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Legal Implications of the ICJ Proceedings Regarding Israel's Conduct in Gaza

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ABSTRACT *This study examines the interim injunction decisions made by the International Court of Justice in a case where South Africa accused the State of Israel of committing the crime of "Genocide." The study explores the idea that international law predominantly serves the powerful and argues that progress can be made in terms of international law concerning Gaza. It aims to challenge the notion that law solely benefits the powerful based on the concept of "common interest."*

Keywords: ICJ, Gaza, Israel, Genocide, International Law

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Introduction

Among the atrocities recorded in human history, genocide stands out as an especially heinous and systematic crime. Numerous incidents have occurred throughout history, resulting in serious bodily harm, mass killings, and forced displacements. In many of these cases, perpetrators appeared to act with a specific intent to destroy or eliminate a particular group. However, only a limited number of such incidents have been legally recognized as genocide by international courts. There may be various reasons explaining why courts hesitate to determine whether a state is responsible for committing genocide.

First and foremost, the crime of genocide is defined in the Convention on the Prevention and Punishment of the Crime of Genocide, which was signed in 1948 and entered into force in 1951.¹ This Convention was the first legal instrument to codify genocide as a crime, and it was later elaborated and interpreted by both national and international courts. The international community has had relatively limited time to fully understand and implement the Convention in complex legal disputes.

Secondly, the international legal system differs significantly from domestic legal systems, particularly in terms of its weaker and less effective enforcement mechanisms. In domestic systems, legal subjects are compelled to comply with the sovereign will through robust enforcement structures, and violations are typically met with concrete sanctions. In contrast, the international system is built on the principle of sovereign equality among states, a foundational element that shapes and often constrains the functioning of international legal norms. A key question for scholars is how this principle of sovereignty influences, and at times distorts, the legal environment and the mechanisms for resolving disputes.

All these obstacles that the international legal order possesses are represented in the recent Israeli attacks against the Gaza Strip, carried out after October 7. Israel has exercised military force in Gaza in a manner that has raised concerns over compliance with international humanitarian law, including the potential targeting of civilian populations. These acts may constitute violations of international law, including war crimes, crimes against humanity, or aggression, depending on the legal assessment of facts and intent. Yet, Israel has crossed the line and escalated its aggression to the Gaza Strip. Many international observers and humanitarian organizations have characterized these actions as potentially genocidal, although legal determinations remain ongoing.

This paper analyzes South Africa's application to the International Court of Justice (ICJ) against Israel, in which the latter is accused of committing acts

of genocide in the Gaza Strip. While the ICJ's final judgment remains pending, it is already evident that the case has had significant implications both legally and morally. Accordingly, the article explores the legal proceedings initiated before the ICJ and argues that, during times of global political turmoil, international actors may gain greater latitude to act independently and impartially. These moments, when the search for a stable international order is disrupted, may serve as rare turning points that open pathways to pursue justice.

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How Effective Is International Law in Enforcing Accountability?

International law has faced widespread criticism for its perceived failure to protect civilians in the Gaza Strip. These criticisms are well-documented in both scholarly literature and reports by international human rights organizations, reflecting a growing concern over the effectiveness and enforceability of international legal norms in conflict settings.² Underlying this general perception is the widely held belief that international law lacks the essential characteristics of “real” law, primarily due to the absence of centralized enforcement mechanisms.³ At the domestic level, states possess institutional mechanisms, such as parliaments, law enforcement agencies, and national courts, to enact laws and sanction those who violate them. In contrast, the international system lacks a global legislative body capable of enacting universally binding legal norms.

