

## GENOCIDAL INTENT

Tembeka Ngcukaitobi SC

- 1 Mister President and members of the Court. It is a privilege to appear on behalf of South Africa. Today's request for the indication of further provisional measures and/or the modification of the existing provisional measures has been triggered by the military assault of Israel on Rafah, which began on the 6<sup>th</sup> and 7<sup>th</sup> of May 2024 and has intensified and escalated since. As shown by Ms Hassim, the military attack is genocidal, in its pattern. As I shall demonstrate, it is also consistent with the explicit, stated and continuing genocidal intent of the State of Israel.
- 2 Firstly, to the knowledge of Israel, Rafah is the "last refuge" of Gaza,<sup>1</sup> the only remaining area in the Gaza Strip which has not been substantially destroyed by Israel,<sup>2</sup> the only area that can host displaced people,<sup>3</sup> the only remaining centre of humanitarian aid in Gaza and the host to the one of the few remaining large hospitals across the entire Gaza.<sup>4</sup> Rafah is the last stage in the "total annihilation" of Palestinian life. Without Rafah, the possibility to rebuild and reconstruct Palestinian life will be lost forever. For Palestinians to continue to exist as a protected group under the Genocide Convention, they need a place from which to rebuild. As we stand here today Rafah is that place. The last stand.
- 3 Secondly, Israel also knows of explicit warnings about the genocidal consequences of an attack in Rafah:
  - 3.1 On 6 May 2024, the Director General of the World Health Organization, warned that "a full military incursion into Rafah will plunge the crisis into unprecedented levels of humanitarian need."<sup>5</sup>
  - 3.2 On 8 May 2024, two days after the military attack had begun, he stressed that one of the three hospitals in Rafah, Al-Najjar, was "no longer functioning due to the ongoing hostilities in its vicinity and the military operation in Rafah." Since the

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<sup>1</sup> Save the Children, *Save the Children warns of deadly consequences for children following new relocation orders for families in Rafah* (6 May 2024), <https://www.savethechildren.org.uk/news/media-centre/press-releases/save-the-children-warns-of-deadly-consequences-for-children-foll>; Norwegian Refugee Council, *Rafah: An Israeli military offensive will lead to mass atrocities* (6 May 2024), <https://www.nrc.no/news/2024/may/rafah-an-israeli-military-offensive-will-lead-to-mass-atrocities/>; "Why is Israel forcing the evacuation of part of Rafah, Gaza's last refuge?", *Al Jazeera* (6 May 2024),

<sup>2</sup> UN OHCHR, *Israel/occupied Palestinian Territory: Rafah threat is inhumane, says UN Human Rights Chief* (6 May 2024), <https://www.ohchr.org/en/statements-and-speeches/2024/05/israeloccupied-palestinian-territory-rafah-threat-inhumane-says-un>.

<sup>3</sup> UN OHCHR, *Israel/occupied Palestinian Territory: Rafah threat is inhumane, says UN Human Rights Chief* (6 May 2024), <https://www.ohchr.org/en/statements-and-speeches/2024/05/israeloccupied-palestinian-territory-rafah-threat-inhumane-says-un>.

<sup>4</sup> World Health Organization, *Patients in Rafah 'afraid to seek services', WHO reports* (7 May 2024), <https://news.un.org/en/story/2024/05/1149451>.

<sup>5</sup> Tedros Adhanom Ghebreyesus @DrTedros, (6:23pm, 6 May 2024), <https://twitter.com/DrTedros/status/>.

border was closed, the United Nations was prevented from bringing fuel, without which “all humanitarian operations [would] stop.”<sup>6</sup>

3.3 Martin Griffiths, the United Nations Relief Chief, has rung the alarm bells. He has warned that “the simplest truth is that a ground operation in Rafah will be nothing short of a tragedy beyond words. No humanitarian plan can counter that. The rest is detail.”<sup>7</sup>

4 Palestinians do not need any more diplomatic gesturing; no more abstract words; no more vacuous condemnations and denunciations of Israel’s actions. There is no more time to spare. It is simply now or never. Israel has knowledge of the pronouncements cited above. After all, each of them was made publicly.

5 Thirdly, the State of Israel knows of the decisions of this Court, which bear on it as a State party to the Genocide Convention directly, and require of it to respect its obligations under the Convention and the moral and legal authority of this Court.

