

STATEMENT

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for the Republic of South Africa

GENOCIDAL ACTS

- 1 Madame President, distinguished Members of the Court, it is a privilege to appear on behalf of the Republic of South Africa in this case of exceptional importance. It is a case that underscores the very essence of our shared humanity as expressed in the preamble to the Genocide Convention.

- 2 It is my task to address the Court on the genocidal acts that have led to this urgent request for provisional measures under Article 41 of the Statute of the Court. South Africa contends that Israel has transgressed Article II of the Convention, by committing actions that fall within the definition of acts of genocide. The actions show a systematic pattern of conduct from which genocide can be inferred.

OVERVIEW

[MAP OF THE GAZA STRIP]¹

¹ United Nations Office for the Coordination of Humanitarian Affairs ('UN OCHA'), *Hostilities in the Gaza Strip and Israel – reported impact / Day 73* (19 December 2023), <https://www.ochaopt.org/content/hostilities-gaza-strip-and-israel-reported-impact-day-73>.

- 3 Allow me to place these acts in context. Gaza is one of the two constituent territories of the occupied Palestinian territories, occupied by Israel since 1967. It is a narrow strip, of approximately 365 square kilometres, as depicted in the map now displayed. Despite formally “disengaging” in 2005, Israel continues to exercise control over the airspace, territorial waters, land crossings, water, electricity, electromagnetic sphere and civilian infrastructure in Gaza,² as well as over key governmental functions.³ Entry and exit by air and sea to Gaza is prohibited with Israel operating the only two crossing points.⁴ Gaza, which is one of the most densely populated places in the world is home to approximately 2.3 million Palestinians, almost half of them children.
- 4 For the past 96 days, Israel has subjected Gaza to what has been described as one of the heaviest conventional bombing campaigns in the history of modern warfare.⁵

² GOV.UK, *Guidance Overseas Business Risk: The Occupied Palestinian Territories* (22 February 2022), <https://www.gov.uk/government/publications/overseas-business-risk-palestinian-territories/overseas-business-risk-the-occupied-palestinian-territories>, para. 2.5.

³ United Nations Human Rights Council (‘UN HRC’), Report of the Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel, A/HRC/50/21 (9 May 2022), <https://undocs.org/A/HRC/50/21>, para. 16.

⁴ See e.g., United Nations Security Council (‘UNSC’) Res 1860 (8 January 2009), *The situation in the Middle East, including the Palestinian question*, S/RES/1860, [https://undocs.org/S/RES/1860\(2009\)](https://undocs.org/S/RES/1860(2009)) where the Security Council stressed “that the Gaza Strip constitutes an integral part of the territory occupied in 1967 and will be a part of the Palestinian state”. Recently reaffirmed in United Nations General Assembly Res 77/30 (6 December 2022), *Assistance to the Palestinian People*, A/RES/77/30, <https://undocs.org/A/RES/77/30>. See also, UN HRC, Human rights situation in Palestine and the other occupied Arab territories, Report of the detailed findings of the independent international Commission of Inquiry on the protests in the Occupied Palestinian Territory, A/HRC/40/CRP.2 (18 March 2019), <https://undocs.org/A/HRC/40/CRP.2>. UNSC Res 2720 (22 December 2023), *The situation in the Middle East, including the Palestinian question*, S/RES/2720, [https://undocs.org/S/RES/2720\(2023\)](https://undocs.org/S/RES/2720(2023)) stresses that “the Gaza Strip constitutes an integral part of the territory occupied in 1967” and reiterates “the vision of the two-State solution, with the Gaza Strip as part of the Palestinian State”.

⁵ John Paul Rathbone, “Israel’s Gaza attack ‘one of history’s heaviest conventional bombing campaigns’”, *The Irish Times* (6 December 2023), <https://www.irishtimes.com/world/middle-east/2023/12/06/israels-gaza-attack-one-of-historys-heaviest-conventional-bombing-campaigns/>.

