SA mainstream media: Dancing to the puppeteer's tune?

Credit: Researched, Written and compiled by Tony Stone

The Israeli-HAMAS war and South Africa's ICC case against Israel is a case in point.

On average, preparing a case for the International Criminal Court (ICC) is an extremely complex and lengthy process, with pre-trial investigations generally taking anywhere from one to four years. Once a suspect is identified and in custody, the pre-trial phase and confirmation of charges can take roughly another year, while the trial itself often takes six or more years.

Palestinian HAMAS atrocities

HAMAS attacked Israel on the 7 October 2023. This casualty figure includes at least 828 civilians, of which 36 were children and 71were foreign nationals, and 367were members of the security forces. 251 people were kidnapped and taken as hostages. Three months later, on December 29, 2023, South Africa filed its genocide case against Israel in at the ICC. Three months? Really?

Of the kidnapped and taken hostage, 168 survived and were successfully returned to Israel. This means, that while being held hostage, 83 hostages were killed. Their bodies were recovered and repatriated over the course of the conflict. A young woman, Shani Nicole Louk, a 22-year-old German-Israeli tattoo artist and influencer, was killed and paraded semi-naked through the streets of Gaza.

There is no exact, official number of how many women were raped by HAMAS on October 7, 2023, as many victims did not survive and forensic evidence was often obscured. However, investigations by the UN and independent Israeli civil commissions have confirmed that widespread and systematic sexual violence, including rape and gang rape, occurred across multiple locations.

Multiple reports from human rights organizations, forensic experts, and international journalism investigations concluded that HAMAS militants committed severe acts of sexual violence and mutilation against Israeli women and girls. This includes evidence that victims' breasts and genitals were cut, alongside other forms of extreme physical trauma.

South African denial

The South African government has firmly and categorically denied having any prior knowledge or forewarning of the October 7 HAMAS attacks. But the question remains. How could they prepare a genocide case and place it begore the ICC in three months?

The right of a sovereign state to defend itself

The International Criminal Court (ICC) fully recognizes and respects a sovereign state's inherent right to self-defence. And yet, mainstream media did not publicly report the ICC's stance in condemning HAMAS 7 October 2025 Israeli massacre.

For the record, the ICC does not possess the legal mandate or the authority to strip a nation of its right to protect its citizens or its borders from external aggression. In fact, the right to self-defence is a foundational pillar of international law explicitly guaranteed by Article 51 of the United Nations Charter.

The four specific core crimes under the Rome Statute include:

1. **Genocide**: Acts committed with the intent to destroy, in whole or in part, a national, ethnical, racial, or religious group.
2. **Crimes Against Humanity**: Widespread or systematic attacks directed against any civilian population, such as murder, torture, or apartheid.
3. **War Crimes**: Serious violations of humanitarian law during armed conflicts, including targeting civilians, torturing prisoners, or destroying property.
4. **Crime of Aggression**: The use of armed force by a state against the sovereignty, integrity, or independence of another state.

However, the ICC applies a strict legal boundary to this right, which often causes immense geopolitical friction:

The Legal Separation: Why vs How?

To understand the ICC's stance, international law splits warfare into two entirely separate legal categories.

First, the "Right to Go to War (*Jus ad Bellum*)" governs *why* a state fights. Under the UN Charter, a state is fully justified in using military force to defend itself against an armed attack. The ICC generally does not interfere with a nation's sovereign political decision to launch a defensive war.

Secondly, the “Rules of Engagement (*Jus in Bello*)” governs *how* a state fights. This is where the ICC holds absolute jurisdiction. The court's position is that having a justified reason to fight does not give a nation a blank check to violate the laws of war.

The ICC’s core rule: No immunity for defensive wars

Under the Rome Statute, the ICC operates on the principle that war crimes, crimes against humanity, and genocide can never be justified by self-defence.

Even if a sovereign state is the victim of a brutal, unprovoked invasion or a catastrophic terrorist attack, its military forces must still strictly adhere to international humanitarian law. The ICC asserts that:

- **Proportionality must be maintained:** Military operations must not cause civilian harm that is excessive in relation to the concrete and direct military advantage anticipated.
- **Distinction is mandatory:** Armed forces must always distinguish between active combatants and innocent civilian populations.
- **Criminal methods are banned:** Actions like the intentional starvation of civilians, widespread sexual violence, or targeting hospitals remain strict international crimes, regardless of how justified the overall war effort is.

The sovereignty conflict

This legal distinction is exactly why nations like Israel and Russia accuse the ICC of infringing on their sovereignty. When the ICC issues arrest warrants for leaders during an active conflict, those states argue the court is actively sabotaging their sovereign right to defend themselves against existential threats.

