

## STATEMENT

By Mr Tembeka Ngcukaitobi SC, Counsel and Advocate

for the Republic of South Africa

### GENOCIDAL INTENT

- 1 Madam President and members of the Court. It is a privilege to appear before the Court on behalf of South Africa. I will address Israel's genocidal intent.
- 2 At this stage, the Court is *not* required to determine that the *only* inference to be drawn from the available evidence is genocidal, to order provisional measures, as that is to decide the merits. Rather, the assessment of the existence of an intent to destroy "could be made by the Court only at the stage of the examination of the merits".<sup>1</sup> That some of the alleged acts may *also* amount to atrocities other than genocide does not exclude the finding of *plausible* acts of a genocide.
- 3 Madam President, South Africa is not alone in drawing attention to Israel's genocidal rhetoric against Palestinians in Gaza. 15 United Nations Special Rapporteurs and 21 members of the United Nations Working Groups have warned that what is happening in Gaza reflects "*a genocide in the making*" and an overt intent to "*destroy the Palestinian people under occupation*".<sup>2</sup>

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<sup>1</sup> *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. 3, para. 30 (hereafter '*The Gambia v. Myanmar, Provisional Measures, Order of 23 January 2020*').

<sup>2</sup> UN OHCHR, *Gaza: UN experts call on international community to prevent genocide against the Palestinian people* (16 November 2023), <https://www.ohchr.org/en/press-releases/2023/11/gaza-un-experts-call-international-community-prevent-genocide-against>; See the *Application instituting proceedings and request for the indication of provisional measures* (29 December 2023), pp. 68 – 69, <https://www.icj-cij.org/sites/default/files/case-related/192/192-20231228-app-01-00-en.pdf> ("the Application").

## *Intent from conduct*

- 4 Israel has a genocidal intent against the Palestinians living in Gaza.
- 5 That is evident from the way in which Israel’s military attack is being conducted, which has been described by Ms Hassim SC. It is systematic in its character and form: the mass displacement of the population of Gaza,<sup>3</sup> herded into areas where they continue to be killed,<sup>4</sup> and the deliberate creation of conditions that “lead to a slow death”.
- 6 There is also the clear pattern of conduct: the targeting of family homes and civilian infrastructure,<sup>5</sup> laying waste to vast areas of Gaza,<sup>6</sup> and the bombing, shelling and sniping of men, women and children where they stand,<sup>7</sup> the destruction of the health infrastructure, and lack of access to humanitarian assistance, so much so that as we stand today, 1% of the Palestinian population in Gaza has been systematically decimated, and

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<sup>3</sup> UN OCHA, *Hostilities in the Gaza Strip and Israel | Flash Update #88* (January 9, 2024), <https://www.unocha.org/publications/report/occupied-palestinian-territory/hostilities-gaza-strip-and-israel-flash-update-88>.

<sup>4</sup> CNN, *Israel struck some areas it directed civilians to in Gaza, CNN analysis shows*, (21 December 2023) <https://edition.cnn.com/2023/12/21/middleeast/israel-strikes-evacuation-zones-gaza-intl-cmd/index.html>; Sky News, *Israel said Gazans could flee to this neighbourhood - then it was hit*, (22 December 2023) <https://news.sky.com/story/israel-said-gazans-could-flee-to-this-neighbourhood-then-it-was-hit-13034936> ; New York Times, *A Times Investigation Tracked Israel’s Use of One of Its Most Destructive Bombs in South Gaza* (December 21, 2023) <https://www.nytimes.com/2023/12/21/world/middleeast/israel-gaza-bomb-investigation.html>.

<sup>5</sup> UN OCHA, *Hostilities in the Gaza Strip and Israel | Flash Update #86* (January 7, 2024), <https://www.ochaopt.org/content/hostilities-gaza-strip-and-israel-flash-update-86>; Al-Haq, @alhaq\_org, Tweet (4:08 pm, January 8, 2024), [https://twitter.com/alhaq\\_org/status/1744390645341422028](https://twitter.com/alhaq_org/status/1744390645341422028).

<sup>6</sup> 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>; Israeli soldiers offering properties, Al-Haq, 8 January 2024.

[https://www.youtube.com/watch?v=KzZ98\\_JFfU&list=PL1PVNSxOtpMU5Ej9anTXtFQrFGMqJGm6t&index=6](https://www.youtube.com/watch?v=KzZ98_JFfU&list=PL1PVNSxOtpMU5Ej9anTXtFQrFGMqJGm6t&index=6).