Moreover, there is no global police force to ensure that the subjects of international law comply with binding legal norms. As a result, some prominent legal positivists, such as John Austin, have characterized international law as a form of “positive morality,” arguing that it lacks enforceable commands backed by sanctions.⁴ Additionally, there is no international court with the authority to issue binding judgments on subjects of international law without their prior consent. While one might argue that the ICJ serves this function, its jurisdiction is consensual; if a state does not accept the Court's authority, the case cannot proceed.⁵

As stated above, the absence of the three fundamental branches of government, namely, legislative, executive, and judicial authority, within the international system has led many to question whether international law qualifies as “real”

International courts may serve as instruments through which such opportunities for justice and accountability can be pursued within the existing legal framework

by national self-interest than by legal obligation or moral conviction.⁶ Such a perspective may foster skepticism toward the ideals of justice and the rule of law. It may also hinder engagement with normative frameworks, particularly when international law is perceived merely as a reflection of state power and geopolitical rivalry. While multiple structural and political factors contribute to this perception, opportunities for justice and accountability can still emerge through strategic legal action and collective international pressure.

According to Cem Eroğul, politics is defined by certain essential characteristics, foremost among them being the pursuit of the common interest. Without this shared objective, neither social order nor progress can be sustained. Therefore, politics must aim to protect and promote the common good to ensure the continuity of an established societal structure. As Eroğul articulates, “Politics is the social endeavor to provide the conditions necessary for the existence and development of a particular mode of production.”⁷ Eroğul’s definition is particularly illuminating, as it conceptualizes politics as a social endeavor aimed at realization and development on a collective scale. Such a pursuit, by its very nature, requires a certain degree of consent from all segments of society. Accordingly, any conception of politics that serves merely as an instrument of dominant classes or exclusive interests must be set aside. In essence, politics should aim, at least minimally, to reflect the broader public interest, a principle that lies at the core of human social relations. This understanding also implies that political systems inherently contain the potential for reform or transformation.

On the international level, international law may still provide avenues to mitigate the influence of power struggles that often erode faith in justice and the rule of law. However, as Martti Koskeniemi argues, international law is not free from political underpinnings. As he notes: “For it, law is an artificial creation, based on the concrete behavior, will and interest of States. Attempts to argue on the basis of a natural code are seen as camouflaged attempts to impose the speaker’s subjective, political opinions on others.”⁸ Additionally;

Two criticisms have been advanced to deny the “legal” character of international law. One group of critics has accused international law of being too

law. This perception contributes to a widely held belief that international law primarily serves the interests of powerful states, often at the expense of justice. Some scholars argue further that although international law is a real phenomenon, its influence is frequently overstated, suggesting that state compliance is more often driven

political in the sense of being too dependent on State policy. Another group has argued that the law is too political because founded on speculative utopias. Both view international law as too ineffective to be taken seriously in the construction of world order. The widely acknowledged lack of legislative bodies, compulsory adjudication mechanisms, and enforcement structures in international law embodies the two main criticisms directed at its effectiveness and coherence. From one perspective, this criticism highlights the infinite flexibility of international law (apologism); from another perspective, such criticism attacks the “moralistic” nature of the law (utopianism).⁹

Therefore, if international law is considered to be closely intertwined with international politics, as suggested by Cem Eroğul's definition of politics, two possible outcomes emerge. First, it may be feasible to achieve tangible gains from within the system itself. Second, when actors possess sufficient power to challenge or transform the existing order, a revolutionary shift becomes conceivable. The subsequent question, then, is how such gains can be realized without dismantling the current international legal structure.¹⁰ International courts may serve as instruments through which such opportunities for justice and accountability can be pursued within the existing legal framework.

South Africa's Appeal to ICJ against Israel: A Possible Tool to Make Gain in International Law?

ICJ, as the principal judicial organ of the United Nations, adjudicates legal disputes between states by applying international treaties, customary international law, general principles of law, judicial doctrine, and its prior decisions.¹¹ The first three legal sources, treaties, customary international law, and general principles of law, are generally considered binding, whereas judicial doctrine and prior decisions are not. However, as Acer highlights in his comprehensive work on the role of international judicial decisions in maritime delimitation disputes, the judgments of international courts play a significant role in the progressive development of international law.¹² As Malcolm Shaw notes, both states and legal scholars frequently “quote judgments of the Permanent Court and the International Court of Justice as authoritative decisions.”¹³ Additionally, the ICJ often relies on its prior decisions and established jurisprudence when formulating new judgments.