The ICC’s institutional counter-argument is that it is not stopping a state from defending itself; it is simply enforcing the global rules that dictate *how* a civilized nation is permitted to fight.

Specific evidence the ICC prosecutor used to build the case against Hamas

To build a legally sound case against HAMAS leaders for the 7 October 2023 incursions, ICC Chief Prosecutor Karim Khan compiled a vast array of direct, forensic, and digital evidence.

Because the court must meet a high evidentiary threshold of "reasonable grounds to believe" that international crimes occurred, the prosecution did not rely on secondary reports. Instead, they built the application using five distinct categories of verified data:

Digital and Broadcast Forensic Evidence

A significant portion of the evidence came directly from the perpetrators themselves and real-time electronic records.

The prosecution reviewed raw, unedited footage captured by high-definition body cameras worn by HAMAS fighters during the assault, which explicitly documented the point-blank killing of civilians, home invasions, and abductions.

Security camera feeds from targeted kibbutzim (such as Be'eri and Kfar Aza) and vehicle dashcams from the Supernova Music Festival site were mathematically synchronized to map the systemic nature of the execution-style killings.

Livestreams, photos, and videos uploaded by fighters to platforms like Telegram, alongside videos filmed by victims frantically sending updates to family members, provided chronological evidence of terror and unlawful confinement.

Physical Site Inspections and Crime Scene Analysis

The prosecutor’s office conducted independent on-site forensic examinations to bypass reliance on state-issued intelligence.

Prosecutor Karim Khan personally visited the devastated remains of Kibbutz Be'eri, Kibbutz Kfar Aza, and the Re'im music festival grounds to audit the structural geometry of the attacks.

> *Karim Khan is a Muslim and a member of the Ahmadiyya community, which is an independent and distinct reformist sect of Islam. Their leadership and members actively reject antisemitism, promote interfaith harmony, and frequently stand in solidarity with Jewish communities worldwide.*

Eye-Witness and survivor testimonies

Independent medical experts evaluated ballistic tracking data, path of entry wounds, and forensic autopsy findings. This physical evidence verified that victims were subjected to systematic torture, close-range execution, and burning.

The court integrated hundreds of hours of first-hand interviews to legally establish the psychological and physical reality of the war crimes.

Detailed accounts from individuals who survived the initial massacre by hiding in reinforced safe rooms or fields.

Crucial testimonies from individuals who were abducted on 7 October and subsequently released, documenting ongoing cruel treatment, torture, and unsafe containment conditions within Gaza.

Sexual assault forensic experts and first responders provided official statements verifying the physical patterns of rape, genital mutilation, and gender-based violence deployed during the invasion.

Communications and institutional admissions

To tie the ground-level atrocities directly to the top commanders, the prosecution collected evidence of structural command and control.

Intercepted military radio communications and phone calls made by HAMAS operatives during the raid, confirming that field units were acting on specific tactical orders from command centres.

Public video broadcasts, print interviews, and written press releases issued by HAMAS spokesmen and political leaders explicitly acknowledging, endorsing, and taking structural credit for the operation.

Establishing command responsibility

To charge top figures, such as Mohammed Deif, as "co-perpetrators and superiors," the prosecution had to link the leadership directly to the crimes. The key evidence used to prove they held active command authority included.

The prosecution secured verified evidence that senior leadership personally visited the hostages in subterranean tunnels shortly after their kidnapping, proving they possessed immediate, real-time knowledge and custodial control of the war crimes.

Documented military configurations showing that an operation of that geographic scale, incorporating motorized paragliders, synchronized drone strikes, and thousands of rockets, required month-long logistical orchestration by the group's highest executive tier.

How does this evidence hold up against the standard of proof required

This directly impacts whether a full trial will ever take place, which, at this time, has as yet to take place for the October 7 HAMAS perpetrators. In the meantime, Israel passed a law establishing a dedicated military tribunal in Jerusalem specifically to prosecute the roughly 400 captured suspects. However, the legal framework is still being built, and initial trials are not expected to begin until at least 2028.

Globally, the International Criminal Court (ICC) has ongoing investigations into war crimes and crimes against humanity related to the October 7 attacks, and the U.S. Department of Justice unsealed terrorism charges against senior HAMAS leaders. The legal status of these arrest warrants is highly unusual and complicated because most of the original targets are now deceased. Yet, the legal files at The Hague remain open due to strict bureaucratic and evidentiary requirements.

