

Legal Realism Perspective on the International Court of Justice Judges in the 2023-2024 Israeli Occupation of Palestine

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Abstract

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The research analyze how legal, political and personal factors influenced judges' decisions at the International Court of Justice (ICJ) in the 2023-2024 South Africa v. Israel case, based on a legal realist perspective, this paper analyzes the work of 15 judges of the International Court of Justice (ICJ). The study explores the potential impact of personal background, national ties, political contexts and external interest groups' role on the court's temporary orders and suggests that extraneous power relations, interest groups and interest-based partnerships, alongside national political alliances, can influence the judicial system's administration of justice. The article concludes that despite the ostensible autonomy of ICJ judges, their jurisprudence in political cases often aligns with the foreign policies of their respective nations.

Keywords: Legal Realism, International Court of Justice, Palestine-Israel Conflict, International Law

1. INTRODUCTION

The Israeli occupation of Palestinian land remains a long and debated international conflict as it has caused human rights abuses and displaced many people. For many decades, the occupation has caused problems in the region. From the middle of the last Century, several wars, failed peace attempts and foreign interventions shaped this conflict (Pappé, 2008). When violence increases, legal and advocacy groups, along with foreign governments, must act. Many people around the world condemned it and the United Nations has also passed rulings, but the occupation stays (Al-Nashif, 2024). This shows how little international law talks can do. The fact that the problem has prolonged for many years demonstrates how politics and legal action connect, especially when strong countries are involved (Krisch, 2005).

In 2023, the Republic of South Africa initiated a legal process. South Africa sued the State of Israel at the International Court of Justice, claiming Israel committed genocide in Gaza since Israel did not follow the 1948 Convention on the Prevention and Punishment of the Crime of Genocide (Genocide Convention). This event was important legally and politically, according to Adler and Bishara (2024). South Africa showed support for Palestinian rights to the world. The International Court of Justice reacted by giving six orders in January 2024. First, the State

of Israel shall, in accordance with its obligations under the Convention on the Prevention and Punishment of the Crime of Genocide, in relation to Palestinians in Gaza, take all measures within its power to prevent the commission of all acts within the scope of Article II of this Convention, in particular: killing members of the group; causing serious bodily or mental harm to members of the group; deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; and imposing measures intended to prevent births within the group (International Court of Justice, 2024).

Second, the State of Israel shall ensure with immediate effect that its military does not commit any acts described in point 1 above. The State of Israel shall take all measures within its power to prevent and punish the direct and public incitement to commit genocide in relation to members of the Palestinian group in the Gaza Strip. Third, the State of Israel shall take immediate and effective measures to enable the provision of urgently needed basic services and humanitarian assistance to address the adverse conditions of life faced by Palestinians in the Gaza Strip. Fourth, the State of Israel shall take adequate measures to prevent the destruction and ensure the preservation of evidence related to allegations of acts within the scope of Article II and Article III of the Convention on the Prevention and Punishment of the Crime of Genocide against members of the Palestinian group in the Gaza Strip. Fifth, the State of Israel shall submit a report to the Court on all measures taken to give effect to this order within one month as from the date of this order (International Court of Justice, 2024).

These orders asked Israel to stop genocidal acts and to punish those who encourage genocide. Israel also had to help with humanitarian aid. The Court instructed Israel to retain the evidence and submit a compliance report, but it did not specifically request a ceasefire. The public who witnessed the case considered this a significant oversight, particularly given the violence and suffering in Gaza at the time (Steenberghe, 2024).

The International Court of Justice's decision drew notice from many and the public soon looked at the fifteen permanent judges who issued the order. The judges did not act as nameless legal experts; they had varied histories that were shaped by their country's legal, cultural and political settings. Each judge passed through a selection process. This process included legal expertise, state politics and international talks (Amr, 2003). On that account, their decisions, particularly in cases of global concern, need to be viewed through the lens of their histories. Legal Realism provides a helpful way to see this. The theory posits that judges do not base their choices only on legal rules but also their identity, origin and political context affect them (Holmes, 2004).

Fifteen judges, from countries with diverse foreign policy views on Israel and Palestine, sat on the International Court of Justice during the 2023-2024 case. Judges from the United States, along with Germany, came from nations that support Israel diplomatically and militarily. Judges from South Africa or Lebanon represented states that criticize Israeli policies and ask for more protection of Palestinian rights (Green & Smith, 2024). A judge should be fair, but their individual votes, separate opinions or disagreements often fit the political views of their home states. Comparing these positions demonstrates how influence appears which Legal Realism helps explain.