Moreover, according to Article 59 of the Statute of the ICJ, only the parties to a specific dispute are legally bound by the Court's decision. Furthermore, only states have standing to initiate contentious proceedings before the Court against other states. This procedural limitation is clearly reflected in the recent case concerning the Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v.



Palestinians in Gaza City queued for scarce flour supplies near the Zikim crossing on July 29, 2025, amid severe shortages under ongoing Israeli attacks.

ALÌ JADALLAH / AA

Israel). On December 29, 2023, South Africa instituted proceedings against Israel before the International Court of Justice, alleging serious violations of obligations under the Convention on the Prevention and Punishment of the Crime of Genocide (Genocide Convention). This application represents a significant moment in the ICJ's history, raising legal and moral questions regarding state responsibility and accountability. In its submission, South Africa also requested the indication of provisional measures.

If the circumstances warrant, the ICJ may indicate provisional measures to preserve the rights of both parties to a dispute. In the case brought by South Africa, the Court was requested to take such measures. On January 26, 2024, the Court issued its Order, noting that serious consequences could arise without the implementation of provisional measures.¹⁴ As a preliminary matter, the Court first examined whether it had jurisdiction over the case. South Africa's application relied on Article 36 of the Statute of the ICJ and Article 9 of the Genocide Convention as the basis for jurisdiction.

It reads as follows:

Disputes between the Contracting Parties relating to the interpretation, application or fulfillment of the present Convention, including those relating to the responsibility of a State for genocide or for any of the other acts enumerated in article III, shall be submitted to the International Court of Justice at the request of any of the parties to the dispute.

The Genocide Convention provides that in the event of a dispute between state parties concerning the interpretation, application, or fulfillment of the Convention, the ICJ shall have jurisdiction under Article 9. In the present case, both South Africa and Israel are parties to the Genocide Convention; therefore, Article 9 is binding on both states. As a result, the primary task of the Court was to determine whether a legal dispute existed between the state parties in the present case. This raises the question: What constitutes a legal dispute under international law, and how is the term “dispute” defined?



South Africa argues that Israel has deliberately targeted this group with the intent to destroy it, in whole or in part

“A dispute is a disagreement on the point of law or fact, a conflict of legal views or interests between two persons.”¹⁵ According to the Court’s jurisprudence, the existence of a legal dispute requires that the parties hold clearly opposing views on the question at issue. As the Court has stated, “it must be shown that the claim of one party is positively opposed by the other.”¹⁶ A legal dispute requires that the parties express clearly opposing views. South Africa consistently maintained that such a dispute had materialized, particularly through repeated accusations that Israel was in material breach of the Genocide Convention. For example, on November 9, 2023, South Africa’s Department of International Relations and Cooperation met with the Israeli Ambassador and explicitly conveyed its position regarding recent developments between Israel and Palestine. During the meeting, the Director General stated that, while South Africa condemned attacks on civilians by Hamas, it considered Israel’s military response to the October 7 attacks to be unlawful and announced its intention to refer the situation to the International Criminal Court for investigation into possible war crimes, crimes against humanity, and genocide committed by Israeli leadership.¹⁷

Additionally, during the 10th Emergency Special Session, at which Israel was present, South Africa’s representative publicly stated that “the events of the past six weeks in Gaza have illustrated that Israel is acting contrary to its obligations under the Genocide Convention.”¹⁸ In response to these allegations, Israel’s Ministry of Foreign Affairs published an official statement firmly rejecting the claim that Israel has been in material breach of its obligations under the Genocide Convention. The statement emphasized that “the accusation of genocide against Israel is not only wholly unfounded as a matter of fact and law, it is morally repugnant.”¹⁹ Finally, on December 21, 2023, South Africa’s Department of International Relations and Cooperation formally submitted a Note Verbale, reiterating its allegations concerning the purported commission of genocidal acts by Israel. Indeed, South Africa has consistently maintained that Israel has been in material breach of its obligations under the Genocide

Convention. In support of its argument, South Africa referred to Article II of the Convention, which defines genocide as follows:

