

Those Who Stand With Israel Will Stand With Israel In Court

Introduction

Since March 2, 2025, Israel has imposed a total siege on Gaza, blocking all humanitarian aid, including food, water, and medical supplies, resulting in catastrophic consequences, including widespread starvation, deaths, and the collapse of healthcare systems. Reports describe children reduced to skeletal conditions, reminiscent of those liberated from Nazi concentration camps, and hospitals unable to treat patients due to supply shortages. These actions, designated as genocide by Amnesty International and supported by a recent survey of genocide scholars, violate international humanitarian law (IHL), Jewish law (Halakha), and preventive measures ordered by the International Court of Justice (ICJ) in 2024. South Africa's genocide case against Israel before the ICJ, initiated in December 2023, is bolstered by evidence of *actus reus* (the physical act) and *mens rea* (intent) under the 1948 Genocide Convention. The legal and moral obligations under the Genocide Convention and the Responsibility to Protect (R2P) framework, reinforced by the U.S. Foreign Assistance Act, highlight the global imperative to prevent genocide, the "crime of crimes." This essay elaborates on these violations, ICJ orders, and evidence supporting South Africa's case, emphasizing that political leaders who continue to support Israel despite strong evidence of ongoing genocide may face charges of aiding and abetting genocide and war crimes under international and domestic law, underscoring the profound moral and historical significance of this crisis.

Violations of International Law

International humanitarian law, governed by the 1949 Geneva Conventions, Additional Protocols, and customary IHL, sets clear standards for protecting civilians during armed conflicts. Israel's actions in Gaza violate several core principles:

1. Protection of Civilians and Prohibition of Starvation:

- The Fourth Geneva Convention (Article 27) mandates humane treatment of civilians, prohibiting actions that cause unnecessary suffering. Article 54 of Additional Protocol I and customary IHL (ICRC Rule 53) explicitly prohibit starvation of civilians as a method of warfare. The Rome Statute of the International Criminal Court (ICC) classifies intentional starvation as a war crime (Article 8(2)(b)(xxv)).
- Israel's siege, blocking all food, water, and medical supplies since March 2025, indiscriminately targets Gaza's 2.3 million civilians, leading to documented starvation deaths and severe malnutrition, as reported by Amnesty International (2025). This constitutes genocide, as affirmed by Amnesty International and a survey of genocide scholars, who argue that the deliberate deprivation meets

the Genocide Convention's criteria (Amnesty International, 2025; Genocide Scholars Survey, 2024).

2. **Obligation to Facilitate Humanitarian Aid:**

- Article 70 of Additional Protocol I and ICRC Rule 55 require parties to allow rapid and unimpeded humanitarian aid to civilians. Israel's blanket prohibition of aid, including U.S.-funded convoys, breaches this obligation, with UNRWA reporting no aid entering Gaza for over 14 weeks (UNRWA Situation Report #172, 2024).

3. **Collective Punishment:**

- Article 33 of the Fourth Geneva Convention prohibits collective punishment. The siege punishes Gaza's entire population for Hamas's actions, constituting a war crime, as highlighted by Human Rights Watch (2023).

4. **U.S. Foreign Assistance Act (Section 620I):**

- Section 620I prohibits military aid to countries restricting U.S. humanitarian assistance. Israel's blockade of U.S.-funded aid, as documented by a leaked State Department memo (DAWN, 2025), violates this law, with lawmakers like Senator Bernie Sanders calling for suspension of military aid (Sanders, 2024). This reflects the moral and legal imperative to prevent genocide, aligning with the Genocide Convention's call for action against such crimes.

Violations of Jewish Law (Halakha)

Jewish law, or Halakha, based on the Torah, Talmud, and rabbinic interpretations, emphasizes ethical conduct, even in warfare. Key principles include:

1. **Pikuach Nefesh:**

- The principle of *pikuach nefesh* (saving a life), rooted in the Talmud (Yoma 85b), prioritizes preserving human life above nearly all other commandments. The siege, causing starvation and death, directly contradicts this principle by endangering civilian lives unnecessarily.

2. **Laws of War (*Din Milchama*):**

- Maimonides, in *Mishneh Torah* (Laws of Kings and Their Wars 6:7), stipulates that during a siege, one side must remain open to allow civilians access to essentials, prohibiting complete blockades. Israel's total siege, blocking all entry points, violates this rule, causing widespread suffering among non-combatants, including children, as reported by OHCHR (2025).

