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South Africa has filed a case at the main judicial body for the United Nations, the International Court of Justice in The Hague, accusing Israel of committing genocide in Gaza. “I believe South Africa will win an order against Israel to cease and desist from committing all acts of genocide against the Palestinians,” says Francis Boyle, an international human rights lawyer who won two requests at the ICJ under the Genocide Convention of 1948 for provisional protection on behalf of the Republic of Bosnia and Herzegovina against Yugoslavia. Boyle says Israel has a history of listening to the United States’ orders to stop its assaults on the Occupied Palestinian Territories. “We here in the United States of America have the power to stop this.”

**AMY GOODMAN:** As the death toll from Israel’s bombardment of Gaza since the October 7th Hamas attack on Israel now exceeds 22,000, South Africa has filed a case at the International Court of Justice in The Hague accusing Israel of genocide and trying to, quote, “destroy Palestinians in Gaza.” This comes as the separate International Criminal Court is already investigating alleged war crimes committed by both Israel and Hamas.

In its filing to the ICJ, the main judicial body for the United Nations, South Africa says, quote, “The acts and omissions by Israel complained of by South Africa are genocidal in character because they are intended to bring about the destruction of a substantial part of the Palestinian national, racial and ethnical group,” unquote. South Africa accused Israel of violating the 1948 Convention on the Prevention and Punishment of the Crime of Genocide, which Israel has signed on to.

Israel responded by calling the charge, quote, “without legal merit.” The Israeli Foreign Ministry accused South Africa of, quote, “collaborating with a terrorist group that calls for Israel’s annihilation,” unquote.

South African President Cyril Ramaphosa has compared Israel’s treatment of Palestinians in the Occupied Territories to racist system of apartheid in his own country which ended in 1994 after nearly half a century. In November, Ramaphosa responded to Israel’s assault on Gaza by recalling South Africa’s diplomats from Israel.

**PRESIDENT CYRIL RAMAPHOSA:** The collective punishment of Palestinian civilians through the unlawful use of force by Israel is a war crime. The deliberate denial of medicine, fuel, food and water to the residents of Gaza is tantamount to genocide.

**AMY GOODMAN:** Meanwhile, in October, South African lawmaker and the grandson of Nelson Mandela, Nkosi [Zwelivelile] Mandela, joined a Palestinian solidarity protest in Cape Town.

**NKOSI ZWELIVELILE MANDELA:** Palestinians are counting on each and every one of us to stand and be counted, like they stood side by side with us in the trenches when we fought to liberate our country.

**AMY GOODMAN:** For more, we're joined by Francis Boyle, professor of international law at the University of Illinois College of Law. He previously applied the Genocide Convention for Bosnia and won two requests for provisional protection from the ICJ against Yugoslavia, and thinks the same could apply here. His books include *The Bosnian People Charge Genocide*, as well as *Palestine, Palestinians, and International Law* and *World Politics, Human Rights, and International Law*.

Professor Boyle, welcome back to *Democracy Now!* It's good to have you with us in this new year, but under very serious circumstances. If you can explain why it's South Africa that's bringing this charge, and what exactly is the International Court of Justice, where it fits into the world justice system? And talk about the charge of genocide.

**FRANCIS BOYLE:** Well, thank you very much for having me on, Amy. My best to your listening audience.

Not to toot my own horn here, but I was the first lawyers to win anything under the Genocide Convention from the International Court of Justice, that goes back to 1921. I single-handedly won two World Court orders for the Republic of Bosnia-Herzegovina against Yugoslavia to cease and desist from committing all acts of genocide.

And based on my careful review of all the documents so far submitted by the Republic of South Africa, I believe South Africa will win an order against Israel to cease and desist from committing all acts of genocide against the Palestinians. And then we will have an official determination by the International Court of Justice itself, the highest legal authority in the United Nations system, that genocide is going on. And under Article I of the Genocide Convention, all contracting parties, 153 states, will then be obliged, quote, “to prevent,” unquote, the genocide by Israel against the Palestinians.

Second, when the World Court gives this cease-and-desist order against Israel, the Biden administration will stand condemned under Article III, paragraph (e), of the Genocide Convention, that criminalizes complicity in genocide. And clearly we know that the Biden administration has been aiding and abetting Israeli genocide against the Palestinians here for quite some time. This has also been raised by my friends in the Center for Constitutional Rights and in the National Lawyers Guild in a lawsuit against Biden, Blinken and Austin.

