

International Court of Justice: Protect evidence in the Gaza war

We, the undersigned organisations dedicated to defending freedom of expression and information, protecting journalists and upholding digital rights, welcome South Africa's [urgent request](#) to the International Court of Justice (ICJ) for the modification and indication of provisional measures as a result of Israel's military assault on Rafah and the catastrophic humanitarian situation across Gaza. In particular, we support South Africa's [request](#) that the ICJ order Israel to:

... take all effective measures to ensure and facilitate the unimpeded access to Gaza of [...] fact-finding missions, internationally mandated bodies and/or officials, investigators, and journalists, in order to assess and record conditions on the ground in Gaza and enable the effective preservation and retention of evidence; and ensure that its military does not act to prevent such access, provision, preservation or retention.

We recall that on 26 January 2024, the ICJ ordered Israel to "take effective 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 Genocide Convention." Yet, Israel has so far failed to undertake such measures, as demonstrated by the following actions:

- According to the Committee to Protect Journalists, at [least 105](#) journalists and media workers have been killed in the hostilities, including at least 100 Palestinians since the start of hostilities. Approximately a fifth of those journalists were killed following the ICJ's order. There is also growing [evidence](#) that at least some of these journalists were targeted by the IDF.
- There is a near-total ban on international journalists entering Gaza and a petition for military authorities to allow foreign journalists to report inside Gaza was [rejected](#) by the Israeli Supreme Court in January 2024.
- Communications [blackouts](#) continue, including the destruction of vital civilian communications infrastructure. Dozens of media offices and [internet service providers](#) (ISPs), which are civilian structures under humanitarian law, have also reportedly been destroyed by IDF strikes.
- On 5 May 2024, based on a recently adopted law, the Israeli Communication Minister ordered the closure of Al Jazeera broadcasts in both Arabic and English within Israel and blocked its website in Israel. Al Jazeera is one of very few international media outlets providing extensive coverage of the war directly out of Gaza. On May 21, the Israeli Ministry of Communication officials [seized a camera](#) and broadcasting equipment belonging to The Associated Press alleging that the agency had violated the country's new foreign broadcaster law by providing images to Al Jazeera. The feed was broadcasting a general view of northern Gaza.
- Independent human rights investigators, fact-finding missions or the International Criminal Court (ICC) still do not have access to Gaza.

Despite the valiant efforts of Palestinian journalists who continue reporting despite a daily struggle to survive, Israel's censorious actions make it nearly impossible to comprehensively, continuously and independently document what is happening on the ground in Gaza and risk significantly hampering future accountability efforts. Journalists have historically played a [critical role](#) in contemporaneously [investigating](#) and preserving the [evidence](#) of war crimes in genocides and other atrocities. Harrowing as the information coming out of Gaza may be, it is [likely](#) to only be the tip of the iceberg due to evidence buried under mountains of rubble from pulverised neighbourhoods. The need for access to international observers, fact-finders and an unimpeded local and international press becomes more crucial than ever.

Our organisations therefore strongly support South Africa's call. We respectfully urge the ICJ to indicate detailed, clear and unequivocal measures to allow for the collection and preservation of evidence of atrocity crimes that may have been committed in Gaza and preventing the destruction of such evidence. In particular, the ICJ should order Israel to:

- Refrain from imposing any further communication blackouts or targeting of telecommunications infrastructure in Gaza.
- Protect journalists' right to report on the hostilities, ensure journalists' safety, promptly and thoroughly investigate all attacks on journalists, and hold accountable individuals found to be responsible for them.
- Grant international and local journalists independent access to Gaza.
- Ensure that all international and domestic media outlets can operate freely, including in Gaza.

These measures are essential to enable the ICJ to fully appreciate the facts of this case. It is also key to ensure that breaches of international human rights, international humanitarian and international criminal law do not go unrecorded and that a pathway can exist for holding those responsible to account.

Without such measures, not only will many of Israel's potentially egregious abuses against Palestinians and breaches of international law remain unknown and unpunished, but the knowledge that Israel can continue to operate largely in the dark also creates an information vacuum that leaves Palestinians, Israelis and the world vulnerable to information manipulation. Ultimately, shielded by opacity and censorship, wrongdoers operate in an environment devoid of public scrutiny which is ripe for abuse, continued civilian deaths, starvation and destruction.

Signed:

ARTICLE 19
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International Press Institute (IPI)
Digital Action
SMEX
The Tahrir Institute for Middle East Policy (TIMEP)
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