

BEST OF BOTH SIDES: ISRAEL IS ONLY DEFENDING ITSELF

Relevant for: International Relations | Topic: International Treaties & Agreements, and other important organizations

The definition of genocide was coined in 1944 by a Jewish lawyer, Raphael Lemkin, who promoted the establishment of the United Nations Convention on the Prevention and Punishment of the Crime of Genocide of 1948, in the aftermath of the Holocaust committed by the Nazis against the Jewish people during the Second World War. Often seen as the “crime of crimes”, genocide is defined by the special intent to “destroy, in whole or in part, a national, ethnic, racial or religious group”.

Nonetheless, as the [International Court of Justice](#) (ICJ) itself has previously made clear, the use of force, even on a significant scale “cannot in itself constitute an act of genocide”. The proliferating misuse of claims of genocide is worrying and threatens to denude the term of its special status. If every war is a genocide, the term becomes meaningless. It will also harm the Genocide Convention should states withdraw from it, to avoid its weaponisation against them.

On October 7, 2023, Hamas and other terrorist groups initiated a war against Israel and perpetrated unprecedented savagery, including the murder, torture, rape and mutilation of over 1,200 Israelis, and the taking hostage of 240 people, including infants, the elderly and the sick. Hamas’s atrocities are in total violation of international humanitarian law, as is its brutal treatment of the hostages who are still being tortured.

In accordance with its right and obligation to defend itself and its citizens, Israel had to respond forcefully, seeking to secure the release of its infants, children, women, and men being held as hostages in Gaza, and to deny Hamas and other armed groups in Gaza the capacity to continue attacking its citizens and territory as they have explicitly vowed to do “again and again and again”.

Israel can hardly be blamed for using military force available to it to legitimately defend its citizens from further attacks in accordance with the laws of war. Israel has been consistent in defining that the IDF is targeting terror operatives and military infrastructure and not Palestinian civilians.

The intense fighting and scope of the civilian damage in Gaza is in large part the outcome of Hamas’ strategy to embed its combatants within the civilian population of Gaza, including in mosques, hospitals, schools, and UN facilities, which constitute obvious war crimes. Hamas uses civilians as human shields and strives for a high casualty count to galvanise public opinion against Israel.

Hamas had prepared to fight in a dense urban landscape for over a decade; in particular by using an unparalleled tunnel network deployed beneath civilian areas in which Israeli forces are compelled to fight an asymmetric war.

On December 29, 2023, South Africa filed an application with the International Court of Justice instituting proceedings against Israel, alleging that Israel is committing genocide. The misuse of the Genocide Convention against Israel is outrageous.

South Africa bases its case on two claims, neither of which stands up to scrutiny. The first is the

scale of civilian death and destruction in Gaza. There is no doubt that the war in Gaza has been devastating for the civilian population. However, this does not indicate that genocide has taken place.

The second are various statements by Israeli officials or former officials, which they claim prove the necessary special intent of committing genocide. The various quotes used to suggest Israel has the intention of committing genocide are not convincing. They do not reflect Israel's actions in practice, and many were said in the emotional aftermath of the mass slaughter and horrific atrocities committed on October 7, an event that would shake any civilised country to the core. It would have been better had they not been said, but they are a far cry from any reasonable proof of intent. Moreover, they are a very selective collection of cherry-picked statements, ignoring numerous statements by Israel's top political and military leaders clarifying its actual and official policies of minimising harm to civilians and ensuring humanitarian aid.

However, the true evidence of any lack of intent to commit genocide is Israel's unwavering and continuous efforts to facilitate humanitarian aid (over 7,200 trucks since the beginning of the war) and the robust measures to minimise civilian casualties, including warnings of attacks and precautionary measures which often increased the risk to its own forces.

Indeed, the US's National Security Council spokesperson stated that Israel "has published online maps of places where people can go or not to go. That's basically telegraphing your punches, and there's very few modern militaries in the world that would do that. I don't know that we would do that." This is hardly genocidal intent.

With the Holocaust, where 6 million Jews were exterminated solely based on their religion, set as a backdrop and Israel's attachment to the values of sanctifying life, the accusation of genocide is especially painful. It is a modern case of the ancient racist habit of blaming the Jews for the very crimes committed against them.

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