

South Africa's case against Israel at the International Court of Justice: Implications for the UK

What's the issue?

A landmark ruling at the International Court of Justice (ICJ) has deemed plausible allegations that Israel is committing genocide in Gaza, while underlining UK and other states' responsibility to both prevent genocide and complicity in genocidal acts.

On January 26th, the ICJ upheld South Africa's claim that Palestinians are at serious risk of genocide as a result of Israel's military campaign and ordered provisional measures that require an immediate end to Israeli actions in order to prevent genocide.

The State of Israel was ordered to submit a report to the Court on all measures taken to comply with the order within one month. That deadline has now passed.

During this time, Israel has continued its military assault on every aspect of life in Gaza and escalated attacks in the occupied West Bank. As of February 29th, Israel remains on the brink of launching a ground invasion into Rafah, targeting more than 1.5 million Palestinians currently in that area, many of whom have fled bombardment of other parts of Gaza, and killed more than 3500 people in intense bombing in the past month. According to UNRWA, more than half a million Palestinians in Gaza face 'catastrophic hunger', as Israel continues to deprive them of access to basic supplies of food, as well as medicine, power and clean water. Israeli military forces continue to systematically destroy medical facilities, educational and cultural institutions, entire neighbourhoods and civilian infrastructure essential for economic and social life.

What's the UK position?

- The UK government issued a statement claiming to "respect the role and independence of the ICJ" but stating "considerable concerns" about the ICJ's interim ruling, and defending Israel by claiming that "Israel's actions in Gaza cannot be described as a genocide". This position is at odds with the UK's response to the case brought by The Gambia against Myanmar for its alleged genocide against the Rohingya. In November 2023, the UK, in collaboration with five other nations, submitted a 21-page "declaration of intervention" to the ICJ on the Myanmar case, presenting an expansive understanding of genocide, including arguments for a lower threshold for determining genocide when children are affected, and several paragraphs referring to systematic forced displacement, the denial of medical services and imposition of subsistence diets.

- Shadow Foreign Secretary, David Lammy, has called the interim ruling “a profoundly serious moment” and said that Israel must comply with the orders in the ICJ ruling in full and follow the “urgent provisional measures”. However, since then Labour has rejected calls to condemn Israel for committing war crimes and opposed measures to hold it accountable, including through the removal of a reference to ‘collective punishment’ in a recent amendment to a ceasefire motion put forward by the Scottish National Party.
- Both Government and Opposition leadership continue to justify Israel’s war on Gaza as an exercise of the right self-defence, despite the argument being deemed illegitimate in the case of belligerent acts undertaken by an occupying power in occupied territory or to justify the crime of genocide or other war crimes or crimes against humanity. Both parties continue to refuse to call for an unqualified immediate and permanent ceasefire.

Why does it matter?

- In issuing an interim ruling, the Court has confirmed that the risk of genocide is serious enough to merit a full investigation.
- These provisional orders trigger a number of immediate and legally binding obligations for Israel - confirming that there can be no exception to the prevention of genocide - and underline the duties of **all states, including the UK**, to not only prevent genocide but ensure that the UK is not complicit.
- The UK continues to provide diplomatic and military support to Israel, including the export of weapons and military technology. UK arms exports have included components in F-35s used to bomb Gaza. The Government and Opposition continue to oppose an arms embargo on Israel. By aiding and abetting war crimes, the UK as a state may be deemed liable for non-compliance with its treaty obligations, and individual UK officials may also be criminally liable for breaches of international law.
- The UK’s decision to oppose South Africa’s case at the ICJ - a case which seeks to put an end to the atrocities being perpetrated in Gaza - illustrates the UK’s inconsistent application of international law and the low value it places on Palestinian life.
- The UK position on this issue reflects a track record of attempts to brush aside international law in favour of defending Israel’s apartheid and colonial practices. This was demonstrated most recently when the UK abstained on a Security Council vote for an immediate ceasefire on 20 February, and in the UK’s intervention at the International Court of Justice hearings regarding Israel’s occupation on 23 February.

- In taking such positions, the UK, along with the US, continues to further isolate itself from the vast majority of the international community which has mobilised at the UN to end the genocide and defend the rights of the Palestinian people. 13 of the 15 UN Security Council members voted in favour of an immediate ceasefire, with only the US vetoing and UK abstaining. At the recent ICJ hearings, the UK was one of a handful of states to speak in favour of Israel's illegal occupation - suggesting that no legal opinion should be made because the Occupying Power had not consented - in contrast to more than 40 states calling for an immediate end to Israel's unlawful occupation.

What can British policymakers do?

1. Uphold the **UK's *erga omnes* duties** to “take measures to prevent” and also “to punish the crime of genocide”, including through the application of universal jurisdiction.
2. **Call for an immediate and permanent ceasefire and the lifting of the siege**, in order to ensure compliance with the provisional measures indicated by the ICJ's ruling
3. In order to ensure the UK is not in breach of the Genocide Convention and not complicit in internationally wrongful acts,
 - a. Urge the government **to halt all arms imports and exports** and any other form of military support to Israel, and investigate whether these arms may have been utilised in acts of genocide.
 - b. Urge the government **to suspend diplomatic relations** with the State of Israel, until such a time that Israel ceases to commit atrocity crimes and associated violations of international law.
4. **Support and uphold the integrity of international bodies, the rule of law and mechanisms** to carry out their roles, including the International Criminal Court, the International Court of Justice and other relevant UN bodies.

Where can I learn more?

- International Court of Justice: [Full order of the International Court of Justice \(2024\)](#).
- Bisan Center for Research and Development: [One Month after the ICJ Order, Israel Continues its 142 Day-Long Genocide on Gaza \(2024\)](#)
- Institute for Palestine Studies: [Genocide in Gaza](#) (multiple resources)
- Prof. Lutz Oette and Dr Michelle Staggs Kelsall: [South Africa v Israel, provisional measures and the obligation to prevent genocide, SOAS School of Law \(2024\)](#)
- Dr Nimer Sultany: [It's not just Israel in the dock over genocide, it's everyone who looked away, The Guardian \(2024\)](#)

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