

South Africa's case against Israel

The struggle against apartheid then and now

by Helen Scott

Helen Scott explains the significance of South Africa's genocide case against Israel and reflects on the comparison between antiapartheid struggles in the two countries. She presented an earlier version of this article in Burlington, Vermont in late May.

t feels like we are living at a turning point for humanity. ¹ We are watching live as Israel carries out the most brutal offensive on the Palestinian people imaginable. Palestinian resistance has spread across the world, and world public opinion overwhelmingly wants Israel to stop its assault, but Israel and its powerful allies are using censorship, force, and slander to crush dissent.

At the end of last year, South Africa's <u>application</u>

(https://d3i6fh83elv35t.cloudfront.net/static/2024/01/192-20231228-app-01-00-en.pdf) to the International Court of Justice (ICJ) broke through the prevailing denial and silence with a loud voice, charging Israel with genocide.

The case connects this current moment with the history of apartheid in South Africa. For decades that regime appeared to the world as permanent and all powerful. But 30 years ago, Black South Africans, at the forefront of a global solidarity movement and after a long and hard struggle, defeated it.

The Palestine solidarity movement today also faces a long and hard struggle. As the South African application to the ICJ argues, the desperate ferocity of Israel's attack reveals its desire to eliminate the entire Palestinian people. Israel is attempting to obliterate the people's culture, its stories, its narratives of self-determination and resistance.

But the movement for Palestinian liberation continues to grow. Important recent developments, including the case at the ICJ, the International Criminal Court's announcement that it would seek an arrest warrant for Netanyahu, and three European nations' recognition of Palestine (Ireland, Norway, and Spain) all indicate a shift in Israel's standing on the global stage.

South Africa's application to the International Court of Justice argues that Israel's behavior is in "manifest violation" of the 1948 Genocide Convention. Created by a team of lawyers and scholars with deep expertise in human rights and international law, the case is a dense and devastating 84 pages long, with 574 footnotes.

The team does not simply assert their charge. Rather, they substantiate, in harrowing detail, the scale and nature of Israel's deeds. Drawing on a dizzying range of reliable sources including eyewitness reports from United Nations representatives, they expose the dystopic horrors that Israel had tried to keep out of the public view by tightly controlling media access, shutting down communications, and killing Palestinian journalists.

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Much of the document's weight comes from the layered accumulation of detailed examples. After cataloging Israel's military assault, one of the "heaviest conventional bombing campaigns in the history of modern warfare" they write, quoting an analysis of satellite data: "The destruction wrought by Israel is so extreme that 'Gaza is now a different color from space. It's a different texture" (ICJ 9–10). This is after only the first two months.

They review countless fact-finding reports documenting Israel's systematic killing and terrorizing of the population and charge Israel with

... destroying Palestinian life in Gaza, through the destruction of Gaza's universities, schools, courts, public buildings, public records, stores, libraries, churches, mosques, roads, infrastructure, utilities and other facilities necessary to the sustained life of Palestinians in Gaza as a group, alongside the killing of entire family groups—erasing entire oral histories in Gaza—and the killing of prominent and distinguished members of society.

... Imposing measures intended to prevent Palestinian births in Gaza, through the reproductive violence inflicted on Palestinian women, newborn babies, infants, and children. (73)

In addition to cataloging present atrocities, the application provides the historical background that mainstream U.S. news accounts omit. They contextualize Israel's current actions as the latest installment in 75 years of violent dispossession: "80 percent of Palestinians in Gaza are refugees—and their descendants—from towns and villages in what is now the State of Israel, expelled or forced to flee during the

mass displacement of over 750,000 Palestinians or 'Nakba' during the establishment of the State of Israel" (12).

They document the iron control that Israel has exerted over Gaza since its supposed withdrawal in 2005; Israel's systematic destruction of agriculture, fishing, water sources, and commerce; and their restriction of food imports to a bare minimum. They show that this war on Gaza, which follows multiple disproportionate and one-sided military campaigns waged by Israel in the last two decades, was launched against a population that was already impoverished, food insecure, lacking basic civil infrastructure and human necessities, and unable to move freely.