Palestinians in Gaza are being killed by Israeli weaponry and bombs from air, land and sea.⁶

5 They are also at immediate risk of death by starvation, dehydration and disease as a result of the ongoing siege by Israel, the destruction of Palestinian towns, the insufficient aid being allowed through to the Palestinian population, and the impossibility of distributing this limited aid while bombs fall. This conduct renders essentials to life unobtainable.⁷

6 At this provisional measures stage, as this Court made clear in *The Gambia Myanmar case*, it is not necessary for the Court to come to a final view on the question of whether Israel’s conduct constitutes genocide. It is necessary to establish only “*whether . . . at least some of the acts alleged . . . are capable of falling within the provisions of the Convention*”.⁸ On analysing the specific and ongoing genocidal acts complained of, it is clear that at least some if not all of these acts fall within the Convention’s provisions.

7 These acts are documented in detail in South Africa’s application and confirmed by reliable, often UN, sources. It is unnecessary and impossible for me to recount all of them. I will highlight only some in order to illustrate the pattern of genocidal conduct. The UN statistics relied on are up to date to the 9th of January.

⁶ UN OCHA, *Hostilities in the Gaza Strip and Israel | Flash Update #84* (4 January 2024), <https://reliefweb.int/report/occupied-palestinian-territory/hostilities-gaza-strip-and-israel-flash-update-84-enarhe>.

⁷ UN News, *Gaza humanitarian disaster heralds ‘breakdown’ of society* (8 December 2023), <https://news.un.org/en/story/2023/12/1144547>; UN News, *Gaza: Aid access to north entirely blocked as war escalates in the south* (4 December 2023), <https://news.un.org/en/story/2023/12/1144302>.

⁸ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (The Gambia v. Myanmar), Provisional Measures, Order of 23 January 2020, I.C.J. Reports 2020*, p. 14, para. 30.

8 In South Africa’s oral submissions, we will illustrate the facts that we rely on with limited use of audio visual material. We do so with restraint and only where necessary, and always with respect to the Palestinian people.

9 Against this background, I move now to demonstrate in turn how Israel’s conduct violates Articles II(a); II(b); II(c); and II(d) of the Convention.

The Genocidal Acts

Article II(a): Killing Palestinians in Gaza

10 The first genocidal act committed by Israel is the **mass killing of Palestinians in Gaza** in violation of Article II(a) of the Genocide Convention.

11 As the UN Secretary-General explained five weeks ago, the level of Israel’s killing is so extensive that “*nowhere is safe in Gaza*”.⁹ As I stand before you today, 23,210 Palestinians have been killed by Israeli forces during the sustained attacks over

⁹ UN Secretary-General, *Letter by the Secretary-General to the President of Security Council invoking Article 99 of the United Nations Charter*, (6 December 2023), https://www.un.org/sites/un2.un.org/files/sg_letter_of_6_december_gaza.pdf; United Nations International Children’s Emergency Fund (‘UNICEF’), *A dystopic scene that seemed to stretch on endlessly* (November 2023), <https://www.unicef.org.uk/what-we-do/emergencies/no-safety-for-children-in-gaza/>; International Committee of the Red Cross (‘ICRC’), *Israel and the occupied territories: Deescalate now to prevent further human suffering* (28 October 2023), <https://www.icrc.org/en/document/israel-and-occupied-territories-deescalate-now-prevent-further-human-suffering>.

the last three months,¹⁰ at least 70 *per cent* of whom are believed to be women and children.¹¹ Some 7,000 Palestinians are still missing, presumed dead under the rubble.¹²

12 Palestinians in Gaza are subjected to relentless bombing wherever they go. They are killed in their homes, in places where they seek shelter, in hospitals, in schools, in mosques, in churches, and as they try to find food and water for their families. They have been killed if they failed to evacuate, in the places to which they fled, and even while they attempted to flee along Israeli declared “safe routes”.¹³

13 The level of killing is so extensive that those whose bodies are found are buried in mass graves, often unidentified.¹⁴

[SHOW IMAGE OF MASS GRAVES].

¹⁰ UN OCHA, *Hostilities in the Gaza Strip and Israel | Flash Update #88* (9 January 2023), <https://www.ochaopt.org/content/hostilities-gaza-strip-and-israel-flash-update-88>. The statistics in this speech are up to date to 9 January 2023.

