What Can the Courts Offer Gaza?

By Lindsay Potter

As billions of people witness the horrors unfolding in Gaza, the recent interim ruling by the International Court of Justice (ICJ), in the genocide case against Israel brought by South Africa, feels inadequate. If the International Court is capable of nanogenocide it is incapable of stopping it, what is the usefulness of the court ruling and how can it offer justice or consolation to any population under daily attack? The answer is that it cannot. The world seemed suspended in a massive debate, unable to reign in the beast of Israeli aggression and the shameful fulfillment of its U.S. handlers.

The ICJ’s determination involves all 153 states parties to the Genocide Convention’s obligation to prevent the genocide in Gaza and criminalizes complicity. The administration is also in violation of the Genocide Convention Implementation Act under U.S. law. Yet, the UN Security Council and international courts are largely instruments of Western and nuclear-armed nations who hold overwhelming sway through vetoes and military blackmail. Codepink’s Marcy Winograd recently compiled a thorough list of ways to undermine the International Criminal Court, which tries individuals on criminal charges of human rights violations and distinct from the ICJ: “I regret to report that the ICC has not done one damn thing to help the Palestinians...” [4] has all the blood of the Palestinian people on its hands. The ICC basically operates at the behest of its funders and found- ers, the largest of which, the U.S. and Britain. In clear violation of international law, are totally exempt from international law’s jurisdiction. It did not stop the killing of one person, nor did it prevent the ethnic cleansing of Palestine. Indeed, the list of its failures is too long to be detailed here.

Francis Boyle, professor of international law at the University of Illinois College of Law, confirms the racism and cronymism of the international justice system is also embodied in the International Criminal Court, which tried individuals on criminal charges of human rights violations and distinct from the ICJ: “I regret to report that the ICC has not done one damn thing to help the Palestinians...” [4] has all the blood of the Palestinian people on its hands. The ICC basically operates at the behest of its funders and found- ers, the largest of which, the U.S. and Britain. In clear violation of international law, are totally exempt from international law’s jurisdiction. It did not stop the killing of one person, nor did it prevent the ethnic cleansing of Palestine. Indeed, the list of its failures is too long to be detailed here.

The court’s ineptitude is not news to countries like Nicaragua, who took the U.S. to the ICJ in 1984. The U.S. was found in violation of international law and ordered to cease its actions and pay reparations to Nicaragua, to no avail. The ICJ called outright for a ceasefire in Vietnam and yet the war rages on. Justice Must Lie in the Court of Global Action

Israel has shown that it intends to expand rather than end its military occupation in Gaza. Since January 26, thousands more Palestinians have been killed and Israel is threatening a ground invasion of Rafah, once described as the world zone and now hosting over a million displaced Gazans. Hospitals, refugee camps, and food convoys continue to be targeted. Aid is still denied and Israel’s Western allies pulled funding for UNRWA, the primary UN aid agency in Pal- estine. The World Food Programme has stopped issuing food to the starving population of northern Gaza and the Israeli government continues to refuse any deal for a Palestinian state.

The UN Security Council can vote on pushing for Israeli compliance through sanctions, arms embargo, travel bans, and ultimately it has the power to intervene with force. However, the U.S. has consist- ently vetoed resolutions and, in India’s words, “It is Israel’s right to defend itself,” so the question of any deal for a Palestinian state is ready to stand up, to demand for human rights and accountability to the international community.

Sane Solution

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In the 1990s, there was some real progress toward disarmament and even now, the nations of the world are uniting in support of a total prohibition of nu- clear weapons. For the past three decades, however, the United States has led the other nuclear powers in a new arms race. For elected officials and policy makers, talk of arms reduction has been replaced by “stockpile stewardship,” ensuring the nu- clear threat for future generations. While quality of life declines globally and the world faces imminent climate collapse, the U.S. Department of Energy commits trillions of dollars for “life extension” of the B61-12 and other nuclear weapons systems.

Last August, United Nations Secretary-General Antonio Guterres warned, “This year, we face an alarming rise in global mistrust and division. At a time in which nearly 13,000 nuclear weapons are stockpiled around the world — and countries are working to improve their accuracy, reach, and de- structive power — this is a recipe for annihilation.”

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Some Nations Will Not Stand By Idly

The case before the ICJ offers another venue for speaking truth. While the consequences of such a hearing may feel ineffective, it is a necessary tool for naming crimes against humanity and those who perpetrate them. It is crucial to establish the facts to set the record, in hope that doing so can begin to reorder the global power structure.

Haidar Eid, associate professor at Al-Aqsa University, wrote in Al-Jazeera: “With this case, South Africa has not only isolated itself, but the entirety of the global justice system on trial. This case is a major turning point for humanity, because it marks the first time in history when a Global South country has legally crossed the threshold and presented its case to the world. It is a great victory for the world to see the world order is in the making.”

As voices in the streets grow louder, holes are appearing in the U.S. and Europe’s steadfast deni- al. Belgium denounced U.S. arms sales to Israel, a court in the Netherlands ordered to block the export of F-35 fighter jet parts to Israel, the French foreign minister called for the lifting of the arms embargo, while the Dutch Senate unanimously approved sanctioning Isra- el, calling for an international arms embargo against Israel, and barring U.S. arms from entering Israel through Irish airspace. France, Jordan, and Canada are now air-dropping humanitarian aid off Gaza’s coast, with the U.S. now hypocritically joining this token offering to slow the cascading death toll.

The U.S. vetoed a third ceasefire resolution at the UN Security Council, declaring the Americans are “watching an eye as he enters this election year haunted by criticism of his handling of the war. President Biden signed an executive order in February sanctioning six to ten drone strikes, Brazil, France, Germany, and Italy have all supported ceasefire resolutions, including a six- week ceasefire resolution. Secret of State Blinken condemned Israeli plans for thousands of new settler homes in the occupied West Bank as “counter- productive to a lasting peace and inconsistent with international law” (a humanitarian standard he selec- tively acknowledges). It is paltry and insulting, but it is a glimmer of possibility that U.S. blank-check justifications for the Israeli government’s actions are waver, if only to save political face.

Chile, Slovenia, Mexico, Bangladesh, Bolivia, the Comoros, and Djibouti have all backed cases against Israel at the ICJ or ICC. The U.S. and Fiji are alone in support of Israel in a series of six-day hearings before the ICJ on Israel’s decades-long occupation of Palestinian territories. More than 50 countries are arguing on behalf of Palestine — the largest ever participation in the court’s history. It will take time to balance the scales against Israel, South Africa’s nuclear and armed veto power and to build a new world order. The UN Security Council has found a new world order, but these countries demon- strate they will speak out, they are ready to stand up amidst the rubble of the crumbling U.S. empire and to topple the pillars of Israeli impunity.

Painting: Fathi Ghaben (1947-2024), internationally recognized Gazan painter and educator who died from lack of medical care under Israel’s war.

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Spring 2024