When the International Court of Justice declined to order a ceasefire, many legal experts questioned its decision. The Court found a likely risk of genocide, but it still did not issue the order. On one hand, the Court acknowledged that the situation was grave, but on the other it did not exercise its full power to end the occupation (D'Alessandra, 2023). This shows that judges weighed legal obligations against diplomatic outcomes. Some scholars think judges in Western countries may have resisted a tougher order to prevent political turmoil. Meanwhile, the judges from Global South may have asked for a more humane answer. These inner conflicts within the Court show the impact of state politics, as Legal Realism propounded (Krisch, 2005).

This article aims to examine the ruling of the International Court of Justice. The examination assesses the decision through the views of the fifteen judges who issued it, considering how all judges from different backgrounds and political contexts were influenced

by external factors or state alignments. A comparison among judges allows for a broader and more equal understanding of how international law applies in actual cases.

2. ANALITICAL FRAMEWORK

The research is conducted using Legal Realism theory. Legal Realism challenges the idea that judges mechanically apply the law without bias. Scholars such as Oliver Wendell Holmes Jr. presented this idea. The theory asserts that the experiences, beliefs and social settings of those who interpret law influence its development. Legal Realism is based on the notion that judges do not function in isolation; instead, they are embedded within broader societal structures. The influence of political pressures, cultural contexts and individual beliefs on legal decisions outweighs the role of abstract legal rules in shaping them (Holmes, 2004).

- a. **Judicial Decision-Making:** In Legal Realism, judicial decisions are seen as the result of personal judgment and external forces (Holmes, 2004). According to Holmes (2004), judges' decisions often reflect their backgrounds and values, as well as the expectations of the groups and places they work for. Their thinking may shift because of the policies their governments set. The beliefs of the legal communities they join or the job prospects they pursue also sway them. This idea holds that judges' readings are shaped not only by legal texts but also by personal and social facts.
- b. **Political Context:** Judges operate in a political environment that shapes their behavior (Holmes, 2004). Political situations in judges' home countries shape their judicial behavior. According to Holmes (2004), this happens because of a country's foreign policy in a given case, its political alliances, and its past relations with other countries. Judges usually reflect their state's main interests in how they reason about the law. This is especially true in cases with important political outcomes. When one knows the political setting, one can explain why people vote a certain way, why some judges disagree and what tone judicial language has.
- c. **Interest Group:** International advocacy networks, media and legal scholars, along with non-governmental organizations, help form judicial discussion (Holmes, 2004). Legal Realism shows that courts do not operate in isolation. According to Holmes (2004), actors in a larger system, through reports, expert commentary and public campaign, shape how people present legal arguments and help judges assess the importance and truth of legal claims.

This article used Legal Realism to study how political power affected the International Court of Justice's judgment in the 2023-2024 South Africa v. Israel case. Through this approach, the research examined how the fifteen judges' choices reveal their political leanings and diplomatic affiliations, along with the interest-group actions associated with the case. This helps one understand how international law works, mainly when the legal activity includes countries with greater global power.

3. RESEARCH METHOD

The research employed a descriptive-analytical method to explain how external factors such as judges' background, political context and interest groups affected the choices of 15 judges at the International Court of Justice in the 2023-2024 South Africa v. Israel case. The study interprets documents and statements, as well as recurring actions, to understand the political conduct in judicial decisions.

The research used library materials and collected data from sources which include documents from the International Court of Justice, such as the Court's orders, opinions and documents that differ from or agree with them. The data also included articles from academic journals, books on international law and legal theory, news reports and statements from state

governments. Reports from human rights groups and advocacy organizations also became the source of the data. The study used these materials to examine how judges' political stance, as well as that of civil society, affected the legal arguments and the case's outcome.

The research began by identifying literature and key sources on the International Court of Justice, Legal Realism and the South Africa v. Israel case. After collecting the International Court of Justice's documents and other facts, the materials were put into three main analytical groups, as posited by Legal Realism: judicial decision-making, political context and interest of larger groups. The data was analyzed using the Legal Realism theory, which shows how political interests from judges' countries and institutional habits, as well as the broader global context in which the case occurred, affected their legal thought.

4. RESULT AND DISCUSSION

4.1. Judicial Decision-Making: Backgrounds, National Interests and Voting Behavior of the Fifteen International Court of Justice Judges

From the standpoint of Legal Realism, a judge's decision is tied to the judge's daily circumstances and national ties. This idea holds that judges do not operate like legal machines in an abstract void, rather they are people whose socio-political surroundings, loyalties to institutions and past work experiences shape them (Waxman, 2007). At the International Court of Justice, political groups such as the United Nations General Assembly and the Security Council choose the judges. In the case of South Africa v. Israel in 2023-2024, the 15 International Court of Justice judges came from diverse settings and nations, which reflected a mix of ideas and political connections between countries and connected directly to how they acted as judges. Legal Realism helps us read their votes, dissents and separate opinions not only as legal thought but also as displays of broader political and diplomatic stances.