Article II:

In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

- (a) Killing members of the group;
- (b) Causing serious bodily or mental harm to 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;
- (d) Imposing measures intended to prevent births within the group;
- (e) Forcibly transferring children of the group to another group.²⁰

According to South Africa, the Palestinian population residing in the Gaza Strip constitutes a protected group under the Genocide Convention. South Africa argues that Israel has deliberately targeted this group with the intent to destroy it, in whole or in part. These acts, as alleged, include killing Palestinians in Gaza, inflicting serious bodily and mental harm, creating life conditions calculated to cause their physical destruction, and forcibly displacing large segments of the population.²¹ Furthermore, the Genocide Convention not only prohibits specific acts committed with the intent to destroy, in whole or in part, a protected group, but also imposes obligations on State parties to prevent such acts and to punish the perpetrators. Additionally, acts such as conspiracy to commit genocide, direct and public incitement to commit genocide, attempt to commit genocide, and complicity in genocide are also explicitly criminalized under the Convention. In its application, South Africa attributes all of these acts to Israel, beginning from the events of October 7, 2023.

In contrast, Israel argued that South Africa had failed to demonstrate the existence of a clear and opposing stance between the two states, which is a prerequisite for the ICJ's jurisdiction under Article 9 of the Genocide Convention. Israel noted that no bilateral discussions had taken place regarding the matter, and it had not issued any formal responses to South Africa's allegations. Therefore, according to Israel, the ICJ lacked the necessary basis to exercise jurisdiction in this case. Furthermore, Israel maintained that its actions following the October 7 attacks did not reflect the "special intent" to destroy, in whole or in part, the Palestinian population, as required under Article 2 of the Genocide Convention. To support its position, Israel cited specific actions taken by its state institutions.²²

Taking into account the aforementioned allegations and exchanges, the Court concluded that a clear and opposing position existed between South Africa

and Israel, satisfying the criteria for the existence of a legal dispute. This allowed the Court to affirm its jurisdiction under Article 9 of the Genocide Convention. As the Court noted, “the existence of a dispute is a matter for objective determination by the Court; it is a matter of substance, and not a question of form or procedure.”²³ Furthermore, the Court held that, pending a final judgment, certain acts attributed to Israel could potentially fall within the scope of the Genocide Convention. This assessment provided sufficient grounds for the Court to indicate provisional measures.

South Africa bases its argument on the concrete facts occurring on the ground, demonstrating that Palestinians are facing such risks. These realities are substantiated by statistical data and official reports

As previously mentioned, the Genocide Convention protects “national, ethnical, racial or religious” groups, of which the Palestinians in the Gaza Strip are considered a part. The Convention also affirms the right of any State party to bring a case against another State party to ensure compliance with its provisions.²⁴ Accordingly, the Court assessed whether irreparable harm had been inflicted upon Palestinians in Gaza, harm that required urgent attention. To support its evaluation, the Court referred to several authoritative reports and statements. Notably, it cited the statement by the United Nations Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator, Martin Griffiths (January 5, 2024); the World Health Organization (WHO) situation report (December 21, 2023); and the statement made by the Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA), Philippe Lazzarini (January 13, 2024).²⁵ These sources vividly illustrated the catastrophic humanitarian situation unfolding in Gaza.²⁶ Beyond the declarations of international organizations and their officials, statements made by Israeli state representatives are also critical in assessing whether the element of “special intent” exists, a necessary component for establishing responsibility under the Genocide Convention. For example, on October 9, 2023, Israeli Defense Minister Yoav Gallant stated that he had ordered a “complete siege” of Gaza, declaring: “There will be no electricity, no food, no fuel. Everything is closed.”²⁷ Moreover, on October 12, 2023, Israeli President Isaac Herzog declared: “Unequivocally, it is an entire nation out there that is responsible.” This statement has been widely cited as potentially indicative of collective attribution of blame, which may bear relevance in assessing the presence of special intent under the Genocide Convention.²⁸ These statements, many of which suggest potential genocidal intent, were echoed by 37 special rapporteurs, independent experts, and members of working groups under the Special Procedures of the United Nations Human Rights Council in a joint declaration on November 16, 2023. Furthermore, on October 27,