¹¹ UN OCHA, *Hostilities in the Gaza Strip and Israel | Flash Update #85* (6 January 2024), <https://reliefweb.int/report/occupied-palestinian-territory/hostilities-gaza-strip-and-israel-flash-update-85>.

¹² UN OCHA, *Hostilities in the Gaza Strip and Israel | Flash Update #83* (3 January 2024), <https://www.ochaopt.org/content/hostilities-gaza-strip-and-israel-flash-update-83>.

¹³ Office of the United Nations High Commissioner for Human Rights (‘UN OHCHR’), *UN Human Rights has “grave fears” about toll on civilians in Gaza* (17 October 2023), <https://www.ohchr.org/en/press-briefing-notes/2023/10/un-human-rights-has-grave-fears-about-toll-civilians-gaza>; “Gaza civilians afraid to leave home after bombing of ‘safe routes’”, *The Guardian* (15 October 2023), <https://www.theguardian.com/world/2023/oct/14/gaza-civilians-afraid-to-leave-home-after-bombing-of-safe-routes>; ICRC,

The ICRC urges protection for Gaza civilians evacuating and staying behind (13 November 2023), <https://blogs.icrc.org/ir/en/2023/11/the-icrc-urges-protection-for-gaza-civilians-evacuating-and-staying-behind/>.

¹⁴ UN OCHA *Hostilities in the Gaza Strip and Israel | Flash Update #77*, <https://www.ochaopt.org/content/hostilities-gaza-strip-and-israel-flash-update-77>.

- 14 In the first three weeks alone following 7 October, Israel deployed 6,000 bombs per week.¹⁵ At least 200 times, it has deployed *two-thousand-pound bombs* in southern areas of Palestine designated as “safe”.¹⁶ These bombs have also decimated the North, including refugee camps.¹⁷ *Two-thousand-pound-bombs* are some of the biggest and most destructive bombs available.¹⁸ They are dropped by lethal fighter jets that are used to strike targets on the ground, by one of the world’s most resourced armies.
- 15 Israel has killed an “*unparalleled and unprecedented*” number of civilians,¹⁹ with the full knowledge of how many civilian lives each bomb will take.²⁰
- 16 More than 1,800 Palestinian families in Gaza have lost multiple family members,²¹ and hundreds of multigenerational families have been wiped out, with no remaining survivors — mothers, fathers, children, siblings, grandparents, aunts, cousins — often all killed together.²²

¹⁵ Francesca Albanese, UN Special Rapporteur on the situation of Human Rights in the Palestinian territories occupied since 1967, an interview with UN News, UN News, *Israel-Palestine crisis has ‘reached an unprecedented level of dehumanisation’*: *Independent rights expert* (29 October 2023), <https://news.un.org/en/story/2023/10/1142952>.

¹⁶ “A Times Investigation Tracked Israel’s use of one of its Most Destructive Bombs in South Gaza” *The New York Times* (21 December 2023), <https://www.nytimes.com/2023/12/21/world/middleeast/israel-gaza-bomb-investigation.html>.

¹⁷ “‘Not seen since Vietnam’: Israel dropped hundreds of 2,000-pound bombs on Gaza, analysis shows”, *CNN* (22 December 2023), <https://edition.cnn.com/gaza-israel-big-bombs/index.html>.

¹⁸ “A Times Investigation Tracked Israel’s use of one of its Most Destructive Bombs in South Gaza” *The New York Times* (21 December 2023), <https://www.nytimes.com/2023/12/21/world/middleeast/israel-gaza-bomb-investigation.html>.

¹⁹ UN Palestine, *Gaza: ‘Unprecedented and unparalleled’ civilian death toll: Guterres* (20 November 2023), <https://palestine.un.org/en/253284-gaza-unprecedented-and-unparalleled-civilian-death-toll-guterres>.

²⁰ Yuval Abraham, “‘A mass assassination factory’: Inside Israel’s calculated bombing of Gaza”, *+972 Magazine* (30 November 2023), <https://www.972mag.com/mass-assassination-factory-israel-calculated-bombing-gaza/>.

