Genocide Convention.

The hearings featured further devastating presentations of what the South African ambassador called the “continuing annihilation of the Palestinian people.”

This week’s hearings were held in response to a May 10 request by South Africa for “preliminary measures,” or emergency interim orders, demanding an immediate halt to Israeli military operations in Gaza and unimpeded access for humanitarian aid agencies, journalists, and United Nations staff.

In support of these requested measures, the representatives of South Africa argued that Israel has violated all of the court’s prior orders and is in the process of massively escalating its efforts to physically exterminate or expel the population of Gaza.

In particular, the presentations this week focused on the ongoing assault by Israeli armed forces on Rafah, the “last refuge” for 1.5 million Palestinians, most of whom have been forcibly displaced from central and northern Gaza.

The presentations by South Africa juxtaposed the war crimes being committed on a daily basis by Israeli forces in Gaza with the relentless genocidal incitement issuing from Israeli military and political figures. Israel’s Minister of Finance, Bezalel Smotrich, for example, declared last month that “there are no half measures. Rafah, Deir al-Balah, Nuseirat—*total annihilation.*”

Smotrich, a member of Israel’s Security Cabinet, went on to invoke the racist and obscurantist trope of “Amalek” to argue for the complete extermination of Palestinians: “You shall blot out the remembrance of Amalek from under heaven.”

In one unusually sharp moment during Thursday’s proceedings, barrister Vaughan Lowe, arguing on behalf of South Africa, challenged the judges on the inadequacy of all of the orders they previously issued in the case.

“South Africa is here because the Palestinian people are facing genocide in Gaza, and your previous orders have not succeeded in protecting them against that,” he said. “Whether because of a lack of clarity as to precisely what the orders require or because Israel chooses to ignore them,” he continued, “they have not been effective.”

“Israel is escalating its attacks on Palestinians in Gaza, and in so doing is willfully breaching the binding orders of this Court,” argued South African ambassador Vusumuzi Madonsela, opening the

proceedings Thursday.

Madonsela described Israel as exhibiting “institutionalized impunity,” repeatedly breaching binding resolutions of the UN Security Council and behaving as if it is “exempt from having to respect international law.”

“This institutionalized impunity,” Madonsela continued, “has led Israel to engage in this genocide, which has shocked the conscience of humanity.”

Referring to the ongoing assault on Rafah, Lowe argued that “it has become increasingly clear that Israel’s actions in Rafah are part of the endgame in which Gaza is utterly destroyed as an area capable of human habitation. This is the last step in the destruction of Gaza and its Palestinian people.”

Lowe referred with contempt to arguments that Israel is “doing everything in its power to avoid civilian deaths,” that Israel is exercising its “right to self-defense,” and that “Israel’s army is the most moral army in history.” Insisting that “the evidence has to be faced,” Lowe argued that all of the information coming out of Gaza tells a “consistent story of unimaginable horror, and it continues as we speak.”

“Nothing—not self-defense or anything else—can ever justify genocide,” Lowe declared.

“Israel has defied every single provisional measure indicated by this Court,” argued South African high court advocate Adila Hassim.

“This time last year, Rafah was home to around 275,000 Palestinians,” Hassim explained. “As a result of Israel’s onslaught and its evacuation orders covering more than *three quarters* of Gaza’s total territory, 1.2 million *additional* Palestinians fled *into* Rafah, under order of Israel, as a place of last refuge.”

“Now,” she continued, “Israel has issued *further* evacuation orders, directing Palestinians to leave Rafah. In just the past week, 600,000 Palestinians have been forced to flee from Rafah, but with nowhere to go. There is a total collapse of infrastructure, of sanitation, of water, of food supply: in short, the conditions necessary to sustain life for the 2.3 million Palestinians in Gaza.”

Hassim called Israel’s actions in Rafah a “coordinated plan aimed at the destruction of the essential foundations of Palestinian life” in Gaza.

Her voice breaking momentarily with emotion as she described the conditions facing the children of Gaza, Hassim described how more than “14,000 have been killed, thousands more have been injured or lost family members, while an estimated 17,000 children are unaccompanied or separated” from their families.

“The thwarting of humanitarian aid,” Hassim continued, “cannot be seen as anything but the deliberate snuffing-out of Palestinian lives: starvation to the point of famine, obstructing aid in the face of famine, and killing of at least 200 aid workers.”

On April 10, Hassim stated, “a UN inspection team reported that Khan Younis was reduced to rubble and dirt, and returnees discovered ghastly scenes of unearthed mass graves containing the massacred bodies of the elderly, women, children and men at Al Nasser hospital.”

“Blue scrubs reportedly still clothed the dead bodies of medical staff; many were decapitated. Three hundred and twenty-four decomposing bodies were discovered, many stripped and handcuffed—of these only 42 were identified. Another 30 bodies were discovered in two mass graves in Al Shifa hospital, with only 12 bodies identified.”