Judge Joan E. Donoghue from the United States presided over the International Court of Justice during this critical case. She had a long history in United States foreign policy and previously served as the principal deputy legal adviser at the United States Department of State. Her careful leadership and focus on legal rules in the Court's decision reflected the Biden administration's diplomatic stand, which refused charges of genocide and continued military help to Israel (Green & Smith, 2024). Judge Donoghue chose not to order a ceasefire, even though she admitted that genocide "might have happened". This choice demonstrated judicial control that aligns with the United States' political calculations and the broader legal culture in the West (Al-Kassab, 2024).

Judge Kirill Gevorgian from the Russian Federation served as the Court's vice president. He is from a state that stands against Western power. Russia's foreign policy in the Middle East has shown a lack of clear support for either Israel or its rivals. Judge Gevorgian's careful approach to judging and his opinions, which did not use hostile language, showed that Russia is not aligning with any parties of the conflict. Russia wants to weaken legal plans that the United States leads, but it does not openly back anti-Israel views (Berg, 2024).

Judge Nawaf Salam from Lebanon spoke one of the most critical opinions about Israel. Lebanon has a long history of hostility toward Israel, which includes several wars and ongoing border disagreements. This history shapes Judge Salam's outlook and his legal work. His separate opinion stressed international humanitarian law and the obligations of countries under the Genocide Convention. As a former United Nations ambassador and a scholar of Middle Eastern law, Judge Salam's opinion demonstrated Lebanon's diplomatic backing for the Palestinian cause. It highlighted the Legal Realist belief that judges bring national ideas into the courtroom (Adler & Bishara, 2024).

Judge Xue Hanqin from China showed how to balance legal duties with caution about politics. China's stated policy backs Palestinian statehood, but it also has good economic and technological relations with Israel. Judge Xue's court position did not use words that could raise issues. She put procedural order first, avoiding the deeper issues. Her reasons showed

China's idea of not interfering. This also aligns with the broader political plan to remain neutral while building ties with both sides of the conflict (Follesdal, 2020).

Judge Ronny Abraham, from France, worked as a diplomat and legal advisor. He spoke about France's moderate view regarding the Palestine-Israel conflict. France showed worry about the humanitarian conditions in Gaza, but did not support the claim of genocide. The judge's legal reasoning helped the Court issue the provisional measures. The Court recognized an urgent need for humanitarian aid but did not order a ceasefire. His method, grounded in legal limits, demonstrated France's common dedication to diplomacy and support for nations working together. France also wished to maintain stable conditions within international groups (D'Alessandra, 2023).

Another judge in this case was Judge Julia Sebutinde from Uganda. She was the only judge to dissent entirely from the Court's ruling. Her dissent stated that South Africa "did not meet the standard of plausibility for genocide" (Al Jazeera, 2025). This position surprised many observers because Uganda had always supported Palestinian self-determination; however, one can understand Sebutinde's position when considering Uganda's growing military and intelligence cooperation with Israel. This also shows the changing alliances in East Africa (Segate, 2023). Her dissent showed how the foreign policy goals of a judge's home country often guide this reasoning, as stated by Legal Realism.

Judge Georg Nolte from Germany showed his country's long-term moral and political backing for Israel. Germany regularly denies claims of Israeli genocide, stating that such findings "need proof". Judge Nolte's legal texts, which described proof rules and fair processes, upheld Germany's policy of absolute support for Israel's safety (Abdelhafez, 2024). His agreement with German foreign policy supports the claim of Legal Realism on the link between court decisions and state goals.

Judge Hilary Charlesworth from Australia holds a special place among human rights experts. Her opinion focused on defending the people, but did not call Israel's actions as genocide. Australia's foreign policy has often shifted between siding with Western countries and worrying about international law. Judge Charlesworth's thought shows this double nature. This reveals how judges take on and show the carefulness of their governments in diplomacy; they still put human rights discussions first (Meron, 2005).

Judge Leonardo Nemer Caldeira Brant from Brazil works for an administration that openly criticizes Israel's actions. The administration voted for a ceasefire at the United Nations General Assembly. His judicial stance showed this political atmosphere. He prioritized the humanitarian effects of the conflict. Under President Lula da Silva, it moved toward Global South solidarity and diplomacy involving many nations. This puts Judge Brant's vote and his separate explanation for more humanitarian steps into perspective (Wahyuni, 2024).

