

## I. International

*An Expert Legal View*

# Israel Lied Through Their Teeth— Why South Africa’s Case Is Justified

by Prof. Francis Boyle

*On Jan. 19, Prof. Francis Boyle gave the following lecture to a meeting of the International Peace Coalition regarding his history of having fought and won a case of genocide at the International Court of Justice (ICJ) in The Hague, otherwise known as the World Court. Boyle is an American human rights lawyer and professor of international law at the University of Illinois College of Law. He served as counsel for Bosnia and Herzegovina during their case at the ICJ in 1993.*

*EIR is publishing Prof. Boyle’s remarks in order that his expert legal opinion regarding the current case by South Africa against Israel at the ICJ may become a larger topic of discussion internationally. We hope that this knowledge, and the circulation of it among all proponents of a just peace, will greatly reduce the ability by outside political forces to pressure the ICJ judges to ignore the principles of law that govern the “Convention on the Prevention and Punishment of the Crime of Genocide” which was approved by the UN General Assembly on December 9, 1948.*

Thank you very much for having me here today. I want to express my gratitude to Helga Zepp-LaRouche for having me speak at this conference at this critical time in the history of the human race.

I believe that the Republic of South Africa will win an order of provisional measures of protection against Israel on behalf of the Palestinians. I’m speaking here as a straight-out legal matter. Obviously, as we speak



Courtesy photo

Prof. Francis Boyle.

here today, Israel and the United States are putting massive political pressure on the judges of the World Court to rule against the Republic of South Africa and the Palestinians.

### The ‘Technical Legal Matter’

I’m just going to deal with this as a technical, legal matter. I was the first lawyer ever to win anything from the International Court of Justice on the basis of the Genocide Convention. I won a massive, overwhelming order for the Republic of Bosnia-Herzegovina against the rump Yugoslavia to cease and desist from

committing all acts of genocide against the Bosnians. That was in April 1993. Then, I won a second massive, overwhelming order for the Republic of Bosnia-Herzegovina against Yugoslavia to cease and desist from committing all acts of genocide against the Bosnians on September 13, 1993.

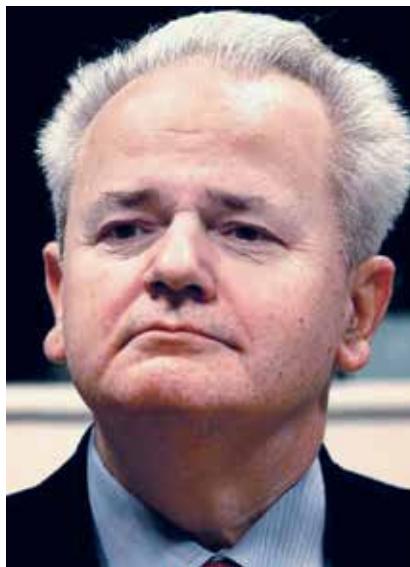
This was the first time ever in the history of the World Court that any lawyer had won two such orders in one case since the World Court was founded in 1921. Then, I won a third order—what’s known as an Article 74, Paragraph 4 order to the same effect from the President of the Court which was binding on the parties. So, three orders in under six months.

In addition, on behalf of my clients at the time—the mothers of the victims at Srebrenica and Prijedor who survived the massacre at Srebrenica—I convinced the prosecutor for the International Criminal Tribunal for

the former Yugoslavia to indict my adversary, Yugoslav President Slobodan Milošević, for almost every crime in the International Criminal Tribunal for the Former Yugoslavia (ICTY) statute, including two counts of genocide. One for genocide against Bosnia in general, and the second for genocide at Srebrenica in particular.

He was put on trial in The Hague. After the close of the prosecution's case, he filed a motion to dismiss all the charges. That was denied by the tribunal ruling that there was enough evidence produced by the prosecution to convict him on all charges beyond a reasonable doubt, including the two counts of genocide; and that he should then proceed to open his defense, which was going to implicate all the international officials working in cahoots with him behind the scenes. Whereupon he mysteriously died. Dead men tell no tales.

I don't have time here to go through the entire application by the Republic of South Africa, the request for provisional measures of protection, and six hours of oral arguments before the World Court by two teams of lawyers on both sides. By the way, if you were following those hearings, I did all those arguments myself for Bosnia-Herzegovina.



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*Slobodan Milošević, former President of Serbia.*

## The Actual Precedent

What I want to point out here, however, is from my perspective the most critical factor you will note if you listen to the hearings. That was the argumentation back and forth over my original order for the Bosnians. The British lawyer representing Israel, [Christopher] Staker, lied through his teeth about the meaning of my first order. He lied. Let me read to you from my first order that I won. He lied about this; he said it didn't mean what it had actually said:<sup>1</sup>

1. What Staker claimed during his Jan. 12 [testimony](#) was: "In the Bosnia case, you [the court—ed.] declined to grant a provisional measure requested by Bosnia and Herzegovina that Yugoslavia must 'cease and desist from all acts of genocide.' You should also refuse this request [by South Africa—ed.]."