So, I believe we will be able to use the World Court order. Right now my sources tell me the hearing will be January 11, January 12. Based on my experience with the Bosnians, we can expect an order within a week.

I would also say, with respect to the Biden administration, they are currently in violation of the Genocide Convention Implementation Act, that makes genocide a crime under United States law. And again, once we — South Africa wins this order, the Biden administration also will stand in violation of the Genocide Convention Implementation Act.

So, I believe this is where we will be going between now, I would say, and the end of this month. And it is up to all of us, as American citizens, to figure out and support what South Africa is doing at the International Court of Justice here.

**JUAN GONZÁLEZ:** And, Francis Boyle, what’s the difference between the International Court

of Justice and the International Criminal Court, which is already considering allegations of war crimes by both Israel as well as the Palestinian militant groups?

**FRANCIS BOYLE:** Right, Juan. The International Court of Justice was originally established back in 1921, its predecessor, legal predecessor, in law. And that is where I filed the genocide case. I was the first lawyer ever to win two orders in one such case since the World Court was founded in 1921, and it was on the basis of the Genocide Convention. The International Criminal Court is a separate international organization, set up in 2000.

The problem, Juan, is this. Back in 2009, after Operation Cast Lead, I advised Palestinian President Mahmoud Abbas to accept the jurisdiction of the International Court — of the International Criminal Court for Palestine, which he did. I regret to report that the International Criminal Court has not done one darn thing to help the Palestinians since 2009. The International Criminal Court has all the blood of the Palestinian people on its hands since 2009. And, Juan, that is why we set up a campaign to find a state willing to file a lawsuit at the International Court of Justice, the World Court.

The ICC basically operates at the behest of its funders and founders and masters, which is the U.S., the NATO states, the European states, etc. Until their expedited indictment of President Putin as U.S.- NATO lawfare against Russia, the International Criminal Court had not indicted one American, one European, one Brit, one NATO citizen and one Israeli, and one white person.

So, we’ve gone — we have a campaign now to support the Republic of South Africa at the International Court of Justice. And we are asking — we’re starting this campaign today. I’m part of a coalition. We’re starting this campaign today to get members of the Genocide Convention to file declarations of intervention at the World Court in support and solidarity with South Africa against Israel and in support of the Palestinians. That material hopefully will go out today.

**JUAN GONZÁLEZ:** Francis, I wanted to ask you, though — Joan Donoghue is the president of the International Court of Justice. She previously worked in the U.S. State Department. How do you think she will approach South Africa’s application? What power does she have to shape the proceedings?

**FRANCIS BOYLE:** That’s a good question, Juan. Yes, Donoghue is a lifelong, careerlong U.S. State Department legal apparatchik, which is how she got the job. And I am sure she’s in contact right now today with the U.S. State Department, giving them a heads-up on everything going on over there at The Hague behind the scenes. She will toe the State Department party line in these proceedings. I regret to report the president does have a lot of power there to shape these proceedings. I suspect she will use that power to shape the proceedings in favor of Israel.

However, I have also been advised that the Republic of South Africa is, as of now, nominating a judge *ad hoc*. That is their right under the statute of the International Court of Justice. I don’t have a name yet, but I would hope the South African judge *ad hoc* will do his or her best to try to keep Donoghue straight.

**AMY GOODMAN:** I want to go back to South Africa, who has done this genocide filing. In 2008, I had the opportunity to [speak](#) with the South African anti-apartheid icon, the Nobel Peace laureate Archbishop Desmond Tutu. I caught up with him at the South African vice consul’s apartment in New York right before Archbishop Tutu received the Global Citizens Circle award. I asked him about Palestine.

**AMY GOODMAN:** Would you compare the occupation of Gaza and the West Bank to apartheid South Africa?

**ARCHBISHOP DESMOND TUTU:** I have to speak about what I know. I mean, most people — a Jew will usually speak about their experiences and maybe compare whatever it is that is happening with what happened in the days of the Holocaust. For me, coming from South Africa and going — I mean, and looking at the checkpoints and the arrogance of those young soldiers, probably scared, maybe covering up their apprehension, there’s no way in which I couldn’t say — of course, that is a truth. It reminds me — it reminds me of the kind of experiences that we underwent.

**AMY GOODMAN:** So, that was Archbishop Desmond Tutu. Francis Boyle, talk about the significance of it being South Africa and what it means for one state to bring a charge against another state. Who are signatories here? And how binding is this? Explain what happened, for example, in Bosnia.

