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ICJ Ruling: Impact and Implications

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On January 26, 2024, the International Court of Justice (ICJ) gave its provisional ruling in the case filed by South Africa (SA) against Israel, where South Africa brought claims against Israel for violating rules laid out in the 1948 Genocide Convention. The ruling took place after a two-day hearing on January 11 and 12. Ultimately, the ICJ ruling fell short of insisting on an immediate ceasefire, but of the nine measures brought against Israel by SA, the ICJ decided in favor of SA on six of them. In addition, the court ruled plausible the claims that Israel's military operation in Gaza is genocidal in nature. The impact of this ruling, however, is rather nuanced. As far as the states of the Gulf Cooperation Council are concerned, the ruling validates the public outcry over the war in Gaza; but whether or not it does enough and what the impact of it will be in the long term remains in question.

Of the nine claims brought against Israel, the court ruled in favor of the following six: 1) Israel must act in compliance with its obligations under the Genocide Convention in Gaza, "taking all measures within its power" to prevent the death, physical or mental harm of civilians; deliberate destruction of conditions of life calculated to bring about the physical destruction of the population; and the imposition of measures intended to prevent births; 2) Israel must ensure that its military does not commit any of the acts mentioned in order 1; 3) Israel must take all measures in its power to prevent and punish direct and public incitement to commit genocide; 4) Israel must take immediate and effective measures to enable the provision of humanitarian relief to Gaza; 5) Israel must take effective measures to prevent destruction of evidence relating to allegations of acts contrary to the Genocide Convention; and 6) Israel must submit a report to the court within one month regarding the measures it has taken to give effect to the order.

The orders by the ICJ were received differently across the political spectrum with Israel, as expected, vociferously objecting, and countries such as the United States and the United Kingdom expressing reservations about the feasibility of it having a tangible effect. To those who have argued that Israel must be held accountable for its indiscriminate military operation in Gaza, the ruling was seen positively, and to others, it was seen as insufficient since it falls short of demanding a ceasefire. The GCC states generally welcomed the ruling with the Saudi Foreign Ministry commending South Africa for bringing the lawsuit forward in the first place and urging the international community to amplify its efforts to end the crisis in Gaza and hold Israel responsible for the violations of international law it has been committing since the start of the war. Still, the Kingdom's Foreign Minister called for "more measures" to reach a ceasefire and provide protection for Palestinians. The Ministry of Foreign Affairs in the UAE reiterated the importance of "providing protection for civilians and ensuring the entry and delivery of humanitarian and relief aid urgently, sustainably, and without impediment."

What comes next though is uncertain. That the ICJ ruled in favor of SA does not mean that Israel will necessarily heed the terms of the ruling. First of all, Israel does not recognize the jurisdiction of the ICJ. Backed by some but not all of its Western partners (like the U.S. which also does not recognize the ICJ), Israel already rejected the court ruling with Israeli Prime Minister Benjamin Netanyahu stating bluntly that "Israel...has an inherent right to defend itself [and] the vile attempt to deny Israel this fundamental right is blatant discrimination against the Jewish state..." Looking ahead in the short term, the ruling does not order much that the Israeli Defense Forces don't already



claim to be doing. The IDF and Tel Aviv already claim to be maximizing their efforts in protecting civilians; already claim that all the targets it hits are directed at Hamas; already claim that it is not at fault for blocking the entry of additional humanitarian aid into Gaza. Yet, the number of deaths among women and children continues to increase and Gaza continues to become less and less habitable by the day; little functioning infrastructure remains and the lack of necessities to sustain human life becomes more and more depleted with each attack.

Just before October 7, Israel was on the cusp of normalization of relations with Saudi Arabia which would have put it on more solid footing within the Middle East; already the Abraham Accords dramatically improved Tel Aviv's relations with the region. If Israel is thinking of its long-term interests, it should take great care in responding to the ICJ ruling with tact and in a manner consistent with the principles of the ICJ—especially since they are the same principles that Israel and its Western partners claim to believe in. Additionally, if the U.S. and U.K. continue to provide unconditional support for Tel Aviv, both in terms of soft power and military arms support, these countries risk burning bridges with critical partners in the Gulf and wider Middle East, as well as credibility on a global scale. They will further forfeit the remaining trust they have within the region, and it will be perceived as another sign of “Western hypocrisy.” After all, if the rules are to apply to countries like Russia and Iran in the case of the Ukraine crisis, for example, why shouldn't they also apply to Israel and the United States?

It would behoove the U.S. to urge more strongly for Israel to practice restraint, but as a State Department spokesperson for the U.S. said, “while recognizing the ICJ's vital role, the Biden administration has consistently made clear that Israel must take all steps to minimize civilian harm, increase the flow of humanitarian assistance, and address dehumanizing rhetoric.” Instead, the U.S. still has not called for a ceasefire, nor have they made indications of cutting back on aid or arms support even following the ICJ ruling. If Israel does not at least temper its operations down in line with the ICJ and the international community's expectations, it runs the grave risk of losing its credibility in the long term, and the same holds true for its partners.

What we have seen so far is just the initial proceedings--It will likely be years before the case will be concluded and a judgment is issued so whether or not this will change moving forward is still unknown. What is clear is that the Israeli and Western responses to the ICJ ruling have implications that expand even beyond the borders of Gaza and the West Bank. The connection between Israel, the United States, and the Gulf has been a long time forming. While GCC states like Saudi Arabia still look to the U.S. for security, they are beginning to seek partnerships elsewhere. For the Kingdom, normalizing ties with Israel has been on the table for some time. Where these three parties converge still hinges on a secure and inconvertible pathway to the establishment of a Palestinian state. The United States has the power to put an end to Israel's war with the Palestinians—both by diplomatic pressure and by withholding its immense military aid and weapons supply—it also has the ability to mend fences between Israel and the Gulf. The ICJ ruling may mark a significant point in a decades-old conflict, but its impact depends on those with the most influence in the global arena being on the right side of history.

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