The court on Sept. 13, 1993, in fact, issued an [Order](#) on that case saying, "In an Order issued in the case concerning Application of the

Unanimously, the Government of Yugoslavia should immediately in pursuance of its undertaking in the Convention of Genocide, take all measures within its power to prevent commission of the crime of genocide.

He lied about that, and I have been saying all along in my interviews, at a minimum, the Republic of South Africa will win a provisional measure like that on behalf of the Palestinians as precedent.

Second, the British lawyer Staker tried to explain away and minimize another—and by the way, that measure was then reaffirmed in the second order I won before the World Court, which Staker didn't point out, by 13 votes to 2. [The second order] "Reaffirms the provisional measure indicated in Paragraph 52 A (1) of the order made by the court in April 1993, which should be immediately and effectively implemented." Only the Russian judge and the Serb judge ad hoc ruled against me. And of course, Russia and Serbia were working in cahoots with each other.

Now, Staker did not lie about this provision here, but he tried to explain away and discount its significance. Let me repeat it:

Unanimously, the Government of Yugoslavia and the Government of Bosnia-Herzegovina should not take any action and should ensure

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Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Yugoslavia (Serbia and Montenegro)), the Court issued an interim order of provisional measures reaffirming the measures it ordered on April 8, 1993, when Bosnia-Herzegovina first moved in the Court against Yugoslavia (Serbia-Montenegro). It held that 'the present perilous situation demands, not an indication of provisional measures additional to those indicated by the Court's Order of 8 April 1993, but immediate and effective implementation of those measures'."

Staker, on Jan. 12, also added the following as it applies to the case of South Africa's recommended provisional measures against Israel: "While provisional measures are without prejudice to the merits, such an implied finding will tarnish the reputation of the respondent State, which is not only unprincipled, but also unnecessary within the meaning of Article 41 of the Statute to protect claimed rights on an interim basis."

that no action is taken which may aggravate or expand the existing dispute over the prevention or punishment of the crime of genocide or render it more difficult of solution.

I believe I got that measure because I figured that we would obey the order, and Yugoslavia under Milošević was going to grossly disobey it. And I wanted to entrap Yugoslavia in massive breaches of all areas of international law, not just the Genocide Convention. This measure was reaffirmed in the second order I won: “By 14 votes to 1 reaffirms the provisional measure indicated in Paragraph 52 B of the order made by the court on 8 April 1993, which should be immediately and effectively implemented.” Notice, 14 to 1; even the Russian judge agreed with that, only the Serb judge ad hoc voted against me.

Now, as for the third measure of provisional protection I won for the Bosnians, the Republic of South Africa asked for a modified version of this measure. It’s been modified for the circumstances of the Palestinians’ case:

By 13 votes to 1, the Government of Yugoslavia should in particular insure... do not commit any acts of genocide, of conspiracy to commit genocide, of direct and public incitement to commit genocide, or of complicity in genocide whether directed against the Muslim population of Bosnia-Herzegovina, or against any other national, ethnic, racial, or religious group.

At the time, Bosnia had—and still has—about 10 different racial, ethnic, and national groups. I got them all protected. Primarily Muslims, but also Croats, Jews, Turks, Roma, and others; I got them all protected.

### **Pressure by Those Also Complicit**

In this case, of course, it’s just the Palestinians, so that’s why that measure has been modified by the Republic of South Africa. And again, in my second order, 13 votes to 2; only the Russian judge and the Serb ad hoc judge voting against me. “Reaffirms the provisional measure indicated in Paragraph 52 A (2) of the order, which should be immediately and effectively implemented.”



ICJ

*British Barrister Dr. Christopher Staker, speaking for Israel’s defense team, lied before the International Court of Justice, Jan. 12, 2024, denying an important legal precedent won by Prof. Boyle as counsel for Bosnia and Herzegovina in their case at the ICJ in 1993.*

So, that is why, just as a straight-out legal matter, I believe that the Republic of South Africa should win those three provisional measures of protection. But again, as a political matter, massive pressure is being applied. I’m sure those judges of the World Court today are being blackmailed, threatened, bullied, and intimidated by the United States and Israel and their supporters to rule against the Republic of South Africa.

Finally, let me get into the complicity of the Biden administration and the British for sure. This is a complicity to commit genocide in violation of Article 3, Paragraph E of the Genocide Convention that criminalizes complicity in genocide. I was in a similar situation for Bosnia-Herzegovina. Pursuant to my advice, Bosnian President Alija Izetbegović authorized me, on November 15, 1993, to sue Britain at the International Court of Justice for aiding and abetting genocide against the Bosnians, which I set out to do and was fully prepared to do when the British threatened to starve the Bosnians if I actually filed the lawsuit. Though at that time, I was in negotiations with the court for the hearing in my complaint against Britain.

I’ve given you my assessment of the current situation. That’s where we stand, and I’m very happy to be here today.