<sup>7</sup> UN OHCHR, *UN Human Rights Office - OPT: Unlawful killings in Gaza City* (20 December 2023), <https://reliefweb.int/report/occupied-palestinian-territory/un-human-rights-office-opt-unlawful-killings-gaza-city>; A Palestinian father and daughter were killed by Israeli snipers in Gaza, Middle East Eye, 5 January 2024, [https://www.youtube.com/watch?v=6\\_JTz\\_1iso](https://www.youtube.com/watch?v=6_JTz_1iso); State of Palestine- MFA, Official channel of Palestinian Ministry of Foreign Affairs and Expatriates @pmofa, Tweet (7:08 pm, January 8, 2023), <https://twitter.com/pmofa/status/1744435890552770905>.

1 in 40 Gazans have been injured, since 7 October.<sup>8</sup> These two elements alone are *capable* of evidencing Israel’s genocidal intent in relation to the whole or part of the Palestinian population in Gaza.

7 However, third, there is an extraordinary feature in this case: that Israel’s political leaders, military commanders and persons holding official positions have systematically and in explicit terms declared their genocidal intent; and these statements are then repeated by soldiers on the ground in Gaza as they engage in the destruction of Palestinians and the physical infrastructure of Gaza.

8 We show this third element next.

***Intent from genocidal speech by leaders and military officials***

9 Israel’s special genocidal intent is rooted in the belief that in fact the “enemy” is not just the military wing of Hamas, or indeed Hamas generally, but is embedded in the fabric of Palestinian life in Gaza.

10 On 7 October, in a televised address, Israeli Prime Minister Benjamin Netanyahu declared war on Gaza and I quote, Israel had started “*clear[ing] out the communities that have been infiltrated by terrorists*” and he warned of an “*unprecedented price*” to be paid by the enemy.<sup>9</sup>

11 There are more than 2.3 million Palestinians in Gaza. Israel is the occupying power, in

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<sup>8</sup> CNN, *One in 100 people in Gaza has been killed since October 7* (January 8, 2024) <https://edition.cnn.com/2024/01/08/middleeast/gaza-death-toll-population-intl/index.html>.

<sup>9</sup> Israeli Prime Minister Declares War on Palestinian Militants Hamas, WSJ News, 7 October 2023, <https://www.youtube.com/watch?v=1PsOw7hxiXs>, at 00:17 – 00:25.

control of Gaza; it controls entry, exit and the internal movements of inside Gaza.<sup>10</sup> And *qua* Prime Minister, Mr Netanyahu exercises overall command over the Israeli Defence Force, and in turn the Palestinians in Gaza.

- 12 Prime Minister Netanyahu, in his address to the Israeli forces on 28 October 2023 — preparing for the invasion of Gaza — urged the soldiers to “*remember what Amalek has done to you*”.<sup>11</sup> This refers to the Biblical command by God to Saul for the retaliatory destruction of an entire group of people known as the Amalekites “*Put to death men and women, children and infants, cattle and sheep, camels and donkeys*”.<sup>12</sup> The genocidal invocation to Amalek was anything but idle. It was *repeated* by Mr Netanyahu in a letter to the Israeli armed forces on 3 November 2023.<sup>13</sup> Madam President, let the Prime Minister’s words speak for themselves:

**[CUE FIRST VIDEO]**

- 13 The Deputy Speaker of the Knesset, Israel’s Parliament, has called for the *erasure* of the

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<sup>10</sup> *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, of 9 July 2004, I.C.J. Reports 2004*, p. 35, para 78 (hereafter ‘*Advisory Opinion of 9 July 2004*’), <https://www.icj-cij.org/sites/default/files/case-related/131/1497.pdf>; Human Rights Council, 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://www.un.org/unispal/wp-content/uploads/2019/06/A.HRC\\_40.CPR\\_2.pdf](https://www.un.org/unispal/wp-content/uploads/2019/06/A.HRC_40.CPR_2.pdf); Security Council resolution 2720 (2023), adopted on 22 December 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,” <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N23/424/87/PDF/N2342487.pdf?OpenElement>.

<sup>11</sup> Address by the Prime Minister of Israel, 28 October 2023, <https://www.youtube.com/watch?v=IIPkoDk6isc>. Translation in, “Israel-Hamas war: ‘We will fight and we will win’, says Benjamin Netanyahu”, *Sky News* (28 October 2023), <https://news.sky.com/video/israel-hamas-war-we-will-fight-and-we-will-win-says-benjamin-netanyahu-12995212>.

<sup>12</sup> 1 Samuel 15:3, Bible Hub, [https://biblehub.com/niv/1\\_samuel/15-3.htm](https://biblehub.com/niv/1_samuel/15-3.htm).

<sup>13</sup> Prime Minister’s Office in Hebrew, @IsraeliPM\_heb, Tweet (11:43 am, November 3, 2023), [https://twitter.com/IsraeliPM\\_heb/status/1720406463972004198](https://twitter.com/IsraeliPM_heb/status/1720406463972004198).