²¹ UN OCHA, *Hostilities in the Gaza Strip and Israel - reported impact | Day 90* (5 January 2023), <https://www.ochaopt.org/content/hostilities-gaza-strip-and-israel-reported-impact-day-90>.

²² Save the Children, *Children’s Mental Health in Gaza Pushed Beyond Breaking Point After Nearly a Month Of Siege and Bombardment* (7 November 2023), <https://www.savethechildren.org.uk/news/media-centre/press-releases/childrens-mentalhealth-in-gaza-deteriorates-one-month-on->.

17 This killing is nothing short of destruction of Palestinian life. It is inflicted deliberately. No one is spared, not even new born babies.²³ The scale of Palestinian child killings in Gaza is such that UN chiefs have described it as “*a graveyard for children*”.²⁴ The devastation is intended to and has laid waste to Gaza beyond any acceptable legal, let alone humane, justification.

Article II(b): causing serious mental and bodily harm to Palestinians in Gaza

18 The second genocidal act identified in South Africa’s application is **Israel’s infliction of serious bodily or mental harm to Palestinians in Gaza** in violation of Article II(b) of the Genocide Convention.

19 Israel’s attacks have left close to 60,000 Palestinians wounded and maimed²⁵ – again the majority of them women and children.²⁶ This in circumstances where the healthcare system has all but collapsed. I return to this later in my speech. Large numbers of Palestinian civilians including children are arrested, blindfolded, forced to undress and loaded onto trucks, taken to unknown locations.²⁷ The suffering of the Palestinian people – physical and mental – is undeniable.

²³ ICTR, Trial Chamber I, *Prosecutor v. Akayesu*, Case No. ICTR-96-4-T, Judgment (2 September 1998), para 121.

²⁴ UNICEF, *Gaza has become a graveyard for thousands of children* (31 October 2023), <https://www.unicef.org/press-releases/gaza-has-become-graveyard-thousands-children>.

²⁵ UN OCHA, *Hostilities in the Gaza Strip and Israel | Flash Update #88* (9 January 2023), <https://www.ochaopt.org/content/hostilities-gaza-strip-and-israel-flash-update-88>.

²⁶ UN OCHA, *Hostilities in the Gaza Strip and Israel | Flash Update #78* (27 December 2023), <https://www.ochaopt.org/content/hostilities-gaza-strip-and-israel-flash-update-78>.

²⁷ UN OCHA Statement by the United Nations Resident and Humanitarian Coordinator in the Occupied Palestinian Territory, Lynn Hastings, on International Human Rights Day (10 December 2023), <https://reliefweb.int/report/occupied-palestinian-territory/statement-united-nations-resident-and-humanitarian-coordinator-occupied-palestinian-territory-lynn-hastings-international-human-rights-day-enarhe>.

Article II(c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part

20 Turning to the third genocidal act, under Article II(c): Israel has deliberately imposed conditions on Gaza that cannot sustain life, and are **calculated to bring about its physical destruction**. Israel achieves this in at least four ways:

21 First, by displacement. Israel has forced the displacement of about 85% of Palestinians in Gaza.²⁸ There is nowhere safe for them to flee to - those who cannot leave or refuse to be displaced have either been killed or are at extreme risk of being killed in their homes.²⁹ Many Palestinians have been displaced multiple times, as families are forced to move repeatedly in search of safety.³⁰

22 Israel's first evacuation order on 13 October required the evacuation of over 1 million people — including children, the elderly, the wounded and infirm; entire hospitals, even newborn babies in intensive care. The order required them to evacuate the North to the South within 24 hours. The order was itself genocidal. It required *immediate* movement, taking only what could be carried, while no humanitarian assistance was permitted and

²⁸ UN OCHA, *Hostilities in the Gaza Strip and Israel | Flash Update #88* (9 January 2023), <https://www.ochaopt.org/content/hostilities-gaza-strip-and-israel-flash-update-88>