Judge Mohamed Bennouna, a Moroccan, wrote numerous texts on postcolonial legal theory and the idea of self-determination. Morocco has long stood by the Palestinian cause. The country's place in the Islamic world, along with its Arab areas, aligns Bennouna's focus with international accountability. His separate statement showed worries shared by judges from the Global South—these judges saw Israel's actions as occupation and oppression, along with colonial control (Smith, 2001).

Judge Patrick Robinson of Jamaica gained valuable experience while serving at the International Criminal Tribunal for the former Yugoslavia. During this time, he handled cases involving genocide and crimes against humanity. In his written opinions, he emphasized how serious the accusations were and the legal duty to prevent genocide. Jamaica's foreign policy does not align with any major powers. The country shows Leadership among developing nations. This allowed Judge Robinson to adopt a moral humanitarian position without feeling limited by the political influence of major powers (Bishop, 2011).

Judge Yuji Iwasawa from Japan has a reputation for using technical and factual language. He does not use strong political words. Japan's foreign policy tries to avoid direct arguments, particularly in the Middle East issues. This happens because Japan relies on the United States for military protection and on the Middle East for energy. Judge Iwasawa pays

attention to legal rules and evidence requirements—this fits with Japan's careful approach to diplomacy and illustrates a point from Legal Realism, which holds that judges' reasoning often reflects the risks a country avoids in its diplomacy (Holmes, 2004).

Judge Péter Kovács from Hungary works for a state under Viktor Orbán, which supports nationalism and maintains close connections with Israel. Judge Kovács writes much about state control. He often limits his reading of international rules for human welfare. His legal views reduce the importance of doctrines that support intervention. This fits with Hungary's dislike of liberal internationalism. Hungary backs noninterference, particularly when its allies are involved.

Israel chose Judge Aharon Barak as an *ad hoc* judge. South Africa picked Judge Alain Pellet. Judge Barak is a former president of Israel's Supreme Court and he spoke in support of Israel's military actions. He denied charges of genocide. Many were worried about his fairness because he had backed Israel's security plans before. Meanwhile, Judge Pellet, who is a French scholar criticized Israel's actions, saying they broke the Genocide Convention. These different views show a point in Legal Realism—judges often pick to serve their state's goals (Rosen, 2004).

The Court's decision in this case showed that judges' national ties and legal ideas are connected. A look at judges' life histories, countries' foreign policies and global settings helps one grasp how law and politics combine in international court cases. Judges from Western countries such as the United States, Germany, France, Australia, Japan, and Hungary have shown a tendency to reject the use of the term “genocide” and emphasize more on procedural aspects and high standards of proof; This is in line with the diplomatic positions of these countries, which generally maintain political or security support for Israel. In contrast, judges from Global South countries such as Lebanon, Brazil, Morocco, Jamaica, and *ad hoc* South Africa displayed greater sensitivity to humanitarian and human rights issues, reflecting the countries' political solidarity with Palestine and their historical experiences with colonialism, structural injustice, and the struggle for sovereignty.

Between the two sides, some judges, such as those from Russia, China, and parts of Europe, showed a more cautious position, tended to be technical, and avoided political language. Their stance reflects the foreign strategies of their respective countries, which seek to maintain space for geopolitical maneuvering and avoid getting caught up in a confrontation between the Western bloc and the Global South. The sharpest differences are seen in Judge Sebutinde's full dissent rejecting claims of genocide plausibility, as well as in Judge Barak's *ad hoc* position openly defending Israel's security narrative. Hence, the composition and views of the ICJ judges in this case support the main thesis of Legal Realism: international legal decisions never rest solely on legal texts but are always influenced by the interests of the judge's country of origin, geopolitical orientation, and global political identity.

4.2. Political Context: How the Judges' Countries Shaped their International Court of Justice Behaviour

Legal Realism holds that international courts rule within a political setting in which judicial decisions reflect that setting. The International Court of Justice has judges from different countries. Political bodies, such as the United Nations General Assembly and the Security Council, select these judges. Each judge reflects the law, foreign policy, and the political stance of their home country. In important cases, such as *South Africa v. Israel*, political factors help explain why judges vote as they do, their differing opinions and the Court's general atmosphere. The 2023-2024 case happened when political groups became more separate. People across the globe watched Israel's military actions in Gaza closely. The choices the judges made often match the foreign policy goals and diplomatic actions of their home countries.