Gaza Strip from the *face of the earth*.<sup>14</sup>

14 The Defence Force agrees. On 9 October, the Defence Minister Yoav Gallant gave a ‘*situation update*’ to the army where he said that as Israel was “*imposing a complete siege on Gaza*”; “*there would be no electricity, no food, no water, no fuel.*” “*Everything would be closed*”, because Israel is “*fighting human animals.*”<sup>15</sup> Speaking to troops on the Gaza border, he instructed them that he has “*released all the restraints*” and that “*Gaza won’t return to what it was before. We will eliminate everything...we will reach all places.*”<sup>16</sup> Eliminate everything. Reach all places. Without any restraints.

15 The theme of destruction of “*human animals*” was reiterated by an Israeli Army Coordinator of Government Activities in the Territories (“COGAT”) on 9 October 2023 who — in an address to “*Hamis and the residents of Gaza*” — stated that Hamas has become ISIS and that “*the citizens of Gaza are celebrating instead of being horrified*”.<sup>17</sup> He concluded that, “*human animals are dealt with accordingly*”, “*Israel has imposed a total blockade on Gaza, no electricity, no water, **just damage**. You wanted hell, you will get hell.*”<sup>18</sup> The language of systematic dehumanisation is evident here: “*human animals*”. *Both* Hamas and civilians are condemned.

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<sup>14</sup> Nissim Vaturi, Deputy Speaker of the Knesset. Member of the Foreign Affairs and Security Committee, @nissimv, Tweet (5:33 pm, October 7, 2023) <https://twitter.com/nissimv/status/1710694866009596169>. Translation in “Public Statement: Scholars Warn of Potential Genocide in Gaza”, *Opinio Juris* (18 October 2023), <https://opiniojuris.org/2023/10/18/public-statement-scholars-warn-of-potential-genocide-in-gaza/>. See also p. 62 of the Application.

<sup>15</sup> Statement by Yoav Gallant, Knesset Channel, 9 October 2023, <https://www.youtube.com/watch?v=InxvS9VY-t0>. Translation in Emanuel Fabian, “Defense minister announces ‘complete siege’ of Gaza: No power, food or fuel”, *The Times of Israel* (9 October 2023), [https://www.timesofisrael.com/liveblog\\_entry/defense-minister-announces-complete-siege-of-gaza-no-power-food-or-fuel/](https://www.timesofisrael.com/liveblog_entry/defense-minister-announces-complete-siege-of-gaza-no-power-food-or-fuel/).

<sup>16</sup> Filmography: Ariel Harmoni, Ministry of Defense, Kipa News, 10 October 2023, <https://www.youtube.com/watch?v=l9wx7e4u-xM>. Translation in “Israeli Defense Minister Warns Hamas ‘Will Regret’ Deadly Attacks”, Bloomberg (10 October 2023), <https://www.youtube.com/watch?v=vtjHcnNB0E8>.

<sup>17</sup> Video address by Ghassan Alian, 10 October 2023, <https://www.youtube.com/shorts/5a0EWv-o7mE>.

<sup>18</sup> *Ibid.*

- 16 Within the Israeli cabinet, this is also a widely held view. The Minister of Energy and Infrastructure Israel Katz called for the denial of water and fuel as “*this is what will happen to a people of children killers and slaughterers.*”<sup>19</sup> This admits of no ambiguity: it means to create conditions of death of the Palestinian people in Gaza. To die a slow death because of starvation and dehydration or to die quickly because of a bomb attack or snipers. But to die, nevertheless. In fact, Heritage Minister Amichai Eliyahu said that Israel “*must find ways for Gazans that are more painful than death*”.<sup>20</sup> It is no answer to say that neither are in command of the army. They are Ministers in the Israeli Government; they vote in the Knesset; and are in a position to shape State policy.
- 17 The intent to destroy Gaza has been nurtured at the highest levels of State, as President Isaac Herzog has joined the ranks of those signing bombs destined for Gaza — having previously noted that the entire population of Gaza is responsible and that “*this rhetoric about civilians not aware, not involved, is absolutely not true... we will fight until we break their backbone*”.<sup>21</sup> Later attempts by the President and others to neutralise this speech, have not altered the sting of his words – which was to tar *all* Palestinians, as responsible for the actions of Hamas. Nor, as I will show below, has it affected how State policy is understood within the government.
- 18 The Minister of National Security repeated the President’s statements that Hamas and civilians are responsible in equal measure. On 10 November 2023, in a televised

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<sup>19</sup> Israel Katz, Tweet (10:26 am, October 10, 2023) [https://twitter.com/Israel\\_katz/status/1711659347590156417](https://twitter.com/Israel_katz/status/1711659347590156417). Translated by Palestine Negotiations Affairs Department, *Israeli Official Incitement: October 2023* (13 November 2023), <https://www.nad.ps/en/media-room/latest-israeli-incitement-reports>.