As a state identifying with Jewish values, Israel's actions contravene Halakha's ethical mandates, particularly *pikuach nefesh*, which demands prioritizing life preservation.

Contravention of ICJ Preventive Measures

The ICJ, in South Africa's genocide case against Israel, issued binding provisional measures in 2024 to prevent genocide and ensure humanitarian access:

- **January 26, 2024:** Ordered Israel to prevent acts under Article II of the Genocide Convention, including killing, causing serious harm, and creating conditions leading

to physical destruction, and to ensure humanitarian assistance (ICJ Order, 2024).

- **March 28, 2024:** Due to worsening conditions, including famine, the ICJ reiterated the need for unhindered humanitarian aid throughout Gaza (ICJ Order, 2024).
- **May 24, 2024:** Ordered Israel to halt its military offensive in Rafah and ensure conditions that do not lead to the physical destruction of Palestinians, emphasizing unimpeded aid access (ICJ Order, 2024).

Israel's total siege since March 2025, blocking all aid and leading to starvation, directly contravenes these orders. Statements from Israeli officials, such as Finance Minister Bezalel Smotrich's April 2025 declaration that "not even a grain of wheat will enter Gaza" (Middle East Eye, 2025), indicate non-compliance, strengthening South Africa's case.

Legal Obligations Under the Genocide Convention

The 1948 Convention on the Prevention and Punishment of the Crime of Genocide imposes specific obligations on states to prevent and punish genocide, defined as acts committed with intent to destroy, in whole or in part, a national, ethnic, racial, or religious group (Article II). Key obligations include:

1. Prevention (Article I):

- States must take all measures within their power to prevent genocide, including diplomatic, economic, and military actions to stop ongoing genocidal acts. The ICJ's 2007 ruling in *Bosnia v. Serbia* clarified that states must act when they have influence over actors committing genocide, such as through arms supplies or political support (ICJ, 2007).
- In Gaza, states providing military or economic aid to Israel, such as the U.S., UK, and Germany, must ensure their support does not facilitate genocide. Failure to act risks breaching this obligation.

2. Punishment (Article III):

- States must prosecute or extradite individuals responsible for genocide, including complicity (Article III). This applies to Israeli officials, as evidenced by ICC arrest warrants issued in November 2024 for starvation as a war crime (ICC, 2024).

3. Non-Complicity (Article III(e)):

- States must not be complicit in genocide, including by providing arms or support to actors committing genocidal acts. Countries supplying weapons to Israel risk complicity if these facilitate the siege (Amnesty International, 2025).

4. Jurisdiction and Cooperation (Articles V-VI):

- States must enact domestic legislation to enforce the Convention and cooperate with international tribunals like the ICJ and ICC. South Africa's case, supported by over 30 states, reflects this cooperation, pressing the ICJ to hold Israel accountable (ICJ Press Release, 2025).

Legal Obligations Under the Responsibility to Protect (R2P)

The Responsibility to Protect, endorsed by the UN General Assembly in 2005 (World Summit Outcome Document, paras. 138-139), obligates states to protect populations from genocide, war crimes, ethnic cleansing, and crimes against humanity. R2P comprises three pillars:

1. Pillar I: State Responsibility:

- Each state must protect its population from genocide. Israel, as the occupying power in Gaza, fails this obligation by imposing a siege causing starvation and death (OHCHR, 2025).

2. Pillar II: International Assistance:

- The international community must assist states through diplomatic, humanitarian, and other means. States like Jordan and Egypt have attempted aid delivery, but Israel's blockade hinders these efforts (Middle East Eye, 2025).

3. Pillar III: Timely and Decisive Response:

- If a state fails to protect its population, the international community must take collective action, including through the UN Security Council. Israel's non-compliance with ICJ orders triggers this obligation, though U.S. vetoes have blocked action (UN Security Council, 2024).

Evidence of Genocide: *Actus Reus* and *Mens Rea*

South Africa's genocide case argues that Israel's actions in Gaza, including the 2025 siege, constitute genocide, as affirmed by Amnesty International and genocide scholars:

1. Actus Reus (Physical Acts):

- The Genocide Convention (Article II) defines genocide as acts including killing, causing serious bodily or mental harm, and inflicting conditions of life calculated to bring about physical destruction. Israel's siege meets these criteria:
 - **Killing and Serious Harm:** Starvation deaths, skeletal children, and hospital collapses constitute killing and serious harm (Amnesty International, 2025).
 - **Conditions of Life:** The blockade creates conditions for physical destruction, with over half of Gaza's population facing "catastrophic" hunger (OHCHR, 2025).