The United States, where the International Court of Justice President Joan Donoghue is from, has long been a firm ally to Israel. From the 1970s, the United States has supplied more than \$150 billion in military and financial aid to Israel. The nation also always guarded

Israel from international legal blame—it uses its veto power at the United Nations Security Council for this purpose (Findley, 1993). In the 2023-2024 case, the Biden government denied charges of genocide. It said Israel had a right to defend itself. This showed the two countries' strategic connection and common democratic beliefs (Berg, 2024). Judge Donoghue's leadership and the Court's careful words show an accord with the United States' interests. The International Court of Justice chose not to order a ceasefire—even though it admitted that genocide “seemed possible”. One can see this as judicial carefulness. This shows how states with power affect courts' decision without openly pressurizing it. They also align with norms and expect institutions to act in certain ways.

Germany's role in shaping how judges act is similar. Judge Georg Nolte works for Germany, which has a constitution and history that commits to supporting Israel. The German Chancellor, Olaf Scholz said during the court case that Germany saw no legal reason for charges of genocide. He also promised full support for Israel's right to defend itself (Abdelhafez, 2024). Germany told the public that it did not agree with South Africa's statements. Nolte talked about legal limits, the need for proof and what states must do. His words match Germany's careful legal actions. His views showed that Germany takes a careful legal approach to keep its political interest steady in alliance with Israel.

On the other hand, Lebanon represented by Judge Nawaf Salam, showed how political dislike of Israel shaped a judge's view of the law. Lebanon does not have formal ties with Israel. The country sees the Palestinian cause as important to its place in the area and to its own government matters. The Lebanese government openly backed South Africa's request and approved the temporary measures ordered by the International Court of Justice. Judge Salam served as a United Nations Ambassador, studied law and wrote his own opinion on the matter. In it, he found fault with Israel's actions in Gaza. He also stressed the part of the Genocide Convention that deals with human suffering (Adler & Bishara, 2024). His legal thoughts fit with Lebanon's long-term backing for a Palestinian state. This shows how judges from opposing countries can resort to broader readings of international law when the political atmosphere is tense.

Judge Ronny Abraham spoke for France. France sits on the United Nations Security Council and has interests in Middle East diplomacy. The country showed worry about the humanitarian issues in Gaza, but did not support claims of genocide. President Emmanuel Macron said that “people must avoid more escalation” (Reuters, 2024). He also asked for Israel's reactions to fit the situation. Judge Abraham showed this unclear stance—he backed temporary actions but did not use words that could “upset” Israel. This care by the judge shows that judges can reflect their government's wish for a neutral and fair legal position, thereby keeping diplomatic options open (D'Alessandra, 2023).

Brazil's part in the case changed. Under President Luiz Inácio Lula da Silva, Brazil held a critical view of Israel's military actions. The Brazilian government asked for a ceasefire—it found fault with Israel's use of force against civilians, saying it “went too far” (Wahyuni, 2024). Judge Leonardo Nemer Caldeira Brant, from Brazil, represented this view. He stressed the need for humanitarian aid. He also tailored his legal reading to South Africa's request. Judge Brant's stance showed that judges respond to their state's foreign policy and beliefs.

Russia, along with China, criticized the West's control over international law. Judge Kirill Gevorgian spoke for Russia. He made “careful” statements during the case—he neither fully backed nor rejected South Africa's claims. Russia used the case to argue that Western foreign policy followed two distinct rules (Krisch, 2005). This included how the West chose to interpret the law governing the protection of civilians. Judge Gevorgian's reasons did not use harsh words—this showed how Russia wanted to find fault with the West without upsetting Israel or its allies.

Furthermore, Judge Xue Hanqin, who represented China, supported the Court's approach to addressing concerns about civilians while maintaining a careful legal tone. China's foreign ministry asked for a ceasefire and a two-state solution, yet it did not specifically

mention the word "genocide". Judge Xue's choice for "clear" procedures rather than outright political statements aligned with China's official stance (Follesdal, 2020).

The judges from the Global South, Judge Alain Pellet from South Africa, Judge Mohamed Bennouna from Morocco and Judge Patrick Robinson from Jamaica, presented views rooted in anti-colonialism, human rights and international accountability. These nations have often backed Palestinian self-determination and opposed what they saw as Western legal hypocrisy. Whom South Africa chose presented a direct legal criticism of Israel's actions. He drew on ideas of state responsibility and moral duty. Judge Bennouna focused on territorial integrity and decolonization, connecting Israel's control to broader issues of past injustice (Smith, 2001). Judge Robinson highlighted that international legal rules apply to everyone and people should stop committing wrongdoings.