<sup>20</sup> Anadolu Ajansi, *Another Israeli minister calls for encouraging Palestinians to leave Gaza*, (5 January 2024) <https://www.aa.com.tr/en/middle-east/another-israeli-minister-calls-for-encouraging-palestinians-to-leave-gaza/3101423#:~:text='We%20must%20find%20ways%20for,than%20death%2C'%20Amichai%20Eliyahu%20says&text=Israeli%20Heritage%20Minister%20Amichai%20Eliyahu,killed%20more%20than%2022%2C000%20people>.

interview, he stated that “*when we say that Hamas should be destroyed, it also means those who celebrate, those who support, and those who hand out candy – they’re all terrorists, and they should also be destroyed.*”<sup>22</sup>

- 19 These are orders to destroy. And to maim what cannot be destroyed. These statements are not open to neutral interpretations, or after the fact rationalisations and re-interpretations by Israel. The statements were made by persons in command of the State. They communicated State policy. It is simple. If the statements were not intended, they would not have been made.

### ***Intent from genocidal speech by soldiers***

- 20 The genocidal intent behind these statements is not ambiguous to the Israeli soldiers on the ground. Indeed, it is directing their actions and objectives.
- 21 On 7 December 2023, Israeli soldiers proved that they understood the Prime Minister’s message to “*remember what the Amalek has done to you*”, as genocidal. They were recorded by journalists dancing and singing “*We know our motto: there are no uninvolved...*”; that they obey one commandment, “*to wipe off the seed of Amalek*”.<sup>23</sup> The Prime Minister’s invocation of “Amalek” is being used by soldiers to justify the killing of civilians, including children. These are the soldiers repeating the inciting words of their Prime Minister:

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<sup>22</sup> Interview with Itamar Ben-Gvir on Channel 12, 11 November 2023, <https://www.youtube.com/watch?v=2yRl-cc-D3w> [10:30 onwards]. Translated by Quds News Network, @QudsNen, Tweet (7:28 pm, November 12, 2023), <https://twitter.com/QudsNen/status/1723784790682358189>.

<sup>23</sup> Yinon Magal, @YinonMagal, Tweet (6:44 am, December 7, 2023) <https://twitter.com/YinonMagal/status/1732652279461757102>. Translation by Middle East Eye, @MiddleEastEye, Tweet (1:30 pm, December 8, 2023) <https://twitter.com/MiddleEastEye/status/1733116719668113618> (emphasis added).

[CUE SECOND VIDEO]

22 Israeli soldiers in Gaza were filmed dancing, chanting, and singing in November “*May their Village burn, May Gaza be erased*”.<sup>24</sup> There is now a trend among the soldiers to film themselves committing atrocities against civilians in Gaza, in a form of “snuff” video. One recorded himself detonating over 50 houses in Shujaiya;<sup>25</sup> other soldiers were recorded singing “*We will destroy all of Khan Younes and this house*”, “*we will blow it up for you and for everything you do for us*”.<sup>26</sup> These are the soldiers putting into effect their command:

[CUE THIRD VIDEO]

23 The commanders of the army are also of the same mind. Israeli army Commander Yair Ben David has stated that the army had done in “*Beit Hanoun and did there as Shimon and Levi did in Nablus*” and that “[*t]he entire Gaza should resemble Beit Hanoun*”.<sup>27</sup>

24 Israeli soldier Yishai Shalev, published a video against the backdrop of the ruins of what was the site of Al Azhar University with the caption “*once upon a time there was a university in Gaza and in practice - a school for murderers and human animals*”.<sup>28</sup>

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<sup>24</sup> Peretz sings may your village burn 2, OfekCenter, 26 November 2023, <https://www.youtube.com/watch?v=xcH2o4c5KZY>; Yehuda Shaul, @YehudaShaul, Tweet (3:07 pm, December 19, 2023), <https://twitter.com/YehudaShaul/status/1737112315823374498>.

<sup>25</sup> Quds News Network, @QudsNen, Tweet (11 pm, December 20, 2023), <https://twitter.com/QudsNen/status/1737593767752860117>.

<sup>26</sup> Israeli soldiers sing while demolishing homes in Gaza, Middle East Eye, 2 January 2024, <https://www.youtube.com/shorts/YiolU7WwpUQ>.

<sup>27</sup> Yair Ben David, Commander in the 2908<sup>th</sup> Battalion, statement, 20 December 2023, <https://www.youtube.com/watch?v=NK8ZnGKspeI>. Translation in “War on Gaza: Israeli commander vows to flatten ‘entire’ Gaza Strip”, *Middle East Eye* (21 December 2023), <https://www.middleeasteye.net/news/war-gaza-israeli-commander-vows-flatten-entire-gaza-strip>.