This forms the crucial backdrop for Israel's current moves toward extermination:

Through its destruction of Gaza's archives and landmarks, it is obliterating Palestinian personal lives and private memories, histories and futures, through bombing and bulldozing graveyards, destroying family records and photographs, wiping out entire multi-generational families, and killing, maiming and traumatising a generation of children. (57)

The accumulated evidence affirms South Africa's central argument: that Israel's acts are

genocidal in character because they are intended to bring about the destruction of a substantial part of the Palestinian national, racial and ethnical group, that being the part of the Palestinian group in the Gaza Strip ("Palestinians in Gaza"). The acts in question include killing Palestinians in Gaza, causing them serious bodily and mental harm, and inflicting on them conditions of life calculated to bring about their physical destruction. (1)

The application is overwhelmingly convincing. It is also affirmed by much of the world. The authors list other nations who are party to the Genocide Convention who have described Israel's assault as genocide: Algeria, Bolivia, Brazil, Columbia, Cuba, Iran, Turkey and Venezuela. State representatives from Bangladesh, Egypt, Honduras, Iraq, Jordan, Libya, Malaysia, Namibia, Pakistan, Syria, and Tunisia have

all referred to genocide. And outside the Genocide Convention, so have representatives from Qatar and Mauritania.

Several nations have subsequently joined South Africa in their case to the ICJ, including Columbia, Nicaragua, Libya, Turkey and most recently Egypt. Their findings were also confirmed in the UN report, *Anatomy of a Genocide*(https://reliefweb.int/report/occupied-palestinian-territory/anatomy-genocide-report-special-rapporteur-situation-human-rights-palestinian-territories-occupied-1967-francesca-albanese-ahrc5573-advance-unedited-version), published in late March, by which time the results were exponentially worse.

In one crucial sense, South Africa's application has been successful. The court found the charge of genocide to be plausible, and instructed Israel to take measures to prevent further damage, as South Africa had asked. Now the court has further ordered Israel to cease its attack on Rafah.

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But shamefully, the court did not call for a general ceasefire as asked, and neither has there been any enforcement of remediation. Israel has continued along its genocidal path. The Biden administration proceeded to reward Israel with a further \$26 billion in funding and an increased flow of heavy weaponry. Israel deflected attention with its false accusations against UNRWA, successfully

convincing its major allies to cut off funding to the one agency capable of providing any relief to Palestinians facing famine.

All this indicates the limitations of the ICJ and the United Nations as vehicles for global justice. Despite countless legal findings against Israel, all the way back to 1948, Palestinians have never received any serious redress through the courts or global political bodies. International law is double edged, it has systemic inadequacies, but can also be marshaled in support of political movements.

The ICJ case has nonetheless given credibility to other voices challenging Israel. The combination of Israel's atrocities and global opinion are clearly having an impact even on institutions that previously kept away from Israel. The recent historic announcement from the International Criminal Court that the chief prosecutor is seeking arrest warrants for Israeli Prime Minister Benjamin Netanyahu and Defence Minister Yoav Gallant is the first time the ICC has challenged Israel. As the *Financial Times* (https://www.ft.com/content/24bd4d5a-2451-4695-a7d1-5b0df92064a6) writes, the development is "a huge setback for Israel." This is why Israel and the Biden administration are so furious.



The International Court of Justice in 2016. Image by <u>United Nations</u> (https://www.flickr.com/photos/un_photo/31728113160).

The bitter pill of the ruling is that the ICC is also seeking arrest warrants for three Hamas leaders. Netanyahu and Biden protest that this is a false equivalency. They are right, but not for the reasons they give. There is no equivalency because Israel is a military powerhouse committing genocide with the full support of the most formidable nation in the world; Hamas is a small resistance movement defending against total elimination of an entire people. It would be like issuing an arrest warrant for the prime minister under apartheid in South Africa, PW Botha, and also for Nelson Mandela as figurehead of the ANC. But nonetheless, it is indeed a setback for Israel when its top representatives face arrest if they travel.