²⁹ See, e.g., Israeli strikes on Deir Al Balah on 4 December, preceding civilians being told to flee to these areas, UN OCHA, *Hostilities in the Gaza Strip and Israel | Flash Update #60* (5 December 2023), <https://www.ochaopt.org/content/hostilities-gaza-strip-and-israel-flash-update-60>; on the 12th of December 2023 the City of Rafah, after evacuation orders to Rafah and following civilians being told to flee to these areas, UN OCHA, *Hostilities in the Gaza Strip and Israel | Flash Update #67* (12 December 2023), <https://www.ochaopt.org/content/hostilities-gaza-strip-and-israel-flash-update-67>; Ben van der Merwe, Michelle Inez Simon Olive Enokido-Lineham, and Data & Forensics Unit, "Israel said Gazans could flee to this neighbourhood - then it was hit", *Sky News* (22 December 2023), <https://news.sky.com/story/israel-said-gazans-could-flee-to-this-neighbourhood-then-it-was-hit-13034936>.

³⁰ UN OCHA, *Hostilities in the Gaza Strip and Israel | Flash Update #88* (9 January 2023), <https://www.ochaopt.org/content/hostilities-gaza-strip-and-israel-flash-update-88>.

fuel, water, food and other necessities of life had deliberately been cut off. It was clearly calculated to bring about the destruction of the population.³¹

- 23 For many Palestinians, the forced evacuation from their homes is inevitably permanent. Israel has now damaged or destroyed an estimated 355,000 Palestinian homes – leaving at least half a million Palestinians with no home to return to.³² The Special Rapporteur on the human rights of internally displaced persons explains that houses and infrastructure “*have been razed to the ground, frustrating any realistic prospects for displaced Gazans to return home, repeating a long history of mass forced displacement of Palestinians by Israel*”.³³ There is no indication at all that Israel accepts responsibility for rebuilding what it has destroyed.

[SHOW PICTURE OF ISRAELI FLAG IN PALESTINE SQUARE]

- 24 Instead, the destruction is celebrated by the Israeli army: soldiers film themselves joyfully detonating entire apartment blocks and town centres; erecting the Israeli flag

³¹ See in this regard the position adopted by the parties to the *Joint Declaration of Intervention of Canada, the Kingdom of Denmark, the French Republic, the Federal Republic of Germany, the Kingdom of the Netherlands, and the United Kingdom of Great Britain and Northern Ireland*, para 47; <https://www.icj-cij.org/sites/default/files/case-related/178/178-20231115-wri-01-00-en.pdf>.

³² UN OCHA, *Hostilities in the Gaza Strip and Israel | Flash Update #87* (8 January 2023), <https://reliefweb.int/report/occupied-palestinian-territory/hostilities-gaza-strip-and-israel-flash-update-87>.

³³ UN OHCHR, *Israel working to expel civilian population of Gaza, UN expert warns* (22 December 2023), <https://www.ohchr.org/en/press-releases/2023/12/israel-working-expel-civilian-population-gaza-un-expert-warns>.

over the wreckage,³⁴ seeking to re-establish Israeli settlements on the rubble of Palestinian homes³⁵ — and thus extinguishing the very basis of Palestinian life in Gaza.³⁶

25 *Second*, together with forced displacement, Israel’s conduct has been deliberately calculated to cause widespread hunger, dehydration and starvation. Israel’s campaign has pushed Gazans to the brink of famine.³⁷ An “*unprecedented 93% of the population in Gaza is facing crisis levels of hunger*”.³⁸ Of all the people *in the world* currently suffering catastrophic hunger, more than 80 *per cent* are in Gaza.³⁹

26 The situation is such that experts are now predicting that more Palestinians in Gaza may die from starvation and disease than airstrikes,⁴⁰ and yet Israel continues to impede the effective delivery of humanitarian assistance to Palestinians,⁴¹ not only refusing to allow

³⁴ “Israeli flag raised in symbolic Palestine Square in Gaza City, video shows”, *CNN* (8 December 2023), https://edition.cnn.com/middleeast/live-news/israel-hamas-war-gaza-news-12-08-23/h_7516b0f4b4970e9a01bffb26f1bb4739.