As hostilities persisted and even intensified, South Africa submitted a renewed application, requesting additional provisional measures, including a demand for the Court to order Israel to halt its military activities

2023, the United Nations Committee on the Elimination of Racial Discrimination expressed that it was “highly concerned about the sharp increase in racist hate speech and dehumanization directed at Palestinians since October 7.”²⁹ All of this evidence submitted to the Court was sufficient for it to determine that some of the rights invoked by South Africa were “plausible.”

The Court is empowered to indicate provisional measures when there is a risk of irreparable prejudice to the rights at issue in the judicial proceedings, or when the alleged violation of such rights may lead to irreparable consequences.³⁰ In order for the Court to indicate provisional measures, there must be a situation of urgency involving a real and imminent risk of irreparable harm to the rights protected under international law. Accordingly, South Africa bases its argument on the concrete facts occurring on the ground, demonstrating that Palestinians are facing such risks. These realities are substantiated by statistical data and official reports.³¹ By contrast, Israel rejected all the allegations, asserting that it has acted diligently to address humanitarian needs amid its ongoing military operations. However, many reports, including the UN Secretary General’s letter to the UN Security Council³² and the statement made by the UNRWA Commissioner-General,³³ clearly illustrated that the ongoing catastrophic environment in Gaza gradually and dramatically worsens day by day.³⁴ The Court determined that “the catastrophic humanitarian situation in the Gaza Strip is at serious risk of deteriorating further before the Court renders its final judgment.”³⁵

According to the Court,

- 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...
- The State of Israel shall ensure with immediate effect that its military does not commit any acts described in point 1 above...
- The State of Israel shall take all measures within its power to prevent and punish the direct and public incitement to commit genocide in relation to members of the Palestinian group in the Gaza Strip...
- The State of Israel shall take immediate and effective measures to enable the provision of urgently needed basic services and humanitarian assistance



to address the adverse conditions of life faced by Palestinians in the Gaza Strip...

- 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 and Article III of the Convention on the Prevention and Punishment of the Crime of Genocide against members of the Palestinian group in the Gaza Strip...
- The State of Israel shall submit a report to the Court on all measures taken to give effect to this Order within one month as from the date of this Order.³⁶

The provisional measures previously ordered by the Court did not require the State of Israel to halt its military operations, which was a step anticipated by much of the international community. Moreover, Israel's continued attacks on Rafah further deteriorated the humanitarian situation in the Gaza Strip, prompting South Africa to request an additional or modified Order from the Court following its decision on January 26. In order to address this request, the Court must first assess whether the conditions outlined in Article 76, paragraph 1 of its Rules are met. It reads as follows: "At the request of a party or *proprio motu*, the Court may, at any time before the final judgment in the case, revoke or modify any decision concerning provisional measures if, in its opinion, some change in the situation justifies such revocation or modification."³⁷

Although the Court acknowledged the urgent need to modify its previous order due to the deteriorating humanitarian conditions in the Gaza Strip, par-

A public hearing at the International Court of Justice on April 29, 2025, addressed Israel's humanitarian obligations in Gaza, with 45 plaintiffs accusing it of blocking aid access.

MOUNEB TAÏM / AA

ticularly with regard to famine and starvation, it once again refrained from issuing an explicit directive for Israel to cease its military operations. As hostilities persisted and even intensified, South Africa submitted a renewed application, requesting additional provisional measures, including a demand for the Court to order Israel to halt its military activities.³⁸ Referring to various authoritative sources, the Court concluded that the humanitarian situation in the Gaza Strip had significantly deteriorated. Consequently, it ordered Israel to “immediately halt its military offensive, and any other action in the Rafah Governorate, which may inflict on the Palestinian group in Gaza conditions of life that could bring about its physical destruction in whole or in part...”³⁹

What Have We Learnt from Legal Outcomes?