In this shifting climate, South Africa continues to push the ICJ, issuing two further urgent appeals (https://www.palestinechronicle.com/changed-circumstances-south-africa-asks-icj-to-order-israels-withdrawal-from-rafah/) in March and this month. The ICJ, in turn, has ordered Israel to cease its attack on Rafah. The Washington Post (https://www.washingtonpost.com/world/2024/05/24/israel-rafah-invasion-icj-ruling/) quoted Oumar Ba, an assistant professor of government at Cornell University, on the significance of this ruling: "It clearly states where the line has been drawn by the court when it comes to international law," he said. "There is certainly an acceleration here ... of Israel being basically on the accused bench and having to defend its stance and its action in the eye of the international community."

Even though these shifts have not succeeded in stemming the genocide, they are very significant for the global movement for Palestinian liberation, and South Africa's central role is important.

South Africa lived through and overcame its own brutal apartheid system. In 1948, the same year as the Nakba, the National Party was elected in South Africa, and swiftly implemented a powerful network of institutionalized racial separation and discrimination. Apartheid was a deliberate attempt to strip Black South Africans of all rights and freedoms, and it intensified the existing colonial system of racist oppression, exploitation, and segregation.

According to the Apartheid Museum in Johannesburg, the government passed **numerous laws**

(https://www.apartheidmuseum.org/uploads/files/From_Apartheid_To_Democracy.pdf) in the next five year, under which:

- All South Africans were to be classified according to race.
- Race determined where a person was born, educated, lived and was buried. African education was vastly inferior to white education.
- Different racial groups were not allowed to marry, nor were they allowed to have sexual relations.
- Black people were not allowed to live in the same areas as whites. The pass laws were strengthened, making it even more difficult for Africans to enter the so-called white cities.
- Black people were not allowed to make use of the same public facilities as whites. (2)

Under apartheid, white South Africans "enjoyed one of the highest standards of living in the world" while the Black majority lived in abject poverty (5). Millions were forcibly removed from their land and corralled into impoverished so called "homelands" lacking basic means to live, in a tiny fraction of the territory that was their indigenous home. Police were given extraordinary powers, and Black people had no legal way to challenge white authority. Black South Africans were subject to indefinite detention without trials. Apartheid ruled every aspect of life, and was designed to humiliate and demean, inflicting great and petty injustices and cruelties daily.

The parallels between Apartheid South Africa and Israel are unmistakable: Palestinians are classified by their racialized identity, which determines where they live, where they are born, educated, and buried. Palestinian education is massively underfunded compared to that of Jewish Israelis. Even though there is no legal bar on interfaith marriage, Israel does not recognize non-religious

marriage, so this, along with extreme segregation, means that intermarriage is rare. Palestinians are not allowed to live in the same areas as Jewish Israelis. ID cards and a punitive web of other measures entirely restrict Palestinian mobility, while Jewish Israelis can move freely.

Israel was one of South African apartheid's biggest allies.

Jewish Israelis enjoy one of the highest standards of living in the world, while most Palestinians live in abject poverty. Palestinians have been displaced from their lands and forced to live in ever shrinking and fragmented areas, a tiny fraction of historic Palestine. Israeli police and soldiers have extraordinary powers, and Palestinians have no way to challenge Israeli authority. Palestinians are subject to arrest and indefinite detention without charge. Apartheid rules every aspect of life, and is designed to humiliate and demean, inflicting great and petty injustices and cruelties daily.