Judge Hilary Charlesworth from Australia offered a moderate approach to the issue. Australia's official position joined worry for civilian protection with backing for Israel's right to defend itself. Judge Charlesworth's opinion, which came from human rights law, did not take up South Africa's idea of genocide. Her careful approval of the temporary actions mirrored Australia's attempt to "balance" Western partnerships with domestic and global human rights demands (Meron, 2005). Similarly, Judge Yuji Iwasawa from Japan followed a strict legal approach, reflecting Japan's commitment to procedural fairness and its reluctance to become involved in divisive global disputes.

With Judge Péter Kovács as its representative, Hungary came to align more closely with pro-Israel policies after Viktor Orbán became its prime minister. Hungary denied the European Union's statements that criticized actions by Israel. The country also supported the idea of not interfering in other nations' business. Judge Kovács' legal argument defended the principle that states control their own affairs. He did not believe in humanitarian interventions and this view aligned with Hungary's general stance on global politics.

The International Court of Justice's political design merits a review. The judges know the Court relies on help from member states of the United Nations, especially from powerful countries. The International Court of Justice lacks the power to enforce compliance; it has only moral standing and the authority of international agreements. Its decisions often show a careful balance of legal duty and political endurance. The choice to issue provisional measures without ordering a ceasefire shows this struggle. A ruling like this points to a worry without "angering" the powers on which the Court depends for its standing and authority (Berg, 2024).

In summary, the political settings in the judges' home countries broadly shaped how they read and applied international law in this case. Legal Realism offers a way to uncover such connections—it shows that judicial behavior does not just come from legal rules. It results from national interests, strategic ties and institutional demands. The International Court of Justice's careful but symbolic decision in *South Africa v. Israel* shows this. Even at the highest levels of international law, the Court guides itself through the forces of diplomacy, belief systems and global power balances.

4.3. Interest Groups: Influence of Advocacy, Legal Institutions and Media on the International Court of Justice

Legal Realism proposes that law does not stand as a separate system of impartial ideas. The social and political setting shapes it as legal groups act. Interest groups, public opinion and global news can all affect judicial choices as they exert indirect but significant pressure on them. In the case of *South Africa v. Israel*, many groups outside the states involved had worked to sway the International Court of Justice. They influence how judges issue their rulings. Advocacy groups, legal bodies and diplomatic channels reveal how power operates in international court cases (Holmes, 2004).

Human rights groups helped form legal talk before and during the International Court of Justice hearings. Organizations such as Human Rights Watch, Amnesty International, Al-Haq and the International Federation for Human Rights published thorough reports. These

papers recorded many civilian deaths, damaged buildings and likely incidents of broken rules of the Genocide Convention in Gaza (Shafiqul Islam et al., 2022). These organizations often base their reports on research and satellite pictures. These reports strengthened South Africa's legal position and shaped public opinion accordingly. These organizations did not formally present these reports to the court as evidence; however, the public often cite these writings in legal briefs and advocacy papers. These writings may have presented different opinions of some judges (Abdelhafez, 2024).

At the same time, academic groups and international law experts described the conflict in legal terms. Many scholars from institutions such as School of Oriental and African Studies, University of London, New York University and the University of Pretoria signed open letters and public statements. These papers asked the International Court of Justice to follow international humanitarian law and to act firmly against what they called ethnic cleansing and genocide (Adler & Bishara, 2024). Popular sites such as *Opinio Juris* and *EJIL: Talk!*, as well as the *European Journal of International Law*, hosted legal discussions and criticisms of the court's decisions. These talks affected how the public saw the case legally, as well as how judges felt watched by knowledgeable groups. These sites often work as casual places where people build and argue about legal issues and help form, what Legal Realists name, "extra-legal" reasons that affect how people use and grasp law (Pickering, 2014).

News sources also helped spread these stories and shape public opinion. Major news outlets like *The Guardian*, *Al Jazeera*, *Haaretz*, *The New York Times* and *BBC* reported extensively on the hearings at the International Court of Justice. They sometimes streamed the proceedings live and brought in legal specialists to discuss them. This constant reporting made the hearings more visible and pushed the International Court of Justice to appear fair and follow the rules. When civil groups closely monitor international court, media attention can hold them to account (Meierrieks & Gries, 2018). Social media sites, such as X, Instagram and TikTok saw many calls for a ceasefire. Many of the posts mentioned the Genocide Convention and the Statute of the International Court of Justice. This created a political situation in which the court's decisions no longer remained entirely separate from public opinion.

Based on news reports, it is said that a ceasefire order might "harm peace talks, complicate the issue or turn the Court into a political body" (Adler & Bishara, 2024). Therefore, the court's careful choice not to order an immediate end to the conflict, even when it said there was a "plausible risk of genocide," seems to fit into the idea that this court is still considering the existing structure of international politics that is highly influenced by the most powerful countries.