The deceased targets: unconfirmed status

To officially terminate an active arrest warrant, the ICC requires ironclad, legally verified proof of death. Because the court cannot rely solely on media reports or state announcements, several cases remain in a legal limbo:

Ismail Haniyeh (Political Chief) was assassinated in Tehran in July 2024. Because his death was publicly acknowledged globally and by HAMAS itself, the ICC Pre-Trial Chamber formally withdrew the application for his warrant shortly after, closing his file.

Yahya Sinwar (Gaza Chief) was killed by Israeli forces in Gaza in October 2024. The ICC prosecution subsequently moved to terminate proceedings against him once formal verification was finalized, rendering his warrant inactive.

Mohammed Deif (Military Commander) was killed in an Israeli airstrike in July 2024. However, because HAMAS has historically denied his death and his body was not publicly recovered, the ICC Prosecution has maintained his warrant on the active file. Until forensic proof meets the court's strict standard, his international arrest warrant remains technically live.

The surviving hierarchy: the active targets

Because the ICC targets individuals rather than organizations, the death of top leaders does not dissolve the case against the group's wider command structure. The court continues to pursue the surviving senior officials who stepped into leadership roles or who were co-perpetrators of the 7 October operational planning. The prosecution's office has kept its structural investigation open, meaning additional under-the-radar warrants can be issued secretly (under seal) to prevent targets from fleeing if they travel outside safe zones like Qatar or Iran.

The head of Hamas's Shura Council is Muhammad Ismail Darwish (also known as Abu Omar Hassan), who leads the movement alongside a five-member transitional committee. Membership of the nearly 60-member overarching consultative council is heavily guarded for security reasons. However, the four regional bodies of the Shura Council elect localized leadership, with top representative figures including Khalil al-Hayya, the head of the Gaza regional politburo, Zaher Jabarin, the head of the West Bank regional politburo, and Khaled Mashal, the head of the diaspora (external) wing.

The enforceability problem

The active warrants face a massive practical barrier: The ICC has no police force.

Palestine is an ICC member state. As such, it is technically required to hand over any suspects on its territory, but the Palestinian Authority has no physical control over Gaza or HAMAS operatives. Non-member states where HAMAS leaders frequently travel or reside (such as Qatar, Iran, and Turkey) are not legally bound by the Rome Statute and refuse to execute ICC warrants.

As long as the surviving suspects remain within non-cooperative countries, they cannot be arrested. However, the warrants severely restrict their global movement, as entering any of the 124 ICC member states would legally obligate that country's local police to arrest them and extradite them to The Hague. Except South Africa.

In June 2015, South Africa refused to execute an ICC arrest warrant for then-Sudanese President Omar al-Bashir. He was allowed to attend an African Union summit in Johannesburg and leave the country despite ICC requests and domestic court orders requiring his arrest.

Can these people face criminal trials in absentia under ICC rules

The International Criminal Court (ICC) strictly forbids full trials *in absentia* (trials where the accused is missing), meaning a person cannot be tried, convicted, or sentenced unless they are physically sitting in the courtroom.

This rule is protected by Article 67 of the Rome Statute, which guarantees every defendant the fundamental right "to be present at the trial." However, to prevent fugitives from completely paralyzing the international justice system, the ICC uses a specific loophole that allows them to conduct the pre-trial phase without the suspect. This is how this process works under ICC rules:

The pre-trial exception: Confirmation of charges

While a full trial is banned, Article 61(2) of the Rome Statute allows the ICC to hold a "Confirmation of Charges" hearing *in absentia*. This crucial mini-trial is held where the prosecutor presents their core evidence to a panel of judges to prove the case is strong enough to move forward. The court can only do this if the suspect has fled, cannot be found, or has waived their right to appear. The court must also appoint a defence lawyer to represent the missing suspect's interests during the hearing. If the judges approve the evidence, the charges are "confirmed." The case is then locked into place and put on permanent standby, waiting indefinitely until the suspect is captured or surrenders.

Why the ICC freezes the process after pre-trial

Once the charges are confirmed, the legal engine hits a hard stop. The ICC will not proceed to the actual trial stage for three main reasons. International law dictates that a person must be able to confront their accusers, cross-examine witnesses, and directly instruct their defence team. Sentencing an empty chair damages the court’s credibility. It highlights the court's lack of a police force and turns a binding judicial process into a symbolic political statement. By holding the pre-trial hearing early, the ICC legally preserves witness testimonies and forensic evidence while they are fresh, ensuring the case does not rot over decades of evasion.

