



A Shofar Sounds for Israel at the International Court of Justice

By Janet Levy

August 8, 2024

In this post-truth world of reversed ethics, terrorist organizations like Hamas find ready support.

But a free nation like Israel, fighting for its very existence, finds itself vilified at every international forum.

So it is surprising that a vice president of the International Court of Justice (ICJ) – [Julia Sebutinde](#) of Uganda – has spoken up courageously and consistently for Israel – in fact, three times this year.

The latest dissension by this righteous Daniel is from the court's July 19 [advisory opinion castigating Israel](#) and accusing it of war crimes and crimes against humanity. She states her well-reasoned position in a [36-page document](#) that includes a map, a synoptic history of the Israel-Syria-Jordan region, and references to international customary law.

Sebutinde makes some strong historical points. First, the Jewish claim to the territory “dates back to the ancient Kingdom of Israel 3,000 years ago.” In support, she cites textual and archaeological evidence dating to 1200 BCE. Second, there was always a persistent Jewish presence in the region despite various rulers taking over the region, so it is “crucial to recognize that Jews in Israel are not settler colonists.” Third, the name Palestine was imposed on Judea (or ancient Israel) by the Roman Empire to try to erase the Jewish sense of identity with the land. And fourth, there were no more than 250,000 Arabs in the region during the 1880s, when Jews started arriving from Europe in large numbers.

She also draws on the well-established legal principle of *uti possidetis juris* – that newly formed states should retain the status quo on borders that existed before their independence. The map of the British Mandate – from which Israel was created in 1948 – had no provision for a separate Palestine. Therefore, she states, Israel has sovereignty over “all the disputed areas of Jerusalem, West Bank, and Gaza, except to the degree that Israel has voluntarily yielded sovereignty since its independence.”

Sebutinde's bravery is all the more commendable because Uganda had disowned her pro-Israel position on an earlier ICJ decision – a [Jan. 26 ruling](#) that virtually said that Israel was committing genocide. Adonia Ayebare, Uganda's permanent representative to the U.N., [tweeted](#) that Sebutinde's opinion did not represent [the position of the Ugandan government](#), which has expressed support for the Palestinian people through its vote at the U.N. The Ugandan government separately stated that it stood by the [stand on Israel taken by the Non-Aligned Movement \(NAM\) at a summit in Kampala](#) the same month.

That was the first time this year Sebutinde's support for Israel drew worldwide attention.

In her [11-page dissenting opinion](#), she highlighted the enormity of the Oct. 7 Hamas attack on Israel and said Israel's defensive actions were not accompanied by genocidal intent. The second time she stood up for Israel was on May 24, after Israeli action in Rafah. In her [nine-page opinion](#), she said: "I firmly believe Israel has the right to defend itself against its enemies, including Hamas, and to continue efforts to rescue its missing hostages."

Those two opinions came in a case brought against Israel by South Africa. The most recent, however, was part of the ICJ's response to the U.N. General Assembly's request for an advisory opinion on the legal consequences of Israel's policies and practices in the "occupied" Palestinian territory. An independent U.N. commission [report](#) had concluded that the "occupation" was illegal and required immediate attention. Based on this, the General Assembly sought the ICJ's advisory opinion.

Advisory opinions are neither binding nor have legal consequences. However, they wield considerable political and diplomatic influence. So, this one might have profound implications for Israel's legitimate response to the Oct. 7 massacre and its defensive tactics on other war fronts.

In its opinion, the ICJ concludes that the Israeli presence in the Occupied Palestinian Territory (OPT) is unlawful, and it must evacuate the identified areas, ensure the rights of the Palestinian people, and pay reparations for damages. It calls on U.N. member states to recognize the Israeli presence as illegal and withdraw aid from the Jewish state. But the court ignores the obduracy of the Palestinian leadership, its promotion of antisemitism, and its financial and spiritual incentivization of terror attacks on Israeli Jews.

Israel was not a party to the ICJ's proceedings. Israeli Prime Minister Benjamin Netanyahu tweeted that the opinion was "[absurd](#)." His office rejected the proceedings as illegitimate and "designed to harm Israel's right to defend itself from existential threats" and "dictate the results of a diplomatic settlement without any negotiations."

Fortunately for Israel, there is at least one voice at the ICJ that speaks as strongly as the Jewish nation itself – that of Sebutinde. She goes so far as to say the court should have declined to offer an advisory opinion and, guarding its judicial character and integrity, left the resolution of the conflict to a negotiating framework that the disputing parties have already agreed on.

She criticizes the questions raised by the General Assembly, saying they are based on certain presumptions. The court, she says, has accepted the presumptions as sacrosanct. It has also been one-sided by failing to take account of the complexities of the dispute or to examine Israel's compliance with international law. She deems the situation a long-standing political matter of historic proportions, not a legal dispute susceptible to judicial settlement.

In tracing the conflict, she begins with the 1917 Balfour Declaration on creating a "national home for the Jewish people" while ensuring the rights of the Arab population. Two years later, the First Palestinian Arab Congress of 1919 laid the foundations for an Arab national movement. In 1922, the League of Nations, the precursor to the U.N., granted permission for Britain to establish the British Mandate of Palestine, but by 1948, the territory for the Jewish state was reduced to 20% of that originally earmarked for it. Much of the land went into the creation of Jordan. The Jews accepted this.

But the Arabs repeatedly – seven times, as Sebutinde notes – rejected the long-standing U.N. proposal to create two states, one for Jews and the other for Arabs, as a solution to the irreconcilable differences between the two peoples. She notes that since the Arabs refuse to accept the existence of Israel, all "land for peace" arguments and externally imposed solutions, including legal ones, are in vain.

Besides, she says, given the Palestinian leadership's incitement of violence, funding of terror groups, election of terrorist leaders to government, and indoctrination of children to hate and destroy Israel, it would be impractical for the Jewish nation to refrain from defensive action.

As to charges of Israeli "occupation" of Arab land, Sebutinde states the obvious:

Israel withdrew its troops and citizens from the Gaza Strip in 2005. But even though Gaza has been controlled by a legally elected government of the terrorist group Hamas, the U.N. considers the territory “occupied.” The reason? For clear security reasons, Israel controls Gaza’s borders, airspace, maritime access, and movement of goods and people from the territory.

She also questions the assertion that Israeli presence in the West Bank, Gaza, and East Jerusalem violates international law and that Israel should pay reparations for associated damages and evacuate all “settlers.” To what extent, she asks, is Israel to share the blame for which it is being asked to pay reparations?

Perhaps Sebutinde’s strongest charge against the court – which applies to many global forums as well – is that international law is not being consistently invoked. It is applied with prejudice by not taking account of Israel’s territorial and sovereignty rights and accusing it of “occupation.” However, Northern Cyprus, Crimea, Western Sahara, and Abkhazia, which could “be regarded as occupied under the Fourth Geneva Convention,” were treated differently.

Sebutinde, who has her fair share of detractors and critics, is admired for her independence. Her lone voice resounds like a shofar for Eretz Yisrael – at the ICJ and beyond.

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