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THREAD: The application that South Africa made to the World Court (ICJ) on Dec 29 to get an order to Israel to stop #CommittingGenocide is lengthy but very well-compiled. Here's my quick guide to its contents >

You can of course read the whole for yourself. Download the PDF here: ><https://icj-cij.org/sites/default/files/case-related/192/192-20231228-app-01-00-en.pdf>

There's a short Preamble. Of course people need to understand that the ICJ is NOT the ICC. The ICC judges the actions of named individuals (nearly all of them people of color, by an amazing coincidence). The ICJ by contrast adjudicates disputes between states >

In this case, a dispute between #SouthAfrica and #Israel, since SA has accused Israel many times since Oct 7 of having committed & continuing to commit #Genocide against Palestinians, and has received no response to the many communications it has sent about this, to Israel. >

A dispute over genocide is no small matter since all states that are parties to the 1948 Genocide Convention are *obligated* to act not just to end genocides but also to prevent them. Most of the world's states are parties to the GC, inc. #Israel, #SouthAfrica, #USA, etc...

After the Preamble in South Africa's Dec 29 application, Part I is a concise Introduction that lays out the shape of the Application as a whole, including this key request on p.3: >

6. In light of the extraordinary urgency of the situation, South Africa seeks an expedited hearing for its request for the indication of provisional measures. In addition, pursuant to Article 74(4) of the Rules of Court, South Africa requests the President of the Court to protect the Palestinian people in Gaza by calling upon Israel immediately to halt all military attacks that constitute or give rise to violations of the Genocide Convention pending the holding of such hearing, so as to enable any order the Court may make on the request for the indication of provisional measures to have its appropriate effects. To that end, the Court should order Israel to cease killing and causing serious mental and bodily harm to Palestinian people in Gaza, to cease the deliberate infliction of conditions of life calculated to bring about their physical destruction as a group, to prevent and punish direct and public incitement to genocide, and to rescind related policies and practices, including regarding the restriction on aid and the issuing of evacuation directives.

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Part II, Jurisdiction starts on p.4. After reviewing the ICJ's right/duty to adjudicate (urgently) on this matter it lists other countries that have alleged genocide by Israel (pp.4-6) and gives details of SA's previous communix with Israel on the matter. >

Part III, The Facts starts on p.9 and is quite masterly, imho. It has its own Introduction (III-A, starts p.9) then has 17 pages (pp.12-29) in III-B Background that includes lots of vital background about the situation of Palestinians in Gaza >

Para 27 (starts p. 16) is powerful: "Between 29 September 2000 and 7 October 2023, approximately 7,569 Palestinians,¹⁰² including 1,699 children,¹⁰³ were killed, including in those "four highly asymmetrical wars", as well as other smaller military assaults, with tens of thousands of others injured..." >

"A further 214 Palestinians including 46 children were killed during the 'Great March of Return', a large-scale peaceful protest along the separation fence between Gaza and Israel, in which thousands of Palestinians participated every Friday for over 18 months, demanding that "the blockade imposed on Gaza be lifted and the return of Palestinian refugees" to their homes and villages in Israel. On one particularly lethal day alone, Israel killed 60 Palestinian protesters." >

The whole of that description of the 2018 #GreatMarchOfReturn is worth reading, (pp. 16-17.) Part III-B Background of the Application also includes a summary of Israeli violations in the West Bank including East Jerusalem (pp. 24-28) along with, importantly >

a section (III-B-3, pp.28-29) on "The attacks in Israel of 7 October 2023." >

3. *The attacks in Israel of 7 October 2023*

40. Israel's military assault in Gaza and its heightened military campaign in the West Bank were launched in response to an attack in Israel on 7 October 2023 (dubbed 'Operation Al Aqsa Flood') by two Palestinian armed groups – the military wing of Hamas (the 'Izz ad-Din al-Qassam Brigades') and Palestinian Islamic Jihad. The groups launched a large barrage of rockets towards Israel, breached the Israeli fence besieging Gaza, and attacked Israeli military bases and civilian towns, as well as a music festival attended by thousands of young people, in circumstances being investigated by the Prosecutor of the ICC.¹⁶⁰ South Africa unequivocally condemns the targeting of Israeli and foreign national civilians by Hamas and other Palestinian armed groups and the taking of hostages on 7 October 2023, as expressly recorded in its Note Verbale to Israel of 21 December 2023.