As Arribas rightly observes with regard to the first provisional measures issued by the Court on January 26, 2024, the reasoning behind the Court’s choice of those specific measures remains largely unexplained.⁴⁰ Although the Court had the authority to issue provisional measures, the ones it granted did not fully align with the applicant’s requests. In the present proceedings, the Court adopted provisional measures that differed from those proposed by the applicant. As Arribas points out, this raises a crucial question: “If the Court acknowledged the applicant’s allegations regarding prima facie jurisdiction, the plausibility of rights, including intent, and the existence of irreparable prejudice and urgency, why were the requested provisional measures deemed inappropriate?”⁴¹ No sufficiently detailed explanation has been provided in response to that question.

Furthermore, as Arribas highlights, the Court refrained from ruling on a potential suspension of Israel’s military operations, unlike in its earlier proceedings concerning the war between Ukraine and Russia. It was only after the situation in Gaza escalated and global public pressure intensified that the Court declared Israel’s military offensive in Rafah subject to restrictions. In other words, the Court appeared reluctant to scrutinize Israel’s invocation of the right to self-defense, despite having previously dismissed similar claims by Russia. These developments have sparked criticism regarding the inconsistencies and legal ambiguities within international law.

One crucial aspect deserves emphasis: the ICJ did not provide any explanation or legal interpretation as to whether Israel’s actions constitute the lawful exercise of self-defense. In other words, the Court appears to have implicitly accepted Israel’s justification, as it refrained from addressing the self-defense argument directly. According to Acer, Israel’s military actions cannot be justified under the concept of self-defense, given that Israel is an occupying power in Palestinian territory.⁴² For Israel to lawfully invoke self-defense, it would first need to withdraw its occupying forces to internationally recognized borders.

While Arribas emphasizes the Court's broader structural silence, Acer focuses specifically on the ICJ's reluctance to address self-defense as a legal justification. Taken together, their arguments reflect a shared concern regarding the ICJ's selective engagement with core principles of *jus ad bellum*.

The ICJ's reserved stance on Israel's invocation of self-defense in the context of the Gaza conflict raises significant questions, particularly when contrasted with its earlier jurisprudence. In *Nicaragua v. United States* (1986), the Court unequivocally affirmed that the right to self-defense under Article 51 of the UN Charter may only be exercised in response to an armed attack and must adhere to the principles of necessity and proportionality.⁴³ Similarly, in its 1996 Advisory Opinion on the Legality of the Threat or Use of Nuclear Weapons, the Court reaffirmed that any use of force must be assessed in accordance with the principles of international humanitarian law.⁴⁴ Despite these precedents, in the Gaza case, the Court refrained from directly assessing whether Israel's actions satisfied the legal criteria for self-defense. This omission stands in contrast to the ICJ's more assertive approach in the *Ukraine v. Russia* provisional measures case, where the Court swiftly rejected Russia's self-defense justification.⁴⁵ The selective engagement with the doctrine of self-defense in the Gaza context has prompted critiques that the Court may be exercising political restraint or navigating complex legal ambiguities related to occupation and non-state actors.

Nevertheless, despite these shortcomings, the very fact that such a case is being heard before the International Court of Justice, where Israel stands accused of genocide, and that a state historically victimized by the Holocaust may now be perceived in global public opinion as potentially guilty of genocide, represents a significant development. It demonstrates that international law, under the right conditions, can serve not only the interests of power but the broader interests of global justice.

The Enduring Humanitarian Catastrophe: Implications of the Gaza War and Current Situation

Despite the ICJ's provisional measures issued on January 26 and March 28, 2024, designed to prevent acts of genocide and mitigate the humanitarian crisis in

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forces, to enhance humanitarian conditions in Gaza, to preserve evidence of alleged crimes, to report to the United Nations, and to refrain from aggravating the conflict. Most recently, the Court also directed Israel to halt military operations in the Rafah region. Nevertheless, these measures have failed to curtail Israel's military campaign. A brief survey of recent data from the United Nations Office for the Coordination of Humanitarian Affairs (OCHA) underscores the gravity of the situation. According to OCHA, "between the afternoon of 29 March and 11:30 on 3 April, 352 Palestinians were killed and 485 injured, including 59 fatalities in the past 24 hours alone. Since October 7, 2023, at least 32,975 Palestinians have been killed and 75,577 injured."⁴⁶ These figures, reported by the Ministry of Health in Gaza, starkly reveal the disjunction between judicial mandates and on-the-ground realities.