³⁵ “Far-right minister calls for Israel to ‘fully occupy’ Gaza, reestablish settlements”, *The Times of Israel* (15 December 2023), <https://www.timesofisrael.com/far-right-minister-calls-for-israel-to-fully-occupy-gaza-reestablish-settlements/>.

³⁶ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v. Serbia)*, *Judgment*, *I.C.J. Reports 2015*, pp. 71-72, para. 163.

³⁷ WFP Media, @WFP_Media, Tweet (10:35 pm, December 9, 2023), https://twitter.com/WFP_Media/status/1733616413636530607; Integrated Food Security Phase Classification, *Gaza Strip: Acute Food Insecurity Situation for 24 November - 7 December 2023 and Projection for 8 December 2023 - 7 February 2024* (21 December 2023), <https://www.ipcinfo.org/ipc-country-analysis/details-map/en/c/1156749/?iso3=PSE>.

³⁸ WHO, *Lethal combination of hunger and disease to lead to more deaths in Gaza* (21 December 2023), <https://www.who.int/news/item/21-12-2023-lethal-combination-of-hunger-and-disease-to-lead-to-more-deaths-in-gaza>.

³⁹ Islamic Relief Worldwide, *Gaza now the world’s worst hunger crisis and on the verge of famine* (9 January 2024), <https://islamic-relief.org/news/gaza-now-the-worlds-worst-hunger-crisis-and-on-the-verge-of-famine/> (21 December 2023).

⁴⁰ Save the Children, *Press Release: Deaths by starvation and disease may top deaths by bombs as families squeezed into deadly “safe zones”, two months into Gaza crisis* (9 December 2023), <https://www.savethechildren.net/news/deaths-starvation-and-disease-may-top-deaths-bombs-families-squeezed-deadly-safe-zones-two>.

⁴¹ Human Rights Watch (‘HRW’), *Israel: Starvation Used as Weapon of War in Gaza* (18 December 2023), <https://www.hrw.org/news/2023/12/18/israel-starvation-used-weapon-war-gaza>.

sufficient aid in, but removing the ability to distribute it through constant bombardment and obstruction.⁴²

27 Just three days ago, on 8 January, a planned mission by UN agencies to deliver urgent medical supplies and vital fuel to a hospital and medical supply centre was denied by the Israeli authorities.⁴³ This marked the fifth denial of a mission to the centre since 26 December, leaving five hospitals in northern Gaza without access to life-saving medical supplies and equipment.⁴⁴

28 Aid trucks that are allowed in are seized upon by the hungry. What is provided is simply not enough.

[VIDEO OF HUMANITARIAN AID TRUCK BEING MOBBED]

29 *Third*, Israel has deliberately inflicted conditions in which Palestinians in Gaza are denied adequate shelter, clothes or sanitation. For weeks, there have been acute shortages of clothes, bedding, blankets and critical non-food items.⁴⁵ Clean water is all but gone, leaving far below the amount required to safely drink, clean and cook.⁴⁶

⁴² OCHA, *Hostilities in the Gaza Strip and Israel | Flash Update #88* (9 January 2023), <https://www.ochaopt.org/content/hostilities-gaza-strip-and-israel-flash-update-88>.

⁴³ OCHA, *Hostilities in the Gaza Strip and Israel | Flash Update #88* (9 January 2023), <https://www.ochaopt.org/content/hostilities-gaza-strip-and-israel-flash-update-88>.

⁴⁴ OCHA, *Hostilities in the Gaza Strip and Israel | Flash Update #88* (9 January 2023), <https://www.ochaopt.org/content/hostilities-gaza-strip-and-israel-flash-update-88>.

⁴⁵ ICRC, *Israel and the occupied territories: The ICRC urges protection for Gaza civilians evacuating and staying behind* (12 November 2023), <https://www.icrc.org/en/document/israel-and-occupied-territories-icrc-urges-protection-gaza-civilians-evacuating-and-staying>; UN OCHA, *Hostilities in the Gaza Strip and Israel | Flash Update #71* (16 December 2023), <https://www.ochaopt.org/content/hostilities-gaza-strip-and-israel-flash-update-71>.