2. Mens Rea (Intent):

- The Convention requires intent to destroy, in whole or in part, a group (Palestinians in Gaza). Statements from officials like Yoav Gallant (2023), Bezalel Smotrich (2025), and Moshe Saada (2025) demonstrate intent to starve Gazans, as reported by Amnesty International and The Washington Post (2025).

Legal Accountability for Political Leaders Supporting Israel

Political leaders who continue to support Israel despite strong evidence of ongoing genocide risk charges of aiding and abetting genocide and war crimes under international and domestic law, as their actions may facilitate or enable Israel's violations:

1. International Law:

- **Genocide Convention (Article III(e)):** Complicity in genocide includes providing material support, such as arms, funding, or diplomatic cover, that facilitates genocidal acts. Leaders in countries like the U.S., UK, and Germany, which supply Israel with weapons and military aid, may be liable if their support enables the siege. For instance, the U.S. provides over \$3 billion annually in military aid, despite evidence of genocide (CRS Reports, 2025; Amnesty International, 2025).
- **Rome Statute (Article 25(3)(c)):** The ICC can prosecute individuals who aid, abet, or assist in war crimes, including starvation. Providing arms or blocking UN resolutions could constitute such assistance. Human rights groups have called for investigations into U.S., UK, and German officials for their role in arming Israel, citing complicity in starvation and genocide (The Guardian, 2025).
- **Customary IHL:** States and individuals must not contribute to IHL violations. Leaders providing unconditional support risk liability for facilitating war crimes, such as collective punishment and starvation. The ICJ's 2007 *Bosnia v. Serbia* ruling established that states with influence over perpetrators must act to prevent genocide, or face responsibility (ICJ, 2007).
- **Universal Jurisdiction:** Certain states allow prosecution of international crimes regardless of where they occur. Leaders could face legal action in countries like Spain or Belgium, where universal jurisdiction has been applied to genocide cases (Al Jazeera, 2025).

2. Domestic Law:

- **U.S. Law:**
 - The U.S. Foreign Assistance Act (Section 620I) prohibits military aid to countries restricting humanitarian assistance. Leaders who ignore Israel's violations, as documented by DAWN (2025), may face domestic legal challenges for breaching this law, especially given calls from lawmakers like Senator Bernie Sanders to suspend aid (Sanders, 2024).
 - The Genocide Convention Implementation Act (18 U.S.C. § 1091) allows prosecution of U.S. nationals for complicity in genocide. Officials authorizing aid to Israel could be targeted, particularly if courts find that such support facilitates genocidal acts (DAWN, 2025).
 - NGOs have filed lawsuits against U.S. officials, alleging violations of domestic and international law by continuing arms sales to Israel, with cases pending in federal courts (Reuters, 2025).
- **UK Law:**
 - The International Criminal Court Act 2001 enables prosecution of UK nationals for aiding war crimes or genocide. Arms exports to Israel, despite evidence of genocide, have prompted legal challenges against UK officials, with campaigners seeking to halt licenses (Al Jazeera, 2025).
 - The UK's Ministerial Code requires compliance with international law, and failure to address complicity could lead to domestic accountability, as seen in public inquiries into arms sales (The Guardian, 2025).
- **German Law:**

- Germany's Code of Crimes Against International Law (VStGB) criminalizes complicity in genocide and war crimes. Continued arms exports to Israel, despite ICJ orders, have led to lawsuits against German officials, with courts reviewing whether exports violate international obligations (DW, 2025).
- Germany's constitutional commitment to human rights, rooted in its post-Holocaust legal framework, increases pressure on leaders to avoid complicity (German Federal Foreign Office, 2025).
- **Other Jurisdictions:**
 - Countries like Canada, France, and the Netherlands, with domestic laws criminalizing complicity in international crimes, face growing pressure to investigate leaders supporting Israel. For example, Canada's Crimes Against Humanity and War Crimes Act allows prosecution of officials involved in arms exports (Reuters, 2025).
 - France's penal code includes provisions for complicity in genocide, and NGOs have filed complaints against officials for arms sales to Israel (Le Monde, 2025).

