



HOUSE OF COMMONS
CHAMBRE DES COMMUNES
CANADA

Heather McPherson

Member of Parliament
Edmonton Strathcona

The Honourable Mélanie Joly
Minister of Foreign Affairs
Global Affairs Canada

January 9, 2024

Re: South Africa application to International Court of Justice on situation in Gaza

Dear Minister Joly,

I write to you today alarmed at Canada's continuing inaction in the face of horror in Gaza, and in response to South Africa's application to bring proceedings against Israel at the International Court of Justice over risk of genocide in Gaza.

Since the horrifying Hamas terrorist attacks of October 7th - the deadliest in Israeli history, killing more than 1,200 civilians - and the beginning of this latest brutal assault on Gaza by Israeli forces, tens of thousands of people have been killed, of whom two-thirds are women and children. Over 57,000 Palestinians have been injured, with 1.9 million internally displaced (85 % of the population).

Netanyahu's bombing campaign in Gaza is [the worst we have seen this century](#). As I write, some Canadians and their loved ones are still prohibited from leaving Gaza, including the [Kouta family of London Ontario](#). Friends and family of Canadians are still held hostage, also at risk of being killed in the bombardment and ground offensive. Homes and infrastructure are entirely flattened. Churches and schools are attacked. Diseases are spreading. Hospitals are not functioning. There is no place safe in Gaza as the bombs continue to fall. Gaza is the

most dangerous place in the world to be a child. This offensive is not eliminating Hamas, nor is it rescuing hostages; it is destroying an entire population and its means of survival.

Over the past 90 days, a quarter million Canadians have written to us in shock and despair, demanding a ceasefire and real action from your government. New Democrats first called for a ceasefire and the release of all hostages on October 11th. As Canada refused to act, we wrote to the Prime Minister with [several proposed actions on November 1st](#). In Parliament, in letters, in media, and in person, we have urged your government to demand an immediate ceasefire and release of all hostages, an end to the blockade of Gaza, and unimpeded humanitarian aid; ensure Canadians and their loved ones in Gaza can reach safety in Canada, while respecting the legal right of Gazans to return; give full support to international justice efforts by the ICC and ICJ; end arms sales to Israel and increase efforts to ensure illegal arms do not reach terrorist groups like Hamas; and [ban extremist settlers](#) involved in West Bank violence from entering Canada.

Your government has inexplicably failed to take the above actions.

I remind you of Canada's obligations under the Geneva Conventions to ensure respect for international humanitarian law, and Canada's treaty obligations to prevent genocide where there is a real risk of it being committed. All violators of human rights and international law must be held to account. This includes all non-state armed actors who have committed atrocities or called for the destruction of Israel such as the terrorist group Hamas. It also includes actions committed by the government and military of the State of Israel.

Last week, South Africa initiated proceedings in respect of events in Gaza before the International Court of Justice (ICJ), the principal judicial organ of the United Nations. In its [84-page application](#), South Africa argues Israel's offensive in Gaza is a violation of the 1948 Genocide Convention, to which both it and Israel are signatories. South Africa's application also condemns Hamas's atrocities and hostage-taking and argues that "no armed attack on a State's territory no matter how serious—even an attack involving atrocity crimes—can (...) provide any possible justification for, or defence to, breaches" of the Genocide Convention.

This is a crucial time for Canada to uphold the principles of international justice. The ICJ will hold an urgent hearing on this matter on January 11th and 12th. Legal experts have said there is a high possibility that the court could impose provisional measures on Israel as early as late January.

I am asking you today not to intervene in opposition to this case, and to support the decision of the Court.

France has already publicly committed to supporting the Court's decision and I urge Canada to make the same commitment.

Over the past several years, your government has opposed international justice efforts regarding the situation on Israel-Palestine while intervening in favor of cases against

Myanmar, Syria, Iran and Russia. In July, Canada shockingly asked the ICJ to drop an advisory opinion on the occupation and annexation of Palestinian territories, and Canada [continues to oppose](#) the International Criminal Court's jurisdiction in the region.

In November, Canada [joined with other countries](#) to support Gambia's application on genocide against Myanmar. It is important to note that Canada's joint declaration states that evidence of genocide can include "a violent military operation triggering the forced displacement of members of the targeted group" and can also include "subjecting a group of people to a subsistence diet, systematic expulsion from homes and the induction of essential medical services below minimum requirement." Canada's joint declaration also argued that the scale of deaths in this situation is "merely a starting point" in considering the intent of atrocities, and "the determination of a State's intention to destroy a group is not contingent upon the number of people killed."

Canada should apply the same understanding of genocide to any situation in which these facts might occur. Further, Canada has the responsibility and obligation under international law to *prevent* genocide wherever it may occur, and by any signatory to the Genocide Convention. Per the ICJ, this obligation to prevent genocide exists whenever the risk of genocide is serious and applies even in the absence of a legal determination that genocide has been committed.

Moreover, experts caution that if the ICJ eventually finds that genocide was committed in Gaza, that Canada, and any other states supplying military weapons and technology to Israel, would be viewed as complicit. I once again urge you to respond to the NDP's call to immediately end all military exports to Israel and to work harder to end illegal arms transfers to Hamas.

This is a pivotal moment for Canadian foreign policy. The choices that you will make in the next weeks will show whether Canada stands for justice for all people, or whether we pick and choose whose rights matter. If Canada truly supports a rules-based international legal order, then I urge you not to oppose as the International Court of Justice does its essential work in this case.



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