Similarly, reports published by the World Food Programme (WFP) also highlight the severity of the situation in the Gaza Strip, revealing the dire living conditions of the Palestinian population. According to the WFP, the risk of starvation remains high, as more than two million people have been displaced and are now entirely dependent on food assistance.⁴⁷

Although international law is often perceived as serving the interests of the powerful, both historical precedent and recent developments suggest that, with sufficient international pressure and mobilization, it can also serve as a protective framework for the oppressed. In the case of the Gaza war, Israel's gradual retreat from maximalist positions and its eventual openness to ceasefire proposals cannot be disentangled from the growing legitimacy crisis driven by legal and moral international pressure. As Buheji and Hasan point out, alternative forms of pressure, such as academic boycotts, civil society mobilization, and normative solidarity movements, have expanded the space for

Gaza, the situation on the ground has not improved; on the contrary, it has deteriorated further. These measures obliged Israel to prevent genocidal acts, ensure humanitarian access, and improve the living conditions of Palestinians in Gaza. However, numerous reports by UN agencies, international NGOs, and independent observers point to widespread non-compliance.

The ICJ has issued three distinct orders of provisional measures, each imposing binding obligations on the State of Israel: to prevent acts of genocide, to exercise control over its armed

accountability and posed a challenge to entrenched global impunity.⁴⁸ This environment of global scrutiny not only restricts the political maneuverability of states like Israel but also encourages international judicial bodies such as the ICJ and the International Criminal Court (ICC) to engage more decisively. The genocide case at the ICJ and the recently announced ICC investigation into the situation in Gaza stand as clear examples of how legitimacy pressure can transform moral outrage into formal legal action.

Conclusion

“Politics is a social activity whose object is to provide on an overall scale the conditions necessary for the maintenance and development of a particular mode of production.”⁴⁹ This definition can also be adapted to international politics. If a balance of power is to be maintained in the international arena, powerful states must, at times, make concessions in their policies toward relatively weaker states. In this context, international law should not be perceived solely as an instrument of the great powers, serving only their interests. Contrary to common belief, international law, though often interpreted in favor of the powerful, contains mechanisms that can also protect the rights and interests of the weaker members of the system. The key lies in articulating just and legitimate demands with clarity and persistence. Strength arises from solidarity and visibility. After all, isn't the history of constitutional law and human rights the very history of such struggles?

From this perspective, the ongoing proceedings against Israel before the ICJ, based on allegations of genocide, mark a significant turning point, not only in terms of legal accountability but also in terms of global justice. That such a case could be brought before the ICJ is largely due to the determined and vocal stance of international public opinion. If meaningful progress is to be achieved within international institutions, particularly before courts like the ICJ, such advocacy and public mobilization must be sustained. Otherwise, injustice risks becoming normalized, and the hope for a more humane global order may be lost.

In other words, the ICJ case brought by South Africa represents a historic moment in international law and global justice discourse. While international law is frequently criticized for serving the interests of the powerful, the Gaza case illustrates that it can serve as a meaningful vehicle for accountability, provided that it is reinforced by persistent public pressure and normative advocacy. Although the ICJ's provisional measures initially fell short of ordering a full ceasefire, they nonetheless placed Israel under unprecedented legal and moral scrutiny. This scrutiny, amplified by global mobilization, ultimately led the Court to issue a more decisive directive regarding Rafah. The case shows that interna-

tional law, despite its limitations, can function as a shield for the vulnerable, so long as the global community remains vigilant, engaged, and determined. For any sustainable progress in justice and accountability, law alone is not sufficient; continuous legal, diplomatic, and civil society efforts must accompany it. ■

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