<sup>28</sup> Younis Tirawi, @ytirawi, Tweet (1:17 am, 6 January 2024) <https://twitter.com/ytirawi/status/1743411493813575711>.



- 25 Soldiers obviously believe that this language and their actions are acceptable because the destruction of Palestinian life in Gaza is articulated State policy.
- 26 Senior political and military officials encouraged without censure the 95-year-old Israeli army reservist Ezra Yachin — a veteran of the Deir Yassin massacre against the Palestinians in 1948 — to speak to the soldiers ahead of the ground invasion in Gaza.<sup>29</sup> In this tour, he echoed the same sentiment while being driven around in an official Israeli army vehicle, dressed in Israeli army fatigues:

“Be triumphant and finish them off, and don’t leave anyone behind. **Erase the memory of them. Erase them, their families, mothers and children. These animals can no longer live . . .** If you have an Arab neighbour, don't wait, go to his home and shoot him . . . We want to invade, not like before, we want to enter and destroy what’s in front of us, and destroy houses, then destroy the one after it. With all of our forces, complete destruction, enter and destroy. As you can see, we will witness things we’ve never dreamed of. **Let them drop bombs on them and erase them.**”<sup>30</sup>

- 27 As recently as 7 January 2024, a video of a soldier was posted online where he boasts that the army had destroyed the entire village of Hirbet Ahza. For two weeks, he said, they had worked hard to bomb the village and executed their command.<sup>31</sup>
- 28 Any suggestion that senior politicians did not mean what they said, much less that the meaning was not understood by soldiers in Gaza, would be without any merit. The scale

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<sup>29</sup> Rayhan Uddin, “Israel-Palestine war: Israeli veteran, 95, rallies troops to 'erase' Palestinian children”, *Middle East Eye* (14 October 2023), <https://www.middleeasteye.net/news/israel-palestine-war-veteran-ezra-yachin-soldiers-erase-children>.

<sup>30</sup> Middle East Eye, @MiddleEastEye, Tweet (9:48 pm, October 13, 2023), <https://twitter.com/MiddleEastEye/status/1712918166437806294> (emphasis added).

<sup>31</sup> <https://twitter.com/MOSSADil/status/1744069819912102223>.

of destruction in Gaza, the mass targeting of family homes and civilians, the war being “*a war on children*”,<sup>32</sup> all make clear that that genocidal intent is both understood and is being put into practice.

29 The articulated intent is the destruction of Palestinian life in all its manifestations.

### ***Intent from public incitement of genocide***

30 The genocidal rhetoric is also commonplace within the Israeli Knesset. Members of the Knesset (‘MKs’) have repeatedly called for Gaza to be “*wiped out*”,<sup>33</sup> “*flatten[ed]*”,<sup>34</sup> “*eras[ed]*”,<sup>35</sup> and “*[c]rush[ed] . . . on all its inhabitants*”.<sup>36</sup> They have deplored anyone “*feel[ing] sorry*” for the “*uninvolved*” Gazans, asserting repeatedly that “*there are no uninvolved*”,<sup>37</sup> that “*[t]here are no innocents in Gaza*”,<sup>38</sup> that “*the killers of the women and children should not be separated from the citizens of Gaza*”,<sup>39</sup> that “*the children of*

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<sup>32</sup> “This is a war on children’ says UNICEF spokesperson James Elder, who recently returned from Gaza”, *Channel 4* (14 December 2023), <https://www.channel4.com/news/this-is-a-war-on-children-says-unicef-spokesperson-james-elder-who-recently-returned-from-gaza>.

<sup>33</sup> Revital Gottlieb, @TallyGotliv, Tweet (5:10 pm, October 29, 2023), <https://twitter.com/TallyGotliv/status/1718676748542296207>.

<sup>34</sup> Interview with Katrin “Keti” Shitrit-Peretz on Now 14, 1 November 2023: Now 14, @Now14Israel, Tweet (9:50 pm, November 1, 2023), <https://twitter.com/Now14Israel/status/1719834297832526215>; Revital Gottlieb, @TallyGotliv, Tweet (10:41 am, October 10, 2023), <https://twitter.com/TallyGotliv/status/1711678420235534705>.

<sup>35</sup> Galit Atbaryan, @GalitDistel, Tweet (12:13 pm, November 1, 2023), <https://twitter.com/galitdistel/status/1719689095230730656>.

<sup>36</sup> Eliyahu Revivo, @revivoelياهو, Tweet (2:46 pm, November 1, 2023), <https://twitter.com/revivoelياهو/status/1719727722459508915>.

<sup>37</sup> Revital Gottlieb, @TallyGotliv, Tweet (3:46 pm, December 7, 2023), <https://twitter.com/TallyGotliv/status/1732788632430186872>.