41. Since 7 October 2023, over 1,200 Israelis and foreign nationals have been killed in Israel, according to figures provided by the Israeli authorities, including 36 children, the vast majority on 7 October 2023 itself.¹⁶¹ Approximately 240 civilians — including elderly people, women and children — and Israeli soldiers were taken as hostages into Gaza. Only 110 of them have been released to date in exchange for 240 Palestinians — including elderly people, women and children — imprisoned or

This section notes (para 42) that both the ICC prosecutor and the UN General Assembly have been addressing the violations committed against Israel and Israelis on and since Oct 7-- and also that those violations have been adduced by Israeli leaders as rationale for their genocidal acts in Gaza >

Part III-C of South Africa's Application (pp.29-59) contains a lengthy, horrifying list of "Genocidal Acts Committed Against the Palestinian People", then >

Part III-D (pp.59-67) presents "Expressions of Genocidal Intent against the Palestinian People by Israeli State Officials and Others." Many experts have noted that proving "intent" to commit genocide is usually the hardest part of building a strong case. Not for Israel! >

The public record of statements of genocidal intent and mobilization uttered by Israeli political and military leaders is crystal clear, including from the PM, the President, the Minister of Defence, & others. Part III-D lays it all out, and has this (p. 65): >

103. The above statements by Israeli decision-makers and military officials indicate in and of themselves a clear intent to destroy Palestinians in Gaza as a group “as such”. They also constitute clear direct and public incitement to genocide, which has gone unchecked and unpunished. The clear inference from the acts of the Israeli army on the ground — including from the vast number of civilians killed and injured, and the scale of displacement, destruction and devastation wrought in Gaza — is that those genocidal statements and directives are being implemented against the Palestinian people. That is also the clear and necessary inference to be drawn from the emerging evidence from Israeli army soldiers serving in Gaza, including those stationed on the ground:

— **Israeli Army Colonel, Deputy Head of COGAT:** speaking in a video filmed in Beit Lahia — one of the areas of Gaza which appears to have suffered particularly severe levels of destruction — and broadcast on Israeli television on 4 November 2023, Colonel Yogev Bar-Sheshet stated: “[w]hoever returns here, if they return here after, will find scorched earth. No houses, no agriculture, no nothing. They have no future;” another Army Colonel recorded in the same video, Colonel Erez Eshel (Reserve), also commented that: “Vengeance is a great value. There is vengeance over what they did to us ... This place will be a fallow land. They will not be able to live here”.⁴⁸¹

— **Israeli army soldiers:** Israeli soldiers in uniform have been filmed on 5 December 2023 dancing, chanting and singing “May their village burn, May Gaza be erased”,⁴⁸² and, two days later, on a separate occasion *inside Gaza* on 7 December 2023, dancing, singing and chanting, “we know our motto: *there are no uninvolved civilians*” and “*to wipe off the seed of Amalek*”.⁴⁸³

Part III-E of S. Africa's Application (pp. 67-70) presents "Recognition of Israel's genocidal intent against Palestinians", citing primarily statements from UN-related bodies and individuals. >

Part IV The Claims of South Africa (pp. 70-72, summarizes S. Africa's claims succinctly and helpfully: >

110. Based on the above, as well as the further evidence to be presented over the course of these proceedings, South Africa considers 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 its obligations under the Genocide Convention, including Articles I, III, IV, V and VI, read in conjunction with Article II. Those violations of the Genocide Convention include, but are not limited to:

with these specifics >

- (a) failing to prevent genocide in violation of Article I;
- (b) committing genocide in violation of Article III (a);
- (c) conspiring to commit genocide in violation of Article III (b);
- (d) direct and public incitement to commit genocide in violation of Article III (c);
- (e) attempting to commit genocide in violation of Article III (d);
- (f) complicity in genocide in violation of Article III (e);
- (g) failing to punish genocide, conspiracy to commit genocide, direct and public incitement to genocide, attempted genocide and complicity in genocide, in violation of Articles I, III, IV and VI;
- (h) failing to enact the necessary legislation to give effect to the provisions of the Genocide Convention and to provide effective penalties for persons guilty of genocide, conspiracy to commit genocide, incitement to genocide, attempted genocide, and complicity in genocide, in violation of Article V; and
- (i) failing to allow and/or directly or indirectly impeding the investigation by competent international bodies or fact-finding missions of genocidal acts committed against Palestinians in Gaza, including those Palestinians removed by Israeli State agents or forces to Israel, as a necessary and corollary obligation pursuant to Articles I, III, IV, V and VI.