Connections among judges also affect how they view cases. Many judges on the International Court of Justice belong to legal groups that work across borders, which include the *Institut de Droit International*, the *African Association of International Law* and the *American Society of International Law*. Such memberships create what experts call "epistemic communities." In these groups, shared ideas, rules and work cultures shape how people grasp and use legal rules (Krisch, 2005). For example, a judge from Western legal groups may show more caution when they use politically sensitive words such as "genocide." However, a judge with ties to groups in the Global South may instead talk more about past colonial rule and widespread violence. This shows that legal judgment is not only about facts and documents but also about how judges' intellectual groups' set limits for proper legal talk.

States influence judges through career and workplace norms. Judges who get appointments from powerful states know what their government prefers and the repercussions if they do not follow those preferences. Legal Realism holds that judges control their decisions even in the absence of direct pressure (Tampubolon, Situmeang, & Saragih, 2023). They decide on their rulings to match the acceptable ideas or to avoid harming their country's foreign policy goals. This pattern appeared in the *South Africa v. Israel* case. Judges from Western countries generally applied strict legal principles, whereas judges from countries in the Global South often interpreted humanitarian law and state responsibility broadly.

The International Court of Justice's decision in the South Africa v. Israel case was shaped by legal rules, interest of the nations involved, groups that spoke for a cause, stories the media told and talks among countries. Legal Realism shows how these forces stay inside the legal process. The court did not order a ceasefire and the ruling used careful language, showing how external factors influenced judges' decisions. Legal Realism asks us to view international courts differently. These judges are entities that show and react to the calculated pressures of a disputed world.

5. CONCLUSION

This study explored how the fifteen judges of the International Court of Justice responded to the South Africa v. Israel case in 2023-2024. The study used Legal Realism as a theoretical framework by analysing judges' home countries' foreign policies. It also considered how interest groups and legal institutions affected the judges' decisions. The study found that political influence affects how judges decide at the International Court of Justice and how these decisions are not free from international politics.

The result showed that judges often interpret international law in ways that match their countries' diplomatic positions. It also revealed that political situations, especially how a judge's country relates to Israel or Palestine, are clearly connected to the judges' arguments or disagreements. This article noted that non-governmental groups, legal experts and media built a system that determined how judges made their decisions. All of these points support the main idea of Legal Realism, which holds that law does not operate in isolation but is embedded in political and social systems.

The International Court of Justice has formal authority under international law but the political conditions surrounding its judges still largely shape it. In the 2023-2024 case between South Africa and Israel, the Court put out provisional measures. The Court stated a likely chance of genocide in Gaza—it ordered Israel to stop its actions, punish those who provoked violence, allow aid in for civilians, keep proof and report the Court about its compliance. The judges, however, chose not to order a ceasefire, even though the accusations were serious. This aligns with the idea of Legal Realism that legal rules do not shape judicial decisions alone. A judge's nation and its political ties, as well as the rules governing their roles, shape these decisions. This case shows how political and ideological settings influence the decisions judges reach, even at the highest level of international law.

REFERENCES

- Abdelhafez, A. H. (2024). *The Palestinian question in Middle East's new balance of power and regional transformation*. University of Szeged. <https://doktori.bibl.u-szeged.hu/12402/2/Abdel%20Hafez%20Abdelhafez%20Booklet.pdf>
- Adler, N., & Bishara, M. (2024, February 19). *Palestinians demand immediate end to Israeli occupation at ICJ hearing*. Al Jazeera. <https://www.aljazeera.com/news/liveblog/2024/2/19/icj-on-israel-occupations-of-palestine-live-hearings-to-begin>
- Al-Kassab, F. (2024). *U.N. Court says Gaza genocide is "plausible," but does not order cease-fire*. OPB. <https://www.opb.org/article/2024/01/26/u-n-court-says-gaza-genocide-is-plausible-but-does-not-order-cess-fire/#:~:text=U.N.,relation%20to%20genocide%20in%20Gaza>.
- Al-Nashif, N. (2024, March 26). *Occupied Palestinian Territory: Reporting on settlements and the occupied Syrian Golan*. OHCHR. <https://www.ohchr.org/en/statements-and-speeches/2024/03/occupied-palestinian-territory-reporting-settlements-and-occupied>
- Amr, M. S. M. (2003). *The role of the International Court of Justice as the principal judicial organ of the United Nations*. Kluwer Law International.