Real-world applications

This exact mechanism has been deployed against some of the court's most notorious fugitives. The leader of the Lord's Resistance Army, Joseph Kony, evaded capture for nearly 20 years. To keep the case alive, the ICC held its first-ever major *in absentia* confirmation of charges hearing to formally cement his indictments in the court record. And, if Vladimir Putin or Benjamin Netanyahu, yes, Netanyahu, never step foot in an ICC member state, they can never be arrested or put on trial. Their cases will remain frozen at the warrant or pre-trial stage indefinitely

Did HAMAS dupe Israel into attacking civilian targets

It is an ongoing subject of debate among experts, military analysts, and international law scholars. Rather than a simple "dupe," it is broadly characterized as a deliberate and systematic strategy of asymmetrical warfare.

Israel has long maintained that HAMAS intentionally embeds its operatives, command infrastructure, and weapons caches within densely populated civilian areas, including hospitals, schools, and homes. Under this strategy, HAMAS fighters use the civilian population as "human shields" to deter Israeli strikes and to secure propaganda victories by exposing Palestinians to danger.

Critics and independent investigations, including reports by human rights organizations and the UN, have scrutinized Israel's use of force and targeting algorithms (such as the AI platform "The Gospel"). Reports indicate that Israel has sometimes broadened its definition of what constitutes a "military target," leading to significant civilian casualties while pursuing lower-ranking operatives.

Under international humanitarian law, the use of human shields does not exempt the attacking party (Israel) from its obligations to protect civilians and exercise proportionality. Human rights advocates argue that Israel's willingness to carry out strikes, knowing that large numbers of civilians will be killed or injured, makes it complicit in the casualties, while Israeli officials argue that HAMAS bears legal and moral responsibility for the harm caused by fighting from within civilian areas

HAMAS Lies and propaganda

HAMAS relies heavily on a sophisticated media and psychological warfare strategy to influence global public opinion, rally its support base, and counter Israeli narratives. Key tactics in HAMAS's information strategy include:

- **Information Control:** The group tightly regulates the flow of news, imagery, and casualty data coming out of Gaza to ensure it aligns with its strategic messaging.
- **Exploiting Civilian Suffering:** Graphic imagery of civilian casualties and destruction is systematically amplified across social media to maximize international outrage against Israel.
- **Denial of Military Presence:** Media outputs consistently omit or deny the presence of fighters, rocket launchers, and tunnels inside or underneath civilian infrastructure.
- **Hostage Messaging:** The group strategically releases highly edited videos of hostages to inflict psychological distress on the Israeli public and pressure the Israeli government.
- **Tailored Messaging:** Communication is split into two distinct channels: aggressive, militant rhetoric in Arabic to project strength domestically, and a focus on human rights and resistance against occupation in English for international audiences.

The independent verification challenge

International news agencies and human rights organizations face severe challenges when operating in Gaza, which complicates the process of separating propaganda from facts. Foreign journalists are rarely allowed independent entry into Gaza during active conflicts, forcing global media to rely on local stringers who operate under HAMAS oversight. Historically, local and international journalists face pressure, harassment, or censorship if they report on Hamas's military missteps, misfired rockets, or the diversion of humanitarian aid. The Gaza Health Ministry, which operates under the Hamas-run government, provides overall casualty counts that independent experts generally find demographically reliable in total numbers, but the data does not differentiate between civilian bystanders and active combatants.

The mainstream media's vulnerability to misinformation during the Gaza conflict is not due to a single flaw, but rather a combination of severe physical constraints, the rapid speed of the modern news cycle, and systemic institutional biases. Both sides of the conflict have successfully exploited these vulnerabilities at different times.

Media analysts point to several distinct reasons why major news outlets have repeatedly published inaccurate or unverified narratives.

Zero direct access for foreign journalists: Israel and Egypt have largely barred independent foreign journalists from entering Gaza on their own. Outlets must rely entirely on local Palestinian stringers—who operate under intense pressure from Hamas—or on "embedded" reporting tours managed entirely by the Israeli military. Without boots on the ground, international editors in London or New York cannot physically verify crime scenes, hospital strikes, or tunnel networks before the broadcast deadline.

The speed and pressure of the "Breaking News" cycle: Platforms like X and TikTok flood the internet with highly viral, unverified videos, deepfakes, and recycled footage from older conflicts. Mainstream outlets face immense commercial pressure to report massive breaking events immediately. When a major headline is rushed out based on an unverified official statement, the correction or retraction days later receives a fraction of the public attention.

Over-reliance on official sources: Mainstream journalism traditionally treats statements from official governments or recognized institutions as inherently credible. Early in conflicts, major networks frequently repeat official military briefings or local ministry statements verbatim without independent verification.

