Topic B: Enforcement of the Convention on the Prevention and Punishment of the Crime of Genocide in the Context of South Africa and Israel

INTERNATIONAL COURT OF JUSTICE

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Voices of a new era:
youth facing global challenges

Introduction to the committee

We are pleased to welcome you to this edition of the Model United Nations of Universidad Anáhuac Querétaro (UAQMUN 2027). The School of International Relations and the organizing team sincerely thank you for your participation, and we wish you a formative, challenging, and enriching experience within this model.

The International Court of Justice (ICJ) was created in 1945 by the United Nations Charter as the principal judicial organ of the UN, succeeding the Permanent Court of International Justice (PCIJ) and officially beginning its operations in 1946. Its primary objective is to advance the peaceful settlement of international disputes in accordance with international law, serving as a pillar of global order. The Court possesses dual faculties: a contentious jurisdiction to adjudicate legally binding disputes submitted to it by sovereign States, and an advisory jurisdiction to deliver non-binding legal opinions on complex international law questions referred by authorized UN organs and specialized agencies. In the contemporary international system, the ICJ plays an indispensable role by clarifying norms of international law, promoting adherence to the rule of law, and providing a neutral judicial forum that prevents the escalation of inter-State conflicts (ICJ, 2017).

On this occasion, the committee will focus on the following debate:

"Enforcement of the Convention on the Prevention and Punishment of the Crime of Genocide in the Context of South Africa and Israel."

The legal battle between South Africa and Israel at the International Court of Justice (ICJ) centers on enforcing the 1948 Genocide Convention, which defines genocide as acts committed with the "intent to destroy, in whole or in part," a protected group (OHCHR, 2021). Grounded in a century of conflict (including the 1948 displacement, decades of occupation, and the Gaza blockade), the dispute escalated following the events of October 7, 2023 (BBC, 2025; DIRCO, 2023; United Nations, 2025). South Africa initiated proceedings using *erga omnes partes* standing, arguing that all states have a collective duty to prevent genocide (Law for Palestine, 2024; Matthews, 2026). Presenting evidence of mass civilian casualties, starvation, and statements by officials, South Africa asserted that Israel's actions constituted both the physical acts (*actus reus*) and specific intent (*mens rea*) of genocide, regardless of self-defense claims (Law for Palestine, 2024; Matthews, 2026).

Israel forcefully rejected the suit, calling it a "weaponization" of international law that undermines its right to self-defense against Hamas (DIRCO, 2023; Matthews, 2026). Israel argued that it lacked genocidal intent (*dolus specialis*), asserting that civilian casualties were the tragic result of urban warfare and that its evacuation notices and aid efforts proved non-genocidal motives (ICJ, 2024; Matthews, 2026). Addressing the immediate risk, the ICJ issued emergency provisional measures (including ordering Israel to halt offensive actions in Rafah that could cause physical destruction), noting that proving definitive genocidal intent belongs to the final merits phase, while urgent civilian protection remains paramount (ICJ, 2024; Matthews, 2026).

Topic “B”: Enforcement of the Convention on the Prevention and Punishment of the Crime of Genocide in the Context of South Africa and Israel.

Genocide is, as stated in Article 2 of the Convention on the Prevention and Punishment of the Crime of Genocide (CPPCG), “any act committed with intent to destroy, in whole or in part,t a national, ethnical, racial or religious group” (OHCHR, 2021).

In this line, South Africa instigated proceedings against Israel at the International Court of Justice (ICJ), arguing that various acts and omissions attributed to Israel since Hamas’ attack on October 7th 2023, violate its obligations under the Genocide Convention (EUI, 2024). South Africa bases its standing on two grounds: fulfilling its own obligation to prevent genocide and asserting *erga omnes partes* standing as a contracting party to the Convention. By asking the ICJ to declare that both South Africa and Israel must take all reasonable measures to prevent genocide, South Africa places its own actions alongside Israel's under legal scrutiny rather than using the charge solely as an aggressive tactic (Matthews, 2026).

South Africa contends that even military actions undertaken under the guise of self-defense can produce genocidal effects. Conversely, critics and Israeli representatives have rejected this framing, claiming that South Africa is "weaponizing" genocide law and perverting international justice to undermine Israel's inherent right to defend itself against Hamas (Matthews, 2026).