Part V The Relief Sought starts p.71 and asks the Court to adjudge and declare that... >

- (2) that the State of Israel:
 - (a) has breached and continues to breach its obligations under the Genocide Convention, in particular the obligations provided under Article I, read in conjunction with Article II, and Articles III (a), III (b), III (c), III (d), III (e), IV, V and VI;
 - (b) must cease forthwith any acts and measures in breach of those obligations, including such acts or measures which would be capable of killing or continuing to kill Palestinians, or causing or continuing to cause serious bodily or mental harm to Palestinians or deliberately inflicting on their group, or continuing to inflict on their

and this: >

group, conditions of life calculated to bring about its physical destruction in whole or in part, and fully respect its obligations under the Genocide Convention, in particular the obligations provided under Articles I, III (a), III (b), III (c), III (d), III (e), IV, V and VI;

(c) must ensure that persons committing genocide, conspiring to commit genocide, directly and publicly inciting genocide, attempting to commit genocide and complicit in genocide contrary to Articles I, III (a), III (b), III (c), III (d) and III (e) are punished by a competent national or international tribunal, as required by Articles I, IV, V and VI;

(d) to that end and in furtherance of those obligations arising under Articles I, IV, V and VI, must collect and conserve evidence and ensure, allow and/or not inhibit directly or indirectly the collection and conservation of evidence of genocidal acts committed against Palestinians in Gaza, including such members of the group displaced from Gaza;

(e) must perform the obligations of reparation in the interest of Palestinian victims, including but not limited to allowing the safe and dignified return of forcibly displaced and/or abducted Palestinians to their homes, respect for their full human rights and protection against further discrimination, persecution, and other related acts, and provide for the reconstruction of what it has destroyed in Gaza, consistent with the obligation to prevent genocide under Article I; and

(f) must offer assurances and guarantees of non-repetition of violations of the Genocide Convention, in particular the obligations provided under Articles I, III (a), III (b), III (c), III (d), III (e), IV, V and VI.

Right now, however, the most important part of S. Africa's Application is this: Part VI, Request for Provisional Measures. It starts at p.72 and asks that in view of the urgency of the situation the ICJ institute provisional measures long before reaching a final judgment on this case: >

115. Provisional measures are necessary in this case to protect against further, severe and irreparable harm to the rights of the Palestinian people under the Genocide Convention, which continue to be violated with impunity. South Africa requests that the Court indicate provisional measures to protect and preserve those rights as well as its own rights under the Convention, and to prevent any aggravation or extension of the dispute, pending the determination of the merits of the issues raised by the Application.

116. South Africa notes that there are other related matters that do not directly engage obligations under the Genocide Convention and are therefore not properly within the Court's jurisdiction in this case, including the urgent return of Israeli and other hostages. South Africa considers that the provisional measures requested are nevertheless consistent with and capable of assisting towards the progression and resolution of those matters.

(Note para 116 there.) Anyway, in para 144, starts p.82, the Application explicitly asks the Court to order an immediate "suspension" of military operations in and against Gaza. The specific asks re this provisional order are these:

- (1) The State of Israel shall immediately suspend its military operations in and against Gaza.
- (2) The State of Israel shall ensure that any military or irregular armed units which may be directed, supported or influenced by it, as well as any organisations and persons which may be subject to its control, direction or influence, take no steps in furtherance of the military operations referred to point (1) above.
- (3) The Republic of South Africa and the State of Israel shall each, in accordance with their obligations under the Convention on the Prevention and Punishment of the Crime of Genocide, in relation to the Palestinian people, take all reasonable measures within their power to prevent genocide.
- (4) 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 the Palestinian people as a

& this... >

group protected by the Convention on the Prevention and Punishment of the Crime of Genocide, desist from the commission of any and all acts within the scope of Article II of the Convention, in particular:

- (a) killing members of the group;
- (b) causing serious bodily or mental harm to the members of the group;
- (c) deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; and
- (d) imposing measures intended to prevent births within the group.