Deep-Seated Institutional Biases: Media critics argue that mainstream networks are rarely neutral, often operating under distinct internal pressures. Numerous internal whistleblowers and studies, such as analyses by The Intercept or documentaries by Al Jazeera, have accused Western newsrooms of systematically favouring Israeli government narratives, downplaying Palestinian suffering, and failing to rigorously cross-examine Israeli military claims.

Conversely, critics and media watchdogs point out that outlets routinely use data provided by the Hamas-run Gaza Health Ministry without explicitly clarifying the source's political affiliation. This can inadvertently obscure whether casualties were civilian bystanders or active combatants. This deeply compromised reporting environment has dramatically eroded public trust, driving many audiences away from traditional legacy media toward highly polarized social media feeds.

Mainstream media networks do frequently issue corrections, clarifications, and retractions, but these updates rarely receive the same public visibility or viral traction as the initial inaccurate headlines. The widespread public perception that the media "never corrects" its reporting stems from structural editorial practices, legal constraints, and the asymmetric nature of information warfare.

The asymmetry of retractions vs. breaking news: When a major unverified story breaks, such as the early, highly contested reports regarding the Al-Ahli Hospital strike, it immediately dominates front pages and global social media feeds. When newsrooms inevitably update the story days later after receiving verified satellite data or intelligence briefings, the correction is typically placed in a dedicated, low-traffic "Corrections and Clarifications" column. Social media algorithms prioritize high-emotion breaking news over dry, retrospective retractions, meaning the vast majority of the public never sees the update.

The "Fog of War" and attribution language: Rather than admitting an outright "lie," media outlets legally protect themselves by framing initial unverified reports as claims made by specific parties (e.g., "The Gaza Health Ministry reports..." or "The IDF states..."). Because the outlet technically reported what a source *said* rather than stating it as an absolute fact, editors treat subsequent contradictions as "evolving updates" or "new evidence" rather than formal corrections of their own journalistic failures.

Institutional retaliation and access risks: Mainstream news organizations are deeply dependent on maintaining official relationships with governments and military institutions for future coverage. Issuing a prominent, aggressive retraction that accuses a state actor or official entity of feeding them propaganda can result in severe real-world consequences, such as having their local bureaus shut down, their journalists banned from entering the country, or government-funded advertisement boycotts.

4. Delayed weaponization of data: In many instances, the definitive truth about a target or individual takes months or years to surface. For example, investigative reports or combatant martyrdom announcements occasionally reveal that an individual initially reported by the media as a "civilian journalist" or "aid worker" was actually an active military operative. By the time these verified facts emerge months down the line, the news cycle has moved on entirely, leaving the original, incorrect narrative permanently etched into public memory because editors deem the historical correction "no longer newsworthy."

Notable high-profile media course corrections: Despite the structural delays, several global outlets have been forced into highly public policy or headline changes.

The BBC publicly apologized and adjusted its editorial guidelines after rushing to attribute an early hospital blast directly to Israeli airstrikes before comprehensive evidence was available.

The New York Times faced severe internal and external scrutiny regarding its early coverage of specific atrocities, leading to subsequent follow-up reports that heavily Caveated or dismantled their own initial findings.

CNN and major US networks have faced massive internal whistleblower leaks via outlets like The Intercept and Al Jazeera. These leaks forced editors to address systemic double standards in how they screen and print military propaganda without sufficient verification.

South Africa's mainstream media reporting

Given South Africa's official state alignment—highlighted by its case against Israel at the International Court of Justice—local mainstream reporting (such as the SABC or Independent Media) generally leads with narratives focused on the plight of Palestinian civilian suffering.

When International media got it wrong, the domestic South African debate around Gaza coverage in South Africa failed to mirror the retraction controversies seen in the US or UK, primarily due to the country's distinct foreign policy alignment and specific media landscapes.

Outside of conservative or specific faith-based media niches, the mainstream South African media provided very little empathetic or analytical coverage regarding the psychological impact of the October 7 attacks on Israeli society, the ongoing plight of the hostages, or Israel's strategic security dilemmas.

South African mainstream media's reporting rarely investigated or detailed Hamas's systematic use of civilian infrastructure, tunnels, and human shields. The military capabilities and political manoeuvres of HAMAS were often minimized or omitted from mainstream local bulletins.

Because local newsrooms heavily relied on feeds from networks like Al Jazeera, the international footage broadcasted to South Africans already carried an embedded editorial slant that leaned heavily against Western and Israeli narratives.

So, it was the South African public that was duped!!

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