⁴⁶ WFP, *Gaza Food Security Assessment* (6 December 2023), <https://docs.wfp.org/api/documents/WFP-0000154766/download/>.

- 30 Accordingly, the WHO has stated that Gaza is “*experiencing soaring rates of infectious disease outbreaks*”.⁴⁷ Cases of diarrhea in children under five years of age have increased 2000 *per cent* since hostilities began.⁴⁸ When combined and left untreated, malnutrition and disease create a deadly cycle.⁴⁹
- 31 *The fourth genocidal act* under Article II(b) is Israel’s military assault on Gaza’s healthcare system, which renders life unsustainable. Even by 7 December, the UN Special Rapporteur on the right to health noted that “[*t]he healthcare infrastructure in the Gaza strip has been completely obliterated*”⁵⁰
- 32 Those wounded by Israel in Gaza are being deprived of life-saving medical care.⁵¹ Gaza’s healthcare system — already crippled by years of blockade and prior attacks by Israel — is unable to cope with the sheer scale of the injuries.⁵²

⁴⁷ Tedros Adhanom Ghebreyesus, @DrTedros, Tweet (7:05 pm, December 20, 2023), <https://twitter.com/DrTedros/status/1737549701728092481>.

⁴⁸ UNICEF, *Intensifying conflict, malnutrition and disease in the Gaza Strip creates a deadly cycle that threatens over 1.1 million children* (5 January 2024), <https://www.unicef.org/press-releases/intensifying-conflict-malnutrition-and-disease-gaza-strip-creates-deadly-cycle>.

⁴⁹ UNICEF, *Intensifying conflict, malnutrition and disease in the Gaza Strip creates a deadly cycle that threatens over 1.1 million children* (5 January 2024), <https://www.unicef.org/press-releases/intensifying-conflict-malnutrition-and-disease-gaza-strip-creates-deadly-cycle>; Tedros Adhanom Ghebreyesus, @DrTedros, Tweet (7:05 pm, December 20, 2023), <https://twitter.com/DrTedros/status/1737549701728092481>.

⁵⁰ UN OHCHR, *Gaza: UN expert condemns ‘unrelenting war’ on health system amid airstrikes on hospitals and health workers* (7 December 2023), <https://www.ohchr.org/en/press-releases/2023/12/gaza-un-expert-condemns-unrelenting-war-health-system-amid-airstrikes>.

⁵¹ UN News, *UPDATED: Injured patients ‘waiting to die’ in northern Gaza as last hospital shuts down, amid rising ‘catastrophic’ hunger levels* (21 December 2023), <https://news.un.org/en/story/2023/12/1145017>.

⁵² UN OCHA, *Hostilities in the Gaza Strip and Israel – reported impact | Day #82* (27 December 2023), <https://www.ochaopt.org/content/hostilities-gaza-strip-and-israel-reported-impact-day-82>.

Article II(d) – reproductive violence

- 33 Finally, the UN Special Rapporteur on violence against women and girls has pointed to acts committed by Israel that would fall under the fourth category of genocidal acts, in Article II(d) of the Convention.
- 34 On 22 November she expressly warned that: “the reproductive violence inflicted by Israel on Palestinian women, newborn babies, infants, and children could be qualified as . . . acts of genocide under Article 2 of the [Genocide Convention]. . . including ‘imposing measures intended to prevent births within a group’.”⁵³
- 35 Israel is blocking the delivery of life-saving aid, including essential medical kits for delivering babies,⁵⁴ in circumstances where an estimated 180 women are giving birth in Gaza each day.⁵⁵ Of these 180 women, the WHO warns that 15% are likely to experience pregnancy or birth-related complications and need additional medical care.⁵⁶ That care is simply not available.

⁵³ UN OHCHR, *Press Release, Women bearing the brunt of Israel-Gaza conflict: UN expert* (20 November 2023), <https://www.ohchr.org/en/press-releases/2023/11/women-bearing-brunt-israel-gaza-conflict-un-expert>.