Global human rights organizations including Human Rights Watch, Amnesty International, B'tselem and many others have declared Israel to be an apartheid state. And even though Zionists ardently contest the label today, the original architects of apartheid were more forthright: The white South African PM Hendrik Verwoerd (https://forward.com/news/468379/timeline-term-apartheid-israel/) in 1961 said, "Israel, like South Africa, is an apartheid state." Israel was one of South African apartheid's biggest allies. The typical perspective of Israeli representatives in the late 1970s and early 1980s is captured by former Israeli Chief of the General Staff, Rafael Eytan, who said this in a lecture at Tel Aviv university:

Blacks in South Africa want to gain control over the white minority just like Arabs here want to gain control over us. And we too, like the white minority in South Africa, must act to prevent them from taking us over. (quoted in Ilan Pappé, Israel and South Africa (https://www.abebooks.com/servlet/BookDetailsPL?

bi=30775998664&searchurl=kn%3Disrael%2Band%2Bsouth%2Bafrica%2Bthe%2Bmany%2Bface
s%2Bof%2Bapartheid%26sortby%3D17&cm sp=snippet--srp1--title1), 1).

South African Apartheid was the blueprint for Israel's apartheid regime, which adopted many of the same laws and practices. Ilan Pappé writes: "In one way or another, all Palestinians—inside and outside Palestine—are still living under a variant of the South African apartheid system" (Israel and South Africa, 8).

Black South Africans have long understood this: After a visit to Palestine, civil rights leader Desmond Tutu, the first Black archbishop of Cape Town wrote:

I have witnessed the systemic humiliation of Palestinian men, women and children by members of the Israeli security forces...Their humiliation is familiar to all Black South Africans who were corralled and harassed and insulted and assaulted by the security forces of the apartheid government. (Quoted in Jerusalem Post (https://www.jpost.com/Diplomacy-and-Politics/Desmond-Tutu-Israel-guilty-of-apartheid-in-treatment-of-Palestinians-344874))

Shortly after Nelson Mandela was released from prison, he said "South Africa will never forget the support of the state of Israel to the Apartheid regime" (Pappé, South Africa and Apartheid 2).

It is not surprising, then, that South Africa has been at the forefront of the global Palestine solidarity movement. The famous 2001 World Conference against Racism in Durban called for an end to Israeli apartheid. On May 10–12 this year, delegates from more than two dozen countries met in Johannesburg to launch a **global campaign** (http://antiapartheid.net/) against Israeli apartheid. This is from their founding statement:

We, inspired by, and many of us having been part of, the global Anti-Apartheid Movement that helped end apartheid in South Africa and Namibia, now rise, as the continuation of that movement, to confront the settler-colonialism and apartheid of Israel and its backers, to ensure Israel and those complicit in its genocide are held accountable, to support the struggle for the liberation of the Palestinian people, for the restoration of their rights to freedom, dignity, self-determination, return, resistance, as guaranteed by international law.

The delegates declared that they "will be unrelenting" in pressuring governments to sanction Israel.

In the 1980s, South African apartheid seemed permanent and all powerful. It had the support of all the capitalist powers of the global North, and government leaders and the press scorned the idea that a global solidarity movement could challenge it. And yet a decade later, in April 1994, apartheid rule came to an end. The country held its first ever general elections, and the African National Congress leader Nelson Mandela—formerly denounced as a terrorist and imprisoned by the regime in the infamous Robben Island—won in a landslide victory to become the country's first Black president.

This victory did not come easily. The struggle to dismantle the regime endured many losses, setbacks, violent repression and malicious slander along the way. But Black South Africans persevered, from the peaceful resistance of the 1950s, to the civil disobedience in the 1960s, following the Sharpeville massacre, to the militant labor mobilization and strikes after 1973, to the Soweto student movement and the solidarity campaign that spread across the world.

When I was at university in England in the 1980s, I joined my fellow students on mass anti-apartheid demonstrations. We educated ourselves about the history of European colonialism, read the poetry of Dennis Brutus and novels of Lauretta Ngcobo; we watched plays by Athol Fugard, and took pride in never buying anything that was produced in South Africa. The global movement effectively delegitimized the apartheid regime, which hastened its downfall.