**FRANCIS BOYLE:** Sure. Well, first, the connection there with the late, great Archbishop Tutu, the current lead counsel now in the lawsuit for South Africa is professor John Dugard, a longtime friend of mine. Professor Dugard was one of the very few courageous white professors of international law who internationally opposed the criminal apartheid system in South Africa, at risk to his life. Second, later on, Professor Dugard became U.N. special rapporteur for Palestine. I read all of his reports. They are excellent. Professor Dugard’s heart and head are in the right place with the Palestinians, and he is one of the top professors of international law in the world.

So, there is a direct comparison between the Israeli apartheid system on all the Palestinians, including Palestinian citizens of Israel, and what happened in apartheid South Africa. Indeed, Professor Dugard has written that the Israeli system of apartheid against the Palestinians is worse than the apartheid that the Afrikaners applied to the Black people in South Africa.

I was involved in the struggle against apartheid in South Africa, and that is my assessment, too. Indeed, the parallels here then led me, in November 2000, to call for the establishment, in a speech — the establishment of the divestment/disinvestment campaign against Israel, for the exact same reasons we had a divestment/disinvestment campaign against the criminal apartheid regime in South Africa. And then, in 2005, Palestinian civil society contacted me to go in with them on establishing the Palestinian Boycott, Divestment and Sanctions campaign against Israel, against apartheid Israel, for the exact same reason we had a BDS campaign against the criminal apartheid regime in South Africa.

So, Tutu, Dugard, I and, I would — Ramaphosa, the foreign minister in South Africa, who’s made very compelling speeches, they all understand what’s going on here and what’s at stake.

**AMY GOODMAN:** And the issue of genocide in Bosnia, if you could explain, for people who are not familiar with what happened? And then what came of the charges at the International Court of Justice?

**FRANCIS BOYLE:** Yes. Well, Yugoslavia exterminated about 200,000 Bosnians, raped about 40,000 Bosnian women. I was the lawyer for all of them, arguing their case at the International Court of Justice. And I won these two orders on 8 April, 1993, and 13 September, 1993. Until I won that order, 8 April, 1993, everyone was denying that genocide was going on. And once I

won that order, that was massive and overwhelming in favor of the Bosnians, no one could deny anymore that genocide was going on.

As for the effectiveness, when I walked out of the World Court on 8 April, 1993, and won that order, I walked into the foyer there outside the grand courtroom. The whole world news media were there. And I said at the time, “The World Court has just determined that genocide is going on in Bosnia and Herzegovina. Under Article I, every state party to the Genocide Convention has an obligation to prevent genocide in Bosnia. And I hereby request direct military intervention by the United States and the NATO states to save the Bosnians from genocide.” Later that day, the United States and NATO announced that they were instituting a no-fly zone, enforcing a no-fly zone over Bosnia. So these orders by the World Court can have consequences.

And it will be up to us here in the United States to devise the strategy for consequences for the Biden administration, because we have to pressure the Biden administration to order Israel to stop the genocide. They will do what we Americans tell them to do. In Operation Cast Lead, that had been going on for a period of time under President Bush Jr., Obama — the Obama people were coming into power. Obama was about to be inaugurated. And in order not to spoil Obama’s inauguration, the United States government told Israel to stop Operation Cast Lead. So we have to understand we here in the United States of America have the power to stop this. But we have to figure out how to use the order that South Africa will win here in the United States of America.

This is exactly what happened in Nicaragua. You’ll remember, Amy, I was involved in advising almost every peace NGO and lawyer here in the United States on the legal issues with respect to Reagan’s war against Nicaragua, El Salvador, Guatemala. My teacher, mentor and friend, the late, great Abe Chayes at Harvard Law School, won a World Court order against the Reagan administration in 1984, and then also a final judgment on the merits in 1986. We here in the United States used that World Court order and the final judgment to stop Reagan’s war against Nicaragua. Regretfully, 16,000 —

**AMY GOODMAN:** We have 20 seconds.

**FRANCIS BOYLE:** Regretfully, 16,000 Nicaraguans were killed, including U.S. citizen Ben Linder, but we did stop that. And I believe that with this World Court order that South Africa will win, we can stop what Israel is doing to the Palestinians.

**AMY GOODMAN:** Francis Boyle, professor of international law at the University of Illinois College of Law. His books include *The Bosnian People Charge Genocide, Palestine, Palestinians, and International Law*, as well as *World Politics, Human Rights, and International Law*.