3. Case Studies and Precedents:

- **Darfur (2009):** The ICC issued arrest warrants for Sudanese officials, including for complicity in genocide, setting a precedent for prosecuting leaders who enable atrocities through material support (ICC, 2009).
- **Srebrenica (1995):** The International Criminal Tribunal for the former Yugoslavia (ICTY) convicted individuals for aiding and abetting genocide by providing logistical support, establishing liability for indirect contributions (ICTY, Prosecutor v. Krstić, 2001).
- **Myanmar (2017):** UN reports called for investigations into international actors supplying arms to Myanmar during the Rohingya genocide, highlighting the risk of complicity for states and leaders (UN Human Rights Council, 2018).
- These precedents suggest that leaders supporting Israel through arms, funding, or diplomatic cover could face similar scrutiny, particularly as evidence of genocide mounts.

4. Practical Implications:

- **ICC Prosecutions:** The ICC's November 2024 arrest warrants for Israeli officials for starvation as a war crime indicate an active investigation, which could expand to include foreign leaders providing support. NGOs like Amnesty International have urged the ICC to investigate U.S., UK, and German officials for complicity (Amnesty International, 2025).
- **Domestic Lawsuits:** Leaders face increasing domestic legal challenges, with lawsuits in the U.S., UK, and Germany alleging violations of national laws prohibiting complicity in genocide and war crimes (Reuters, 2025; DW, 2025).
- **Reputational and Political Consequences:** Leaders risk public backlash and reputational damage, as seen in protests and campaigns targeting officials supporting Israel's actions (Al Jazeera, 2025).
- **Sanctions and Travel Bans:** Leaders implicated in complicity could face sanctions or travel restrictions, as seen in cases involving Sudanese and Syrian offi-

cials (UN Security Council, 2011).

5. Evidence Triggering Liability:

- **Amnesty International Reports:** Detailed documentation of Israel's siege as genocidal, with calls for accountability for states enabling it (Amnesty International, 2025).
- **Genocide Scholars Survey:** A 2024 survey affirming Israel's actions as genocide, increasing pressure on supporting states (Genocide Scholars Survey, 2024).
- **ICJ Orders:** Israel's non-compliance with 2024 orders provides legal grounds for holding supporting states accountable for failing to prevent genocide (ICJ Orders, 2024).
- **UN Reports:** UN experts' warnings of an "unfolding genocide" in Gaza implicate states that continue to provide support (OHCHR, 2025).

Genocide as the "Crime of Crimes"

Genocide is the "crime of crimes" under international law, an indelible stain on human history due to its intent to eradicate entire groups. Coined by Raphael Lemkin in 1944 and codified in the 1948 Genocide Convention, it aims to prevent atrocities like the Holocaust. The Genocide Convention, R2P, and domestic laws like the U.S. Foreign Assistance Act impose a legal and moral imperative to prevent and punish genocide, with states and leaders accountable for inaction or complicity.

Support for South Africa's ICJ Case

South Africa's case, supported by over 30 states, is strengthened by Israel's non-compliance with ICJ orders, international support, humanitarian evidence, and ICC actions. The risk of charges against political leaders supporting Israel underscores the urgency of addressing this crisis.

Conclusion

Israel's total siege on Gaza since March 2025 constitutes genocide, violating international humanitarian law, Jewish law, and ICJ measures. The Genocide Convention and R2P impose strict obligations on states to prevent and punish genocide, obligations that Israel and its supporters risk violating. Political leaders who continue to support Israel, through arms, funding, or diplomatic cover, despite strong evidence of genocide, may face charges of aiding and abetting genocide and war crimes under international and domestic law, including the U.S. Foreign Assistance Act, UK's ICC Act, and Germany's VStGB. The international community must act decisively to halt these atrocities and uphold justice, ensuring that those who stand with Israel in this crisis face accountability in court.

Key Citations

- UNRWA Situation Report #172
- Amnesty International: Israel's Siege

- OHCHR: Unfolding Genocide
- ICJ Orders 2024
- Smotrich Statement
- DAWN: Section 620I
- Sanders: Foreign Assistance Act
- ICC Arrest Warrants
- Bosnia v. Serbia
- 2005 World Summit Outcome
- Human Rights Watch: IHL in Gaza