<sup>38</sup> Avigdor Lieberman, @AvigdorLieberman, Tweet (6:45 pm, November 30, 2023), <https://twitter.com/avigdorliberman/status/1730297081959530685>.

<sup>39</sup> Interview with Katrin “Keti” Shitrit-Peretz on Now 14, 1 November 2023: Now 14, @Now14Israel, Tweet (9:50 pm, November 1, 2023), <https://twitter.com/Now14Israel/status/1719834297832526215>.

*Gaza have brought this upon themselves*”,<sup>40</sup> and that “*there should be one sentence for everyone there — death*”.<sup>41</sup> Finally, the lawmakers have called for “*mercilessly*” bombing “*from the air*”,<sup>42</sup> with some advocating for the use of nuclear (“*doomsday*”) weapons,<sup>43</sup> and a “*Nakba that will overshadow the Nakba of 48*”.<sup>44</sup>

31 The Prime Minister’s genocidal speech has gained ground among some elements of civil society. A famous singer has repeated Mr Netanyahu’s Amalek reference, stating that “*Gaza must be wiped out and be destroyed with every Amalek seed... we simply must destroy all of Gaza and exterminate everyone who is there*”;<sup>45</sup> another has called to “*Erase Gaza, not leave a single person there*”.<sup>46</sup> Journalists and commentators have announced that “*the woman is an enemy, the baby is an enemy... the pregnant woman is an enemy*”,<sup>47</sup> that it is necessary to “*turn the strip into a slaughterhouse*”,<sup>48</sup> to “*demolish*

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<sup>40</sup> Meirav Ben-Ari, Knesset Session, 16 October 2023,

[https://www.facebook.com/watch/live/?ref=watch\\_permalink&v=3497251110531404](https://www.facebook.com/watch/live/?ref=watch_permalink&v=3497251110531404) [2:29:57].

Translation by Jonathan Ofir, “Israeli Politician Says ‘Children of Gaza Have Brought This Upon Themselves’”, *Truthout* (18 October 2023), <https://truthout.org/articles/israeli-politician-says-children-of-gaza-have-brought-this-upon-themselves>.

<sup>41</sup> “MK Yitzhak Kroizer: “The Gaza Strip should be wiped off the map”, *Galey Israel* (5 November 2023)

<https://www.gly.co.il/item?id=30587>.

Translation in “Fire Israel’s Far Right”, *Haaretz* (6 November 2023), <https://www.haaretz.com/opinion/editorial/2023-11-06/ty-article/.premium/fire-israels-far-right/0000018b-a11c-dc0b-a1cb-e5de69890000>.

<sup>42</sup> Revital Gottlieb, @TallyGotliv, Tweet (7:39 am, December 13, 2023),

<https://twitter.com/TallyGotliv/status/1734840416522948800>.

<sup>43</sup> Revital Gottlieb, @TallyGotliv, Tweet (5:59 pm, October 9, 2023)

<https://twitter.com/TallyGotliv/status/1711426284322996613>.

<sup>44</sup> Ariel Kallner, @ArielKallner, Tweet (10:29 pm, October 7, 2023),

<https://twitter.com/ArielKallner/status/1710769363119141268>. Translated in the New Arab: “Erase Gaza: How genocidal rhetoric became normalised in Israel”, *The New Arab* (30 November 2023), <https://www.newarab.com/analysis/erase-gaza-how-genocidal-rhetoric-normalised-israel>.

<sup>45</sup> “קובי פרץ: כהגא צדק בכל מילה. המפגינים נגד המלחמה הם כלבים בוגדים מסריחים”, *Walla!* (12 November 2023), available at <https://e.walla.co.il/item/3622003>. Informal translation.

<sup>46</sup> Interview with Eyal Golan on Now 14, 15 October 2023: Now 14, @Now14Israel, Tweet (1:24 pm, October 15, 2023), <https://twitter.com/Now14Israel/status/1713531211300167928>.

<sup>47</sup> Middle East Eye, @Middle East Eye, Tweet ( <https://twitter.com/MiddleEastEye/status/1741069437518680399>

<sup>48</sup> David Mizrahy Verthaim, @dverthaim, Tweet (4:52 pm, October 7, 2023), <https://twitter.com/dverthaim/status/1710684531114602891>.

*every house our soldiers come across*".<sup>49</sup> Exterminate everyone.