Hassim added, “These bodies included women and children, with many reportedly showing signs of torture and summary executions.”

Hassim concluded, “All of what I have described must stop. Israel must be stopped.”

In a presentation detailing the “genocidal intent” of the Israeli regime, South African High Court advocate Tembeka Ngcukaitobi described how direct incitements to genocide continued to be made by leading figures in the Israeli state, even after the ICJ issued orders in January nominally calling for such statements to be halted and investigated. This included statements by Israeli Prime Minister Benjamin Netanyahu, Minister of Defense Yoav Gallant, and Minister of Finance Bezalel Smotrich.

Ngcukaitobi described how the Vice Chair of the international arm of Netanyahu’s Likud Party recently declared: “I think we needed to invade Rafah yesterday. To go in and to get them ... There are no uninvolved . . . go in and *kill and kill and kill.*”

Ngcukaitobi described the widespread use of genocidal language by Israeli soldiers on the ground “to conquer Gaza”, “to flatten Gaza”, “to erase Gaza”, “to destroy Gaza . . . [and a]fter that, Ramallah also.” Israeli soldiers serving in Gaza continue to openly call for “death to Arabs,” declaring “may you burn alive,” that “Gaza is burning,” that “we’ll burn your mother,” and that “[a]ll of Sajaiya will burn in flames.”

Ngcukaitobi described how one Israeli singer adapted the racist Israeli football chant “may your village burn,” changed it to “may Gaza be erased,” and sang it to Israeli soldiers in live performances. For this, the singer was presented with an official certificate of appreciation by the Deputy Speaker of the Knesset.

The genocide case against Israel at the International Court of Justice, the highest judicial body of the United Nations, was initiated in December. The proceedings attracted worldwide attention in January, when a series of presentations made by South Africa’s representatives were widely circulated on social media. These presentations revealed the scale and ferocity of Israel’s war crimes to a global audience.

On January 26, the ICJ issued a tortured and politically compromised decision, finding that the rights of the Palestinian population of Gaza to be protected from genocide were “plausibly implicated,” but refusing to order a ceasefire. Instead, the ICJ issued a series of “preliminary measures” that largely consisted of ordering the government of Israel to comply with its existing general obligations under international law—despite the fact that Israel has been ignoring those obligations for decades.

In February, in response to a further emergency request from South Africa, the ICJ again refused to order a halt to the ongoing massacre,

instead ordering Israel to comply with the earlier provisional measures from January.

In March, in response to repeated requests by South Africa, the ICJ ultimately issued additional provisional measures, including an order for Israel to permit humanitarian assistance to reach Gaza “at scale.” In March, the ICJ also ordered Israel directly not to “commit acts which constitute a violation of any of the rights of the Palestinians in Gaza as a protected group under the [Genocide] Convention.”

For its part, Israel ignored all of these rulings, as it has been defying UN General Assembly and Security Council resolutions for decades. In response to the proceedings in January, Netanyahu declared publicly that Israeli operations in Gaza would continue no matter what orders the court handed down: “No one will stop us—not The Hague, not the axis of evil, and not anyone else.”

Israel’s official response at the ICJ on Friday was to argue that South Africa’s arguments had an “ulterior motive” of supporting Hamas. “South Africa enjoys close relations with Hamas,” argued Israel’s representative Gilad Noam, who also argued that Israel’s military objective was to “liberate” Gaza from Hamas.

Israel’s representatives also cynically argued that South Africa’s presentations were illegitimate because of their “heavy reliance on documents prepared by third parties or under the auspices of the United Nations, when these cannot be said to constitute sufficient evidence of a reliable quality.”

Arguing the case for South Africa Thursday, Lowe anticipated and answered this argument. “The details are not always easy to verify because Israel continues to bar independent investigators and journalists from entering Gaza, and over 100 journalists who were in Gaza have been killed since the Israeli attacks began,” Lowe said. “Israel cannot block investigations by independent investigators and then say that the Court cannot proceed because there is insufficient evidence against it.”

The ICJ is composed of 15 judges appointed for a nine-year term by the UN General Assembly and the Security Council. It is expected to issue a ruling in the coming weeks on this latest request for “provisional measures,” while the underlying case is expected to last for many more months before reaching a final determination.

The ICJ, which has authority over all countries that are part of the UN, is a different judicial body than the International Criminal Court, which was created by a separate treaty that not all countries have signed. While the ICJ proceedings continue, the ICC is reported to be currently conducting war crimes investigations against senior Israeli military figures.

While the US government championed an ICC arrest warrant against Russian president Vladimir Putin last year, both the US and Israel refuse to recognize the ICC’s authority to issue arrest warrants against their own political and military figures.



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