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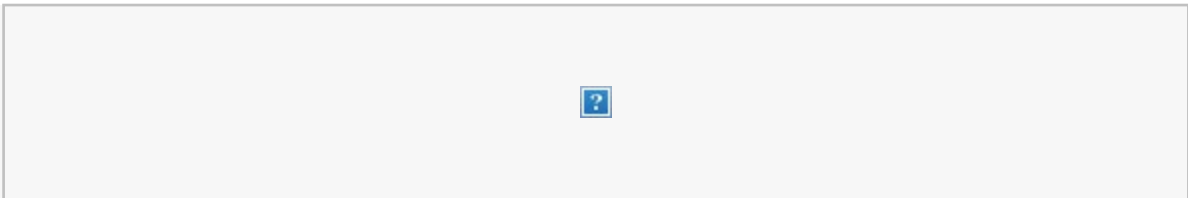


From: Daniel from RealityCheck <Contact@realitycheckresearch.org>

Sent: Friday, January 26, 2024 9:30 AM

To: Rob Kovach <rkovach@jewishfedny.org>

Subject: The Hague Issues Emergency Order on Israel



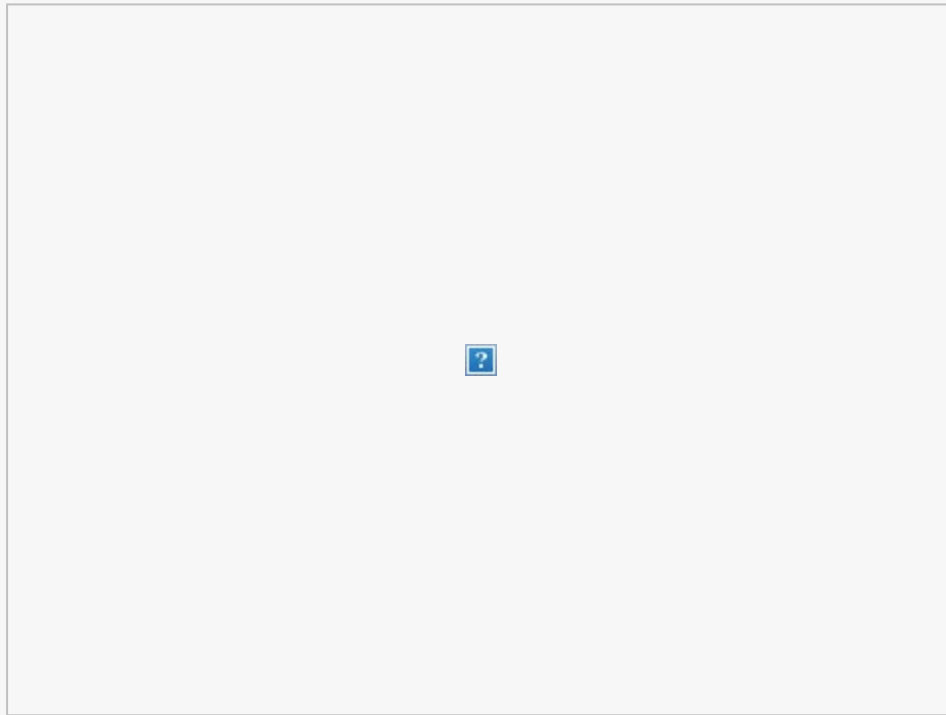
Dear Robert,

The International Court of Justice at The Hague issued a temporary order against Israel but it's not what anyone expected.

South Africa's case against Israel for "genocide" is both legally weak and morally absurd, yet also far more dangerous that you might think: because South Africa is not trying to win but rather to get an order for an emergency ceasefire. But since The Hague does not have jurisdiction over Hamas, it would be a "ceasefire" in which Israel ceases and Hamas fires: making Israel tremendously vulnerable to devastating attacks without defense.

This morning, prior to the Court's announcement I discussed some of the details and dangers of the situation. Note- this is an overview of the situation and a discussion of what *could potentially* happen - but for a summary of what *actually happened*, see the text below.

To see the video click on [THIS LINK](#) or on the image below.



In the end, the Court issued an order that is complex, subtle and ultimately mostly devoid of meaning, thus allowing Israel to continue its self-defense against the Hamas terror organization.

The Court first ruled that it has jurisdiction over this matter and that South Africa does indeed have the right to bring this case against Israel. The Court then refused to dismiss the case as Israel had requested, ruling that South Africa had made what's called a "*prima facie* case," meaning South Africa had alleged all the legally required elements necessary to bring a case under the Genocide

Convention. In my opinion this is true - South Africa did allege all the necessary elements, however it is also my opinion that South Africa's allegations are dishonest. Nonetheless, at this stage all that is necessary to avoid dismissal is to at least allege the required elements, even if untruthfully and shamelessly.

Finally the Court addressed South Africa's request for an emergency ceasefire order. In order to issue such an order the Court must find that there is a realistic danger that Israel will cause irreversible harm to the Palestinian people and thus interfere with the Court's ability to properly judge this case. The Court concluded that there is such a danger, and while I disagree, what's really important is how the Court ruled in the end: the Court issued an emergency order requiring Israel to (in summary) adhere to the requirements of the Genocide Convention, and to report on its activities after one month.

In other words, Israel is required to not commit genocide while this case is ongoing. Given that Israel is already not committing genocide, the order does not actually change anything "on the ground."

This removes a highly threatening specter that Israel might have been forced to abandon its self-defense or else face crippling international sanctions. It would also have removed much of Israel's leverage with respect to hostage negotiations. At least for now, Israel will not be faced with that particular "Catch-22."

The emergency order includes one other notable requirement: Israel is obligated to prosecute any "incitement to genocide," which means certain members of Knesset, such as Amichai Eliyahu who called for using nuclear weapons to destroy Gaza, and Bazelel Smotrich, who has called to "wipe out" entire Palestinian towns, may have to face criminal charges within Israel.

However, from another point of view, Israel might claim that those statements do not constitute "incitement" but merely an unpopular opinion that runs counter to government policy yet is nonetheless necessary to permit in a free democracy. The latter argument is bolstered by the fact that none of those politicians is a member of the "War Cabinet," none has control over military decisions, and that their apocalyptic visions did not, in fact, come to pass,

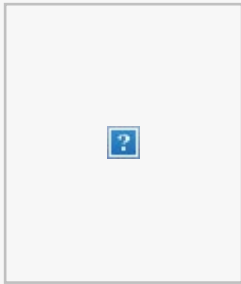
The actual litigation of the genocide case against Israel is likely to take at least

a year if not several, and in the meantime Israel will continue its self defense. There will likely be further attacks on Israel through legal, political or diplomatic means, but it is encouraging that Israel has survived at least this first volley.

All that said, it is discouraging and shameful that in the wake of the October 7 massacre, and on Holocaust Remembrance Day, the world is even discussing whether Israel committed genocide.

All in all, a complex compilation of thoughts and emotions for all of us to take in.

Shabbat Shalom,
Daniel



Daniel Pomerantz
CEO, RealityCheck

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