⁵⁴ AP News, *Cumbersome process and ‘arbitrary’ Israeli inspections slow aid delivery into Gaza, US senators say* (6 January 2024) <https://apnews.com/article/israel-gaza-rafah-aid-us-senators-2bc2a3c5e5f8af8e2d3f0b7242c1a885>.

⁵⁵ UN PFA *Crisis in the occupied Palestinian territory* (5 January 2024) <https://www.unfpa.org/crisis-occupied-palestinian-territory>.

⁵⁶ WHO, *Women and newborns bearing the brunt of the conflict in Gaza, UN agencies warn* (3 November 2023) <https://www.who.int/news/item/03-11-2023-women-and-newborns-bearing-the-brunt-of-the-conflict-in-gaza-un-agencies-warn#:~:text=Women%2C%20children%20and%20newborns%20in,and%20Works%20Agency%20for%20Palestine>.

Pattern of conduct indicates intent

36 In sum, all of these acts, individually and collectively, form a calculated pattern of conduct by Israel, indicating genocidal intent. This intent is evident from Israel's conduct in:

36.1 specially targeting Palestinians living in Gaza.

36.2 using weaponry that causes large-scale homicidal destruction, as well as targeted sniping of civilians;

36.3 Israel designating safe zones for Palestinians to seek refuge and then bombing these;

36.4 depriving Palestinians in Gaza of basic needs – food, water, healthcare, fuel, sanitation and communications;

36.5 destroying social infrastructure: homes, schools, mosques, churches, hospitals, and

36.6 killing, seriously injuring, and leaving large numbers of children orphaned.

37 Genocides are never declared in advance. But this Court has the benefit of the past 13 weeks of evidence that shows incontrovertibly a pattern of conduct and related intention that justifies a plausible claim of genocidal acts.

38 In *The Gambia Myanmar case*, this Court did not hesitate to impose provisional measures in relation to allegations that Myanmar was committing genocidal acts against

the MRohingya within the Rakhine State.⁵⁷ The facts before this Court today are, sadly, even more stark, and like *The Gambia Myanmar case*, deserve and demand this Court’s intervention.

Conclusion

39 Every day there is mounting and irreparable loss of life, property, dignity and humanity for the Palestinian people. Our newsfeeds show graphic images of suffering that has become unbearable to watch. Nothing will stop this suffering, except an Order from this Court. Without an indication of provisional measures, the atrocities will continue; with the Israeli Defence Force indicating that it intends pursuing this course of action for at least a year.⁵⁸

40 In the words of the Under-Secretary General on 5 January 2024:

“You think getting aid into Gaza is easy? Think again.

Three layers of inspections before trucks can even enter.

Confusion and long queues.

A growing list of rejected items.

A crossing point meant for pedestrians, not trucks.

Another crossing point where trucks have been blocked

⁵⁷ *The Gambia v. Myanmar, Provisional Measures, Order of 23 January 2020, I.C.J. Reports 2020*, para 56.

⁵⁸ Jason Burke, “Israel says Gaza fighting could last a year, amplifying fears of regional war”, *The Guardian* (7 January 2024), <https://www.theguardian.com/world/2024/jan/07/israel-says-gaza-fighting-could-last-a-year-amplifying-fears-of-regional-war>.

by desperate, hungry communities.

A destroyed commercial sector.

Constant bombardments.

Poor communications. Damaged roads.

Convoys shot at. Delays at checkpoints.

*A traumatized and exhausted population crammed into a
smaller and smaller sliver of land.*

Shelters which have long exceeded their full capacity.

Aid workers themselves displaced, killed.

*This is an impossible situation for the people of Gaza,
and for those trying to help them.*

The fighting must stop.”⁵⁹

- 41 Madame President, that concludes my section on the genocidal conduct of Israel. I thank you for your patient attention, and I ask that you call Adv Ngcukaitobi to the podium to address the Court on genocidal intent.

⁵⁹ Martin Griffiths, @UNReliefCHief, Tweet (1:13 am, 29 December 2023), <https://twitter.com/UNReliefChief/status/1740526522476191938/photo/1>.