

Watching the watchdogs

Media downplays
a big legal story at its perilBy Rami G. Khouri
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PERSPECTIVE

In a fast-expanding global battleground, enablers and opponents of Israel's genocidal assault on Gaza are facing off in an unusual landscape: courtrooms. Over the past six months, lawyers, activists, organisations, and states who believe that international law and conventions that prohibit genocide actually mean something and must be implemented have submitted an unprecedented number of lawsuits and motions to national and international courts.

This new frontier in the century-old battle between Palestinian Arabism and Zionism is significant because it promises a more level playing field where traditional military-political strengths and weaknesses are neutralised or even reversed.

And yet, mainstream Western media is mostly staying away from covering this important story in depth.

Perhaps it is because the United States and many other Western governments are charged as complicit main backers of the crime of genocide in these cases. Or perhaps it is because an ally of the West is accused of such heinous crimes.

In February, Nicaragua urged the governments of the United Kingdom, Germany, the Netherlands, and Canada to immediately halt the supply of arms, ammunition, technology, and/or components to Israel. It gave them written notice that it would adopt all appropriate legal measures, including recourse at the ICJ, "to guarantee respect for these fundamental international texts and customary international law".

In early April, Nicaragua did take Germany to the ICJ, accusing it of "facilitating the commission of genocide" in Gaza. It formally requested the court to order the German government to stop sup-

plying weapons to Israel.

In early March, Australian lawyers referred Australian Prime Minister Anthony Albanese to the ICC for possible complicity in genocide. The submission points to Australian government actions, such as the freezing of \$6m in United Nations aid funding for the Palestinians, the export of arms to Israel, and the provision of military aid and other actions as grounds for the referral.

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In November, the respected Center for Constitutional Rights (CCR) filed a lawsuit in a California court on behalf of Palestinian families in Gaza and the United States, accusing President Joe Biden, Secretary of State Antony

Blind, and Secretary of Defense Lloyd Austin of failure to prevent and complicity in the Israeli genocide against the Palestinians in Gaza. They sought a court decision to order the US government to end military and diplomatic support to Israel while the genocide continues.

The court found that Israeli actions "plausibly constitute genocide" and implored Biden to examine the unwavering US support for it but decided it was unable to rule on the matter because foreign policy is an executive branch prerogative.

In March, CCR filed an appeal supported by more than 100 attorneys, experts, and human rights organisations, arguing that stopping genocide is legally mandatory, not optional, in US and international law. The appeals court is set

man rights organisation Al-Haq and the UK-based Global Legal Action Network asked the UK's High Court to prohibit the granting of licenses for weapons exports to Israel because it commits atrocities in Gaza. The court dismissed the case, but Al-Haq vowed to seek another court hearing on the issue.

In February, in a similar case brought by Oxfam Novib, Pax Nederland, and The Rights Forum, a Dutch court of appeals ordered

of laws against genocide and war crimes, including the terms of the German Arms Control Act.

Meanwhile, Palestine Speaks and Jewish Voice for Just Peace in the Middle East filed a lawsuit against former German parliamentarian Volker Beck, the head of the German-Israeli Society, for suspected incitement of hate and denial of war crimes in Israel's war on Gaza. What this moment reveals, Shamas told me, is how national and international legal systems operate in parallel, not in a hierarchy. The genocide charge is so significant that it opens up new legal and other avenues of action to stop it, such as public demonstrations, petitions, lobbying in Washington, and activism. "The intersection of politics, law, and activism is on full display," she said.

"We may be only seeing the beginning of litigation against governments, individuals, or corporations. Weapons manufacturers, energy companies, and others could be charged, and many individuals associated with the genocide accusations should be worried," Shamas said.

Legal cases are one of the most powerful means of bringing facts to the attention of the world, exposing criminal behaviour, and seeking redress for gross injustices. This arena should be a natural ally to the media, which ideally should disseminate facts and credible analysis.

As the legal challenges to Israel's genocide keep growing around the world and implicate Western governments, officials, and companies as accomplices, it is no surprise that the mainstream Western media continues to ignore or downplay them. But a time will come when Western complicity in the Israeli genocide of the Palestinians will become impossible to cover up. Media organisations would do well now to at least report honestly on the surge of global litigation against Israel's genocide. Otherwise, they run the risk of being swept up in the tide of the many political and corporate accomplices now being named in courts around the world.

The full article first appeared on Al Jazeera.



Judges are seated at the International Court of Justice (ICJ) in The Hague, Netherlands, on April 8, 2024, before a public hearing on Nicaragua's claim that Germany is aiding an Israeli genocide in Gaza.

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A few weeks later, Law for Palestine, supported by the Independent Commission for Human Rights - Palestine (ICHR) and 15 Arab and international groups sent a communication to the ICC demanding the court investigate accusations of Israeli war crimes and genocide.

In most cases, only local news outlets covered these novel de-

velopments, which collectively represent a dramatic new phase in what has become a global battle between pro-Israel states and anti-colonial and anti-apartheid activists in the Global South.

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to hold an initial hearing in June. CCR Senior Staff Attorney Diala Shamas, who works on the organisation's anti-genocide cases and was in The Hague for the ICJ sessions, told me in an interview last week that different parties are exploring using a variety of legal avenues to halt the genocide as quickly as possible.

In December, the Palestinian hu-

the government to stop the delivery to Israel of spare parts for the F-35 fighter jet, citing a clear risk of violations of international law.

In early April, Berlin-based lawyers filed an urgent application on behalf of Palestinian families in Gaza to stop the German government from approving contracts for weapons sales to Israel, which they believe uses them in violation

ICJ made the right call on Israel's actions in Gaza

By Alper Ali Riza
King's counsel, retired
part-time judge

OPINION

Last week this column [on Cyprus Mail] reported on an open letter to the UK prime minister signed by 1,200 prominent lawyers and retired judges on April 3, 2024, expressing concern that the government's current policy of unconditional support of Israel's operations in Gaza was in breach of the UK's obligations under the 1948 Genocide Convention to prevent genocide.

What lay behind the letter (the law-

yers' letter) was a strong belief by its signatories that the ruling by the International Court of Justice (ICJ) on January 26, 2024, that Israel's operations in Gaza raised a plausible risk of genocide had legal consequences for all state parties. Thus, the UK government now has an overriding obligation to eliminate the risk of genocide and specific obligations in its weapons trade with Israel to avoid being complicit in genocide.

What the ICJ actually said was that there was "real and imminent risk that irreparable prejudice will be caused to the rights found by the court to be plausible". That finding by the ICJ has been subject to huge controversy amongst some of the top legal minds in the UK.

On April 5, 2024, the UK Lawyers for Israel (UKLFI) published a counter-letter signed by 1,300 retired judges and prominent

lawyers including a former head of the civil division of the Court of Appeal, Lord Dyson, and the well-known barrister Lord Pannick, arguing that the assertion in the lawyers' letter that there was a plausible risk of genocide was based on a mistaken reading of the ICJ ruling.

The argument of UKLFI is that the ICJ did not find Israel's operations in Gaza raised a plausible risk of genocide — thereby

engaging the UK's obligations — but rather that the right of Palestinians in Gaza not to be subjected to violations of the Genocide Convention was plausible.

The argument is obtuse, but what it appears to be is that the ICJ was concerned with provisional measures to preserve the rights of both the Palestinians and the Israelis pending a determination of the merits of South