Three decades on, the grim truth is that while the end of apartheid led to formal legal equality in South Africa, which has an exceptionally progressive constitution, actual equality remains elusive. South Africa was the most unequal country (https://documents.worldbank.org/en/publication/documents-

reports/documentdetail/099125303072236903/p1649270c02a1f06b0a3ae02e57eadd7a82) in the world in 2022, according to the World Bank. The majority Black population overwhelmingly faces poverty and worsening conditions while the white elite has increased its share of wealth.

This is due to the legacy of decades of apartheid, but also to the priorities of a succession of post–apartheid governments, who have not delivered on the promise of equality and liberation. They have presided over the same capitalist system that supported apartheid, actively repressing workers when they pursue equality and justice. In the infamous Marikana massacre (https://www.aljazeera.com/news/2018/8/15/six-years-on-still-no-justice-or-closure-for-marikana-victims%20Legal) of 2012 the ANC government sent in police to break up a

But the struggle against South African apartheid is a vital history for us today because it offers a model of how a colonized people and a global liberation movement can defeat a seemingly invincible colonial regime.

miner's strike, killing 34. Equality means very little without economic equality.



: In South Africa's township uprisings of the mid-1980s, Black people turned funerals into demonstrations. This one took place at the Langa Township in Uitenhage on March 1, 1985. Image by **United Nations**(https://www.flickr.com/photos/un_photo/3311469447).

One important lesson is the centrality of labor. The decisive factor that brought down apartheid in South Africa was the organized power of the Black working class. International capitalism was deeply invested in the regime, including major corporations such as Shell, General Motors, Mercedes Benz, General Electric and more. When Black workers organized mass strikes, they interrupted business as usual and threatened the profitability of those corporations.

This was what forced the white minority ruling class to concede, particularly the great 1980s strikes in the mining and metal industry. The big capitalists realized that their entire system was in jeopardy, and they pressured the government to negotiate a **political solution** (https://socialistworker.co.uk/features/what-are-the-lessons-from-south-africas-anti-apartheid-struggle-for-palestine/).

One of the reasons that Israeli apartheid has been so much harder to defeat, despite decades of steadfast and mass resistance, is that Israel has effectively marginalized Palestinian workers and its economy is no longer dependent on them. The Palestine General Federation of Trade Unions recently issued a report (https://drive.google.com/file/d/1KgmBfiq9NDd4ZpJAiD_BYIBLzFjo-MyI/view) of current conditions. Almost half of Palestinian workers in the Israeli labor market have been dismissed. Gaza workers have had their permits revoked and have had no income since October. Thousands have been arrested, detained, tortured, interrogated, and killed.

The Palestinian Trade Unions have issued urgent calls to the global labor movement to support their picket line: not to participate in the transportation of weapons and technology to Israel and to pressure their governments to stop funding Israel. Given the marginalization of Palestinian workers in Israel, this international mobilization of workers is essential. In the words of **Rafeef Ziadah** (https://spectrejournal.com/volume-5-issue-1-spring-2024/) in a Palestine special issue of *Spectre* journal: "Direct action by workers has the potential to slow down supply chains, including arms supply chains, that are crucial for Israel's economy." Given Israel's complete reliance on funding from the U.S., this is particularly important for the labor movement here.

The unprecedented upturn in pro-Palestinian rank and file union activism, as seen in the Labor for Palestine National Network and many other initiatives, such as the recent UAW strike in the University of California system, is cause for hope. We should give those efforts our full support.

One other important lesson is the role of literature and culture more broadly. South Africa's petition to the ICJ highlights Israel's assault on Palestinian heritage: Along with its destruction of the physical monuments to the history and heritage of the Palestinians in Gaza, Israel has sought to destroy the very Palestinian people who form and create that heritage: Gaza's celebrated journalists, its teachers, intellectuals and public figures, its doctors and nurses, its film-makers, writers and singers, the directors and deans of its universities, the heads of its hospitals, its eminent scientists, linguists, playwrights, novelists, artists and musicians. Israel has killed and is killing Palestinian story-tellers and poets... (ICJ 55)

This attack on story-tellers and chroniclers is deliberate. It is part of the **scholasticide** (https://scholarsagainstwar.org/toolkit/) that has systematically destroyed universities, schools, libraries, theaters and museums. Israel is trying to suppress knowledge itself, to stamp out all record of the Palestinian experience.