(5) The State of Israel shall, pursuant to point (4)(c) above, in relation to Palestinians, desist from, and take all measures within its power including the rescinding of relevant orders, of restrictions and/or of prohibitions to prevent:

- (a) the expulsion and forced displacement from their homes;
- (b) the deprivation of:
 - (i) access to adequate food and water;
 - (ii) access to humanitarian assistance, including access to adequate fuel, shelter, clothes, hygiene and sanitation;
 - (iii) medical supplies and assistance; and
- (c) the destruction of Palestinian life in Gaza.

(6) The State of Israel shall, in relation to Palestinians, ensure that its military, as well as any irregular armed units or individuals which may be directed, supported or otherwise influenced by it and any organizations and persons which may be subject to its control, direction or influence, do not commit any acts described in (4) and (5) above, or engage in direct and public incitement to commit genocide, conspiracy to commit genocide, attempt to commit genocide, or complicity in genocide, and insofar as they do engage therein, that steps are taken towards their punishment pursuant to Articles I, II, III and IV of the Convention on the Prevention and Punishment of the Crime of Genocide.

(7) The State of Israel shall take effective measures to prevent the destruction and ensure the preservation of evidence related to allegations of acts within the scope of Article II of the Convention on the Prevention and Punishment of the Crime of Genocide; to that end, the State of Israel shall not act to deny or otherwise restrict access by fact-finding missions, international mandates and other bodies to Gaza to assist in ensuring the preservation and retention of said evidence.

(8) The State of Israel shall submit a report to the Court on all measures taken to give effect to this Order within one week, as from the date of this Order, and thereafter at such regular intervals as the Court shall order, until a final decision on the case is rendered by the Court.

(9) The State of Israel shall refrain from any action and shall ensure that no action is taken which might aggravate or extend the dispute before the Court or make it more difficult to resolve.

S. Africa wrapped up its request for the Provisional Measures with this: >

146. South Africa respectfully requests that this request for provisional measures be considered urgently, at the Court's earliest possible opportunity, including the scheduling of a hearing in person or remotely by video link in the week of 1 January 2024.

147. South Africa reserves its right to request additional provisional measures to prevent irreparable harm to the rights at issue in this case, and/or to prevent further aggravation of the dispute between the Parties, should they become necessary, during the course of these proceedings.

As we know that urgent hearing did not happen last week but is scheduled to start on Thurs., Jan 11. The ICJ has 15 justices on its bench, serving 9-year terms. Here they are: <https://icj-cij.org/index.php/current-members>

Chief Justice Joan Donoghue (US) is thought to be a bit of a tool. She can steer the Court's work a lot but may not be able to prevail. Unusually for any court, the ICJ also allows each State directly involved in a litigation to name an "ad-hoc" justice of its own to sit on the bench while this case is being heard. >

Israeli PM Netanyahu named retired Israeli Supreme Court President Aharon Barak to be Israel's ad-hoc justice. Intriguing becuz Barak has in recent years been a v. strong *opponent* of all Netanyahu's plans to curtail the power of the Israeli Supreme Court, but >

he has apparently agreed to serve as Israel's ad-hoc at the ICJ. Haaretz journos wrote recently that Barak was the 2nd or 3rd person Netanyahu had asked... >



Israel Appoints Former Supreme Court President Aharon Barak to Judi...

Barak's Appointment in the Case, Involving South African Complaint Regarding Israel's Actions in Gaza, Is Based on Israel's Right as a Party to the Case to Appoint a Judge in Addition to the Regular ...

<https://www.haaretz.com/israel-news/2024-01-07/ty-article/.premium/israel-appoints-ex...>

& that one of the ppl who turned Netanyahu down was former Canadian Justice Minister Irwin Cotler. That is super-interesting: a deep crack at the heart of the Zionist enterprise?
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