Israel's defense rests on the premise that genuine defensive intent in a war it did not start precludes the specific genocidal "intent to destroy" required by the Genocide Convention. It argues that the threshold for proving genocidal intent must factor into the Court's assessment of prima facie jurisdiction. However, established ICJ precedent from cases like *The Gambia v. Myanmar* clarifies that definitive assessments of genocidal intent belong to the merits stage of a case, rather than the initial phase of deciding whether to indicate provisional measures (Matthews, 2026).

History of the topic

The United Nations (2025) recognizes that the conflict between Palestine and Israel, along with the region's geopolitical shifts, began with the 1917–1947 British Mandate, when Britain took control of the now-Palestinian territory following the defeat of the Ottoman Empire. The Mandate incorporated the Balfour Declaration, leading to increased Jewish immigration, especially during Nazi persecution in the 1930s. While demanding independence and sovereignty over the land, Arab resists the immigration, which led to a rebellion in 1937. In 1947, the UK transferred the issue to the United Nations, which proposed *Resolution 181* to partition the territory into independent Jewish and Arab States, with Jerusalem internationalized. This led to the 1948 war, the establishment of Israel, the displacement of over half the Palestinian Arab population, and control of the remaining areas by Jordan and Egypt until the 1967 war brought Israeli occupation to the West Bank, Gaza Strip, and East Jerusalem (BBC, 2025).

Between the late 1970s and 2000, international efforts focused on peace processes amid ongoing conflicts and uprisings. The UN General Assembly reaffirmed Palestinian rights to self-determination and granted the PLO observer status. Major milestones included the 1991 Madrid Peace Conference and the 1993 Oslo Accords, which established interim self-government arrangements through the Palestinian Authority. However, permanent status negotiations stalled, leading to the Second Intifada in 2000, Israel's construction of the West Bank separation wall, and subsequent diplomatic initiatives like the 2003 Road Map (United Nations, 2025). In 2005, Israel withdrew its security forces but retained control of the shared border, airspace, and shoreline. After winning the elections in 2006, Hamas evicted Israel’s personnel from Gaza in 2007. Consequently, Israel imposed a blockade, triggering repeated rounds of military confrontation (BBC, 2025).

In recent years, Palestinian diplomatic drives yielded upgraded UN non-member observer State status in 2012, alongside recurring escalations and international legal interventions. Severe hostilities renewed in October 2023, leading to International Court of Justice cases regarding Israeli actions and occupation legality, as well as UN declarations condemning famine and ongoing conflict in Gaza. By late 2025, renewed international conferences led to broader diplomatic recognition of an independent State of Palestine by various UN member states aiming to enforce a two-state solution framework (United Nations, 2025).

Discussion of the topic

In late December 2023, South Africa initiated proceedings against Israel at the ICJ, alleging that Israel violated its obligations under the 1948 Convention on the Prevention and Punishment of the Crime of Genocide regarding its military operations in Gaza (DIRCO, 2023). South Africa's main legal standing is the doctrine of *erga omnes partes*, which asserts that prohibitions against genocide are obligations owed to the international community as a whole, thereby granting any state party the right to enforce them (Law for Palestine, 2024; Matthews, 2026). Furthermore, South Africa framed its application as an act of legal self-help designed to fulfill its own treaty-bound duty to prevent genocide before irreparable harm occurs (Matthews, 2026). Rather than viewing the ongoing conflict solely through the lens of the October 7 attack, South Africa contextualized the military operation within a broader historical landscape of occupation, blockade, and systemic discrimination (Law for Palestine, 2024).

South Africa's primary argument rests on demonstrating both the physical actions (*actus reus*) and the specific intent (*mens rea*) required to constitute genocide under Articles II and III of the Genocide Convention (Law for Palestine, 2024; Matthews, 2026). To establish the *actus reus*, South Africa presented extensive empirical evidence (sourced primarily from United Nations agencies, special rapporteurs, and international non-governmental organizations) detailing mass civilian casualties, widespread displacement, and the deliberate deprivation of essential food, water, and medical care (Law for Palestine, 2024). To prove the necessary *mens rea*, or the "intent to destroy" a protected group in whole or in part, South Africa pointed to direct public statements made by high-ranking Israeli state and military leaders (Matthews, 2026). It also asserted that genocidal intent could be inferred from the overall pattern, scale, and destruction of the military operation in Gaza, arguing that even actions purportedly carried out under the guise of self-defense cannot exceed the bounds of international law to produce genocidal outcomes (Matthews, 2026).