- 32 The intentional failure of the Government of Israel to condemn, prevent and punish such genocidal incitement constitutes in itself a grave violation of the Genocide Convention. We should recall that in article 1 of the Convention, Israel confirmed that *"genocide, whether committed in time of peace or in time of war, is a crime under international law"* and it undertook *"to prevent and to punish"* it as such. This failure to prevent, condemn and punish such speech by the Government has served to normalise genocidal rhetoric and extreme danger for Palestinians within Israeli society. As MK Moshe Saada, from the Likud Party, has said, the government's own attorneys share his views that Palestinians in Gaza must be destroyed: *"You go anywhere, and they tell you to destroy them. In the Kibbutz, they tell you to destroy them, my friends at the State Attorney's office who've fought with me on political issues, in debates, said to me ... 'it is clear that we need to destroy all Gazans.'"*<sup>50</sup> Destroy all Gazans.

### ***Knowledge of the destruction***

- 33 Israel is aware of its destruction of Palestinian life and infrastructure. Despite this knowledge, it has maintained – and indeed intensified – its military activity in Gaza.
- 34 As to full awareness, in the week after 7 October, NGOs and the United Nations warned of an "unprecedented" humanitarian crisis in Gaza.<sup>51</sup> The UN stated that *"actors must*

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<sup>49</sup> Commentators on Israel's Channel 14 say Gaza should be demolished into sand, Middle East Eye, 30 December 2023, [https://www.youtube.com/shorts/eRRqAmcyO\\_E](https://www.youtube.com/shorts/eRRqAmcyO_E).

<sup>50</sup> Likud MK Moshe Saada says people tell him that Israel 'must destroy all Gazans', Middle East Eye, 3 January 2024, <https://www.youtube.com/shorts/WMxnNkQSfmQ>.

<sup>51</sup> UN News, *Gaza: Nowhere to go, as humanitarian crisis reaches 'dangerous new low'* (13 October 2023), <https://news.un.org/en/story/2023/10/1142282>; Action Against Hunger, Diakonia, Handicap International, Médecins du Monde, Mercy Corps, Norwegian Refugee Council, Oxfam International, Plan International, Save the Children International

*allow humanitarian teams and goods to immediately and safely reach the hundreds of thousands of people in need*".<sup>52</sup> So right from the beginning Israel known<sup>53</sup> it was depriving water, food, electricity and essentials for survival.<sup>54</sup> It said so: *"everything is closed"*.<sup>55</sup> It has known that it was depriving Palestinians of healthcare and treatment for injury in the middle of unprecedented bombardment,<sup>56</sup> of food and water, and of other essentials for survival. This prompted the World Health Organisation to say: *"We are on our knees asking for sustained, scaled up, protected humanitarian operations"*, appealing *"to all those in a situation to make a decision or influence decision makers, to give us the humanitarian space to address this human catastrophe"*.<sup>57</sup>

35 Despite this knowledge, Israel continues to target infrastructure essential for survival:

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and War Child UK, *Urgent plea to avert unprecedented humanitarian crisis amid looming Israeli land incursion into Gaza* (13 October 2023), <https://www.nrc.no/news/2023/october/urgent-plea-to-avert-unprecedented-humanitarian-crisis-amid-looming-Israeli-land-incursion-into-Gaza/>; Norwegian Refugee Council, *The fighting must stop immediately* (9 October 2023), <https://www.nrc.no/perspectives/2023/israel-and-gaza-the-fighting-must-stop-immediately/>.

<sup>52</sup> UN OCHA, *Statement by the Humanitarian Coordinator for the Occupied Palestinian Territory, Lynn Hastings, on the hostilities between Palestinian armed groups in the Gaza Strip and Israel* (10 October 2023), <https://www.ochaopt.org/content/statement-humanitarian-coordinator-occupied-palestinian-territory-lynn-hastings-hostilities-between-palestinian>.

<sup>53</sup> See e.g., UN OCHA, *"Essential supplies must enter Gaza at the scale needed," senior UN official tells Security Council* (24 October 2023), <https://www.unocha.org/news/essential-supplies-must-enter-gaza-scale-needed-senior-un-official-tells-security-council>.

<sup>54</sup> UN OCHA, *Hostilities in the Gaza Strip and Israel | Flash Update #6* (9 October 2023), <https://www.ochaopt.org/content/hostilities-gaza-strip-and-israel-flash-update-6>.

<sup>55</sup> Statement by Yoav Gallant, 9 October 2023, <https://www.youtube.com/watch?v=1nxvS9VY-t0>.

<sup>56</sup> WHO, *Evacuation orders by Israel to hospitals in northern Gaza are a death sentence for the sick and injured* (14 October 2023), <https://www.who.int/news/item/14-10-2023-evacuation-orders-by-israel-to-hospitals-in-northern-gaza-are-a-death-sentence-for-the-sick-and-injured>; ICRC, *Israel and the occupied territories: Hospitals risk turning into morgues without electricity; hostages must be released immediately* (12 October 2023), <https://www.icrc.org/en/document/israel-and-occupied-territories-hospitals-risk-turning-morgues-without-electricity-hostages-must-be-released>.