Culture plays a crucial role in resisting such attempts at erasure. The apartheid regime incarcerated the poet Dennis Brutus on Robben Island, but the world read his poetry. They locked up Nelson Mandela, but millions of people globally sang the song "Free Nelson Mandela."

A 1970 poem by Brutus that opens Ashwin Desai's *Reading Revolution*:

Shakespeare on Robben Island (https://www.haymarketbooks.org/books/507-reading-revolution) describes and demonstrates art's potency, starting with a meditation on Shakespeare's life's work:

an immortality outlasting all our time

and hacking out an image of the human plight

that out-endures all facets of half truth.

He goes on:

Oh might I be so crouched, so poised, so hewed to claw some image of my fellows' woe

hacking the hardness of the ice-clad rock,

armed with such passion, dedication, voice that every cobblestone would rear in wrath

and batter down a prison's wall and wrench them from the island where they rot. (Desai vii)



Dennis Brutus speaks at the World Social Forum in Mumbai, India, in 2004. Image by David Whitehouse.

The poem resonates with the words of Palestinian poet and educator Refaat Alareer who tells of his revelationas he watched Israel's attacks on Gaza in 2009: "Telling stories was my way of resisting. ... And it was then that I decided that if I lived, I would dedicate much of my life to telling the stories of Palestine, empowering Palestinian narratives, and nurturing younger voices." (Jehad Abusalim et al (https://www.haymarketbooks.org/books/1861-light-in-gaza) 19). He told his students: "Writing is a testimony, a memory that outlives any human experience, and an obligation to communicate with ourselves and the world. We lived for a reason, to tell the tales of loss, of survival, and of hope" (20).

The Israeli state murdered Alareer, and they feared his legacy so much that they murdered his eldest daughter and baby grandchild. But in doing so they have only amplified his voice. Alareer inspired generations of students, and he left an indelible legacy, in *Gaza Writes Back* (https://justworldbooks.com/books-by-title/gaza-writes-back/) and other volumes that are now read by millions across the globe.

One of the tasks of the solidarity movement is to honor and continue this legacy. The New School faculty did this, in naming their Gaza encampment for Refaat Alareer. So did the University of Vermont student activists when they passed round a copy of Mohammed El Kurd's poetry collection, *Rifqa* (https://www.haymarketbooks.org/books/1744-rifqa), in their Gaza encampment, and read his poems out loud.

The Frankfurt Book Fair canceled an event honoring award-winning Palestinian novelist Adania Shibli, but her novel *Minor Detail* only increased its readership as a result, and teachers everywhere added it to our syllabi this spring, along with works by Isabella Hammad and Mahmoud Darwish and Ghassan Kanafani.

Every time a Palestinian writer is canceled, more people read their work. This is why we hold reading groups, invite Palestinian scholars and artists to speak, play Palestinian music at our rallies. Poetry, novels, plays, art and music cannot stop genocide or topple apartheid on their own. But they hold the power to move and motivate people to resist. Mahmoud Darwish wrote of "the tyrant's fear of song"

and "the tyrant's fear of memory." Culture can sustain our unrelenting commitment to Palestinian liberation.

Seen in the context of the toppling of apartheid in South Africa, Ilan Pappé's long view is fitting in this moment: "It is dark before the dawn, but <u>Israeli settler</u> <u>colonialism is at an end (https://countercurrents.org/2024/02/israeli-settler-colonialism-is-at-an-end/)."</u>

Featured image credit: <u>United Nations (https://www.flickr.com/photos/un_photo/3312300710)</u>; modified by Tempest.

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