In response, Israel and its supporters forcefully rejected these allegations, characterizing the lawsuit as an improper "weaponization" of the Genocide Convention and an abuse of the post-World War II international legal framework (Matthews, 2026). Israel contended that its military campaign was a lawful exercise of its inherent right to self-defense following the October 7 attacks by Hamas, aiming to neutralize a security threat rather than destroy the Palestinian population (DIRCO, 2023; Matthews, 2026). Israel's legal defense maintained that South Africa failed to meet the strict legal standard for specific genocidal intent (*dolus specialis*), arguing that civilian casualties and destruction were the tragic, indirect consequences of urban warfare against an adversary utilizing civilian infrastructure (ICJ 2024; Matthews, 2026). Furthermore, Israel highlighted its ongoing evacuation measures and efforts to facilitate humanitarian aid as evidence of its commitment to protecting non-combatants, thereby refuting claims of deliberate physical destruction (ICJ, 2024).

The ICJ evaluated these competing claims primarily through requests for provisional measures, focusing on whether there existed a plausible risk of irreparable harm to the rights of Palestinians under the Genocide Convention (Law for Palestine, 2024; Matthews, 2026). In its May 24, 2024 Order, the Court noted that the humanitarian situation in Gaza had

severely worsened (specifically in Rafah) and determined that Israel's efforts were insufficient to protect civilians from immense risk (ICJ, 2024). Reaffirming its prior rulings, the Court ordered Israel to immediately halt any military offensive in the Rafah Governorate that could inflict conditions leading to physical destruction, keep critical land crossings open for unhindered aid, and permit international investigative bodies access to preserve evidence (ICJ, 2024). Ultimately, while the Court's provisional measures addressed the immediate risk to human life, they underscored the distinction between finding a plausible risk of genocide to warrant emergency protection and rendering a final, definitive ruling on state responsibility (Matthews, 2026).

These emergency orders emphasize the urgent responsibility of the international community to safeguard civilian populations and prevent potential breaches of international law, while the Court continues its rigorous, long-term assessment of the definitive merits of state responsibility. Therefore, the International Court of Justice urges both parties to engage in structured, evidence-based dialogue, assessing how international legal mechanisms can effectively ensure compliance, protect vulnerable populations, and preserve the global legal order.

Guiding Questions

1. How does the 1948 Genocide Convention define the legal thresholds for both the physical act (*actus reus*) and specific intent (*mens rea*) of genocide?
2. What is the doctrine of *erga omnes partes*, and how does it grant standing to non-neighboring states like South Africa to bring claims before the ICJ?
3. How does South Africa argue that military operations carried out in self-defense can still result in genocidal outcomes?
4. How does Israel support its argument that military defense and operational precautions preclude specific genocidal intent (*dolus specialis*)?
5. How do public statements by government and military officials factor into the judicial determination of state intent in genocide cases?
6. What standards of evidence does the ICJ require from UN bodies and international organizations when assessing emergency risk and irreparable harm?
7. What specific requirements were set by the ICJ in its May 2024 order regarding military operations in Rafah and humanitarian access?
8. What international legal mechanisms exist to enforce compliance when a state fails to implement binding ICJ provisional measures?
9. How does the broader historical context (including occupation, blockades, and past UN resolutions) impact the legal analysis of the current conflict?
10. What policy measures or diplomatic strategies can member states implement to ensure humanitarian aid is delivered while adhering to international law?

List of Participants

- Prosecutor 1
- Prosecutor 2
- Prosecutor 3
- Prosecutor 4
- Prosecutor 5
- Prosecutor 6
- Defendant 1
- Defendant 2
- Defendant 3
- Defendant 4
- Defendant 5
- Defendant 6
- Judge 1
- Judge 2
- Judge 3
- Judge 3
- Judge 4
- Judge 5
- Judge 6

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