- Berg, R. (2024, January 30). *What is South Africa's genocide case against Israel at the ICJ?* BBC. <https://www.bbc.com/news/world-middle-east-67922346>
- Bishop, W. W. (2011). Reservations to the Convention on Genocide. *Cambridge University Press*, 45(3), 579-590. <https://doi.org/10.2307/2194560>
- D'Alessandra, F. (2023). UN accountability mandates in international justice. *Journal of International Criminal Justice*, 21(3), 551-578. <https://doi.org/10.1093/jicj/mqad038>
- Findley, P. (1993). *Deliberate deceptions: Facing the facts about the US-Israeli relationship*. Lawrence Hill Books.
- Follesdal, A. (2020). The legitimacy of international courts. *The Journal of Political Philosophy*, 28(4), 476-499. <https://doi.org/10.1111/jopp.12213>
- France's Macron urges Israel to avoid escalation. (2024). *Reuters*. <https://www.reuters.com/world/europe/frances-macron-we-must-avoid-escalation-middle-east-2024-04-15/>
- Green, P., & Smith, A. (2024). Evicting Palestine. *State Crime Journal*, 5(1), 81-108. <https://doi.org/10.13169/statecrime.5.1.0081>
- Holmes, O. W. (2004). *The common law* (1st ed.). Routledge.
- International Court of Justice. (2024, January 26). *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel): Order on provisional measures*. <https://www.icj-cij.org/node/203447>
- Krisch, N. (2005). International law in times of hegemony: Unequal power and the shaping of the international legal order. *European Journal of International Law*, 16(3), 369-408. <https://doi.org/10.1093/ejil/chi123>
- Meierrieks, D., & Gries, T. (2018). "Pay for it heavily": Does U.S. support for Israel lead to anti-American terrorism? *Defence and Peace Economics*, 31(2), 160-176. <https://doi.org/10.1080/10242694.2018.1560558>
- Meron, T. (2005). Judicial independence and impartiality in international criminal tribunals. *Cambridge University Press*, 99(2), 359-369. <https://doi.org/10.2307/1562502>
- Pappé, I. (2008). Zionism as colonialism: A comparative view of diluted colonialism in Asia and Africa. *Comparative Studies in Society and History*, 50(4), 611-633. <https://doi.org/10.1215/00382876-2008-009>
- Pickering, H. (2014, February 4). *Why do states mostly obey international law?* E-International Relations. <https://www.e-ir.info/2014/02/04/why-do-states-mostly-obey-international-law/>
- Rosen, H. (2004). *Free trade agreements as foreign policy tools: The US-Israel and US-Jordan FTAs*. Institute for International Economics.
- Segate, R. V. (2023). Channeled beneath international law: Mapping infrastructure and regulatory capture as Israeli-American hegemonic reinforcers in Palestine. *Communication Law and Policy*, 28(4), 332-366. <https://doi.org/10.1080/10811680.2024.2334081>
- Shafiqul, I. M., Jannat, M. K., Kim, J.-W., Lee, S.-W., & Yang, S.-H. (2022). HHI-AttentionNet: An enhanced human-human interaction recognition method based on a lightweight deep learning model with attention network from CSI. *Sensors*, 22(16), 6018. <https://doi.org/10.3390/s22166018>
- Smith, C. D. (2001). *Palestine and the Arab-Israeli conflict: A history with documents* (4th ed.). Bedford/St. Martin's.

- Steenberghe, R. van. (2024). The armed conflict in Gaza, and its complexity under international law: Jus ad bellum, jus in bello, and international justice. *Leiden Journal of International Law*, 37(4), 983-1017. <https://doi.org/10.1017/S0922156524000220>
- Tampubolon, M., Situmeang, T., & Saragih, P. (2023). Judicial Breakfast as an external factor in judicial decision making in courts. *F1000Research*, 12, 9. <https://doi.org/10.12688/f1000research.126482.1>
- Wahyuni, W. (2024, January 5). *Kedudukan dan fungsi International Court of Justice dalam penyelesaian kejahatan genosida*. Hukumonline.com. <https://www.hukumonline.com/berita/a/kedudukan-dan-fungsi-international-court-of-justice-dalam-penyelesaian-kejahatan-genosida-lt6597f26636b10/>
- Waxman, D. (2007). Beyond realpolitik: The Israel lobby and US support for Israel. *Israel Studies Review*, 22(2), 97-114. <https://doi.org/10.3167/isf.2007.220205>
- Why ICJ judge Sebutinde faces calls to quit from Israel genocide case. (2025). *Al Jazeera*. <https://www.aljazeera.com/news/2025/8/27/why-icj-judge-sebutinde-faces-calls-to-quit-from-israel-genocide-case#:~:text=Fifteen%20of%20the%2017%20judges,Yoav%20Gallant%20for%20war%20crimes.>