

SOUTH AFRICA'S CASE AGAINST ISRAEL IN THE INTERNATIONAL COURT OF JUSTICE, THE HAGUE

KEY POINTS:

SOUTH AFRICA HAS BROUGHT A CASE TO THE ICJ THAT ISRAEL IS COMMITTING GENOCIDE

ISRAEL ABSOLUTELY REFUTES THE CLAIMS AND CALLS THE CASE 'BASELESS'

GERMANY, THE UK AND THE US HAVE BEEN VOCAL IN DEFENDING ISRAEL AGAINST THE CLAIMS

Further Resources:

- Tal Beker's [opening speech](#) for the Israeli Team at the ICJ
- Israel Rejects Genocide Claims at The Hague, says South Africa's allegations "baseless" – [Times of Israel](#)
- Unpacking South Africa vs Israel at the ICJ - [BICOM](#)



What is the UN Genocide Convention?

According to the UN 1948 [Genocide Convention](#): "To constitute genocide, there must be a proven intent on the part of perpetrators to physically destroy a national, ethnical, racial or religious group. Cultural destruction does not suffice, nor does an intention to simply disperse a group".

What is Israel Accused of?

On 29th December 2023, South Africa filed a case against Israel in the International Court of Justice (ICJ) in The Hague, accusing Israel of genocide in Gaza.

What are South Africa's Main Claims?

At the first ICJ hearing on the 11th January, South Africa argued that Israel's military operation in Gaza is evidence of both intent and actual genocidal practices. Evidence claimed by South Africa included:

- Calls for genocide by senior officials since 7th October.
- IDF practices on the ground such as air strikes on densely populated areas, starvation and limiting humanitarian aid.
- Lacking IDF prevention of civilian casualties.

What are Israel's counter-claims?

On the 12th January, Israel's legal team responded and argued that:

- The Genocide Convention was designed to address a malevolent crime of the most exceptional severity, not the impact of military force, however brutal, on the civilian population.
- The ICJ does not have jurisdiction in this case since South Africa's complaints relate to the laws of armed conflict, not genocide.
- The South African application delegitimises the very existence of Israel as a state since 1948, and sounds much like Hamas's "rejectionist rhetoric".
- South Africa's request that Israel be forced to suspend its military operations in Gaza would deny Israel's legal obligations to defend its citizens, to the hostages, and to over 110,000 internally displaced Israelis unable to safely return to their homes. Such an outcome would absurdly ask Israel to suspend operations against Hamas, which pursues an actual genocidal agenda.

Further Counter-claims Formulated by Legal Commentators:

- The South African case does not distinguish between applicable official statements (by the Israeli War Cabinet or the IDF) that Israel is engaged in war against Hamas and not the Palestinian population, and haphazard statements by Israeli public figures.
- South Africa ignores Hamas's open and official genocidal statements calling for the destruction of Israel and the Jewish people, as well as Hamas's militarisation of Gaza and its use of human shields (defined as a war crime).
- South Africa's claim disregards IDF efforts to minimize civilian casualties (calls for evacuation, creation of evacuation routes, limited entry of humanitarian goods in the Gaza Strip), which prove that Israel does not intend to carry out a genocide.

What Might the Outcome of the ICJ Decision Be?

- The ICJ is expected to decide in the coming weeks whether or not to impose the emergency measure requested by South Africa. These include immediate suspension of military operations in and against Gaza, refraining from public incitement to commit genocide and taking all measures to prevent the genocide.
- The ICJ decision on whether genocide is being committed can take years.
- Whilst ICJ rulings are final, the court cannot enforce its decisions.

Global Reactions:

- The South African claim has been supported by the [Organisation of Islamic Cooperation](#) with its 57 member states.
- The German government on the second day of the hearing vehemently rejected the allegations before the ICJ that Israel is committing "genocide" in Gaza and alerted against the "political instrumentalisation" of the charge. Germany [announced](#) it would intervene as a third party before the ICJ.
- Rishi Sunak [condemned](#) South Africa's initiative and confirmed that "the UK government stands by Israel's clear right to defend itself within the framework of international law".
- US State Department spokesman Matt Miller, [said](#) that "allegations that Israel is committing genocide are unfounded".