<sup>57</sup> UN News, *Israel-Palestine: Gaza buckles under fuel shortage, healthcare in crisis* (24 October 2023), <https://news.un.org/en/story/2023/10/1142732>.

water and sanitation infrastructure,<sup>58</sup> solar panels,<sup>59</sup> bakeries, mills, crops.<sup>60</sup> It bombs hospitals, decimating the healthcare system.<sup>61</sup> It targets aid workers and the infrastructure of the United Nations.<sup>62</sup> It is because of the policy of Israel that Gaza became a place of “death and despair”.<sup>63</sup>

## **Conclusion**

36 In conclusion, Madam President, many propagators of grave atrocities have protested that they were misunderstood; that they did not mean what they said; and that their own words were taken out of context. What State would admit to a genocidal intent? Yet, the distinctive feature of this case has not been the silence as such, but the reiteration and repetition of genocidal speech throughout every sphere of State in Israel.

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<sup>58</sup> UN OCHA, *Hostilities in the Gaza Strip and Israel | Flash Update #4* (10 October 2023), <https://www.ochaopt.org/content/hostilities-gaza-strip-and-israel-flash-update-4>.

<sup>59</sup> UN OCHA, *Hostilities in the Gaza Strip and Israel | Flash Update #30* (5 November 2023), <https://www.ochaopt.org/content/hostilities-gaza-strip-and-israel-flash-update-30>; Latin Patriarchate of Jerusalem, *Gaza, 16th December 2023* (16 December 2023), <https://www.lpj.org/en/gaza-16th-december-2023>.

<sup>60</sup> UN OCHA, *Hostilities in the Gaza Strip and Israel | Flash Update #35* (10 November 2023), <https://www.unocha.org/publications/report/occupied-palestinian-territory/hostilities-gaza-strip-and-israel-flash-update-35-enarhc>; UN OCHA, *Hostilities in the Gaza Strip and Israel | Flash Update #40* (15 November 2023), <https://www.ochaopt.org/content/hostilities-gaza-strip-and-israel-flash-update-40>;

<sup>61</sup> Emma Farge, “UN agencies voice anger at Gaza hospital attacks, deprivation”, Reuters (19 December 2023), <https://www.reuters.com/world/middle-east/un-agencies-voice-anger-attacks-gaza-hospitals-2023-12-19/>; Forensic Architecture, *Destruction of Medical Infrastructure in Gaza* (20 December 2023), <https://forensic-architecture.org/investigation/destruction-of-medical-infrastructure-in-gaza>.

<sup>62</sup> “U.N. Says Israeli Forces Fired on Aid Convoy in Central Gaza”, New York Times (29 December 2023), <https://www.nytimes.com/2023/12/29/world/middleeast/un-israel-gaza-aid.html>; UNRWA, *The Gaza Strip: UNRWA schools sheltering displaced people constantly hit* (19 November 2023), <https://www.unrwa.org/newsroom/official-statements/gaza-strip-unrwa-schools-sheltering-displaced-people-constantly-hit>; UNRWA, *UNRWA Guesthouse in southern Gaza receives three direct hits from Israeli Forces’ naval bombardment* (13 November 2023), <https://www.unrwa.org/newsroom/official-statements/unrwa-guesthouse-southern-gaza-receives-three-direct-hits-israeli-Forces>

<sup>63</sup> United Nations, Statement by Martin Griffiths, Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator, *UN relief chief: The war in Gaza must end* (5 January 2024) <https://www.unocha.org/news/un-relief-chief-war-gaza-must-end>.

- 37 We remind the Court of the identity and authority of the genocidal inciters: the Prime Minister; the President; the Minister of Defence; the Minister of National Security; the Minister of Energy and Infrastructure; members of the Knesset; senior army officials; and foot soldiers. Genocidal utterances are therefore not out in the fringes; they are embodied in State policy.
- 38 The intent to destroy is plainly understood by soldiers on the ground. It is also fully understood by some within the Israeli society, with the Government facing criticism for allowing in any aid to Gaza, on the basis that it is recanting on its “*promise*” to starve Palestinians.<sup>64</sup> Any suggestion that Israeli officials did not mean what they said, or were not fully understood — by soldiers and civilians alike — to mean what they said, should be rejected by this Court. The evidence of genocidal intent is not only chilling, it is also overwhelming and incontrovertible.
- 39 Madam President, it is now my honour to request you to call Mr John Dugard SC on the subject of jurisdiction.

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<sup>64</sup> Muhammad Shehada, @muhammadshehad2, Tweet (4:44 pm, January 3, 2024) <https://twitter.com/muhammadshehad2/status/1742572764597228027>; Dan Cohen, @dancohen3000, Tweet (4:18 am, January 5 2024) <https://twitter.com/dancohen3000/status/1743109784570646826>.