6 The decision of this Court on 26 January 2024 noted that the “civilian population in the Gaza Strip [is] extremely vulnerable,”<sup>8</sup> and that “the catastrophic humanitarian situation in the Gaza Strip is at *serious risk* of deteriorating further before the Court renders its final judgment.”<sup>9</sup> Bearing this in mind, the Court recognised that “the military operation conducted by Israel after 7 October 2023 has resulted, inter alia, in tens of thousands of deaths and injuries and the destruction of homes, schools, medical facilities and other vital infrastructure, as well as displacement on a massive scale.”<sup>10</sup> In light of this situation, Israel was ordered to ensure with *immediate effect* that its military does not commit any acts that fall within Article II of the Genocide Convention.

7 One of the measures indicated expressly required of Israel to “take all measures within its power to prevent and punish the direct and public incitement to commit genocide in relation to members of the Palestinian group in the Gaza Strip.”<sup>11</sup>

8 In the decision of 16 February 2024 this Court was compelled to “demand” that Israel *immediately* and *effectively* implements the Court’s Order of 26 January 2024. The Court

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<sup>6</sup> Tedros Adhanom Ghebreyesus @DrTedros, (3:07pm, 8 May 2024), <https://twitter.com/DrTedros/status/>.

<sup>7</sup> UN OCHA, Martin Griffiths, “UN relief chief: A ground operation in Rafah will be nothing short of a tragedy beyond words” (30 April 2024) <https://www.unocha.org/news/un-relief-chief-ground-operation-rafah-will-be-nothing-short-tragedy-beyond-words>.

<sup>8</sup> *South Africa v Israel*, Order of 26 January 2024, para 70.

<sup>9</sup> *South Africa v Israel*, Order of 26 January 2024, para 72.

<sup>10</sup> *South Africa v Israel*, Order of 26 January 2024, para 70.

<sup>11</sup> *South Africa v Israel*, Order of 26 January 2024, para 79.

cautioned that the “most recent developments in the Gaza Strip, and *in Rafah in particular*, ‘would exponentially increase what is already a humanitarian nightmare with untold regional consequences’”.<sup>12</sup>

9 In the order of 28 March 2024, the Court observed “with regret” the existence of “exceptionally grave circumstances”<sup>13</sup> since its Order of 26 January 2024 and its Decision of 16 February 2024, that “the catastrophic living conditions of the Palestinians in the Gaza Strip have *deteriorated further*, in particular in view of the prolonged and widespread deprivation of food and other basic necessities to which the Palestinians in the Gaza Strip have been subjected.”<sup>14</sup> The Court issued its Orders, clearly highlighting the “worsening conditions of life faced by Palestinians in Gaza.”<sup>15</sup> Israel was ordered to ensure “with immediate effect” that its military “through any action” does not commit acts which violate the rights of Palestinians under the Genocide Convention.<sup>16</sup>

10 So far, what I have said is not inference. Not imputation. It is *direct knowledge* which bears on the State of Israel, its political leaders, and the members of its army. They know about Rafah and its centrality to the sustenance of Palestinian life at the present moment. They know the views of the organs of the United Nations about the consequences of a military attack on Rafah. They know what this Court has ordered on each of the three occasions I have referenced.

11 Yet, Israel’s leaders have continued to incite genocide and to express their own genocidal intent. In doing so, not only has Israel ignored its obligations as a State party to the Genocide Convention, it has also treated this Court with contempt and threatened the rule of law.

12 Let me demonstrate this.

13 Members of the Israeli Ministerial Committee on National Security Affairs (‘Security Cabinet’) and the War Cabinet have simply continued with incitement to genocide:

13.1 **The Israeli Prime Minister:** Benjamin Netanyahu — a member of both the War Cabinet and Security Cabinet — has gone beyond any references to Hamas alone. Instead, he has described Israel’s aims in the military assault as being “to ensure that *Gaza* will never again constitute a threat to Israel”<sup>17</sup> (emphasis added). He describes Israel’s objective as

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<sup>12</sup> *South Africa v Israel*, Decision of 16 February 2024.

<sup>13</sup> *South Africa v Israel*, Order of 28 March 2024, para 22.

<sup>14</sup> *South Africa v Israel*, Order of 28 March 2024, paras 18, 30.

<sup>15</sup> *South Africa v Israel*, Order of 28 March 2024, para 45.

<sup>16</sup> *South Africa v Israel*, Order of 28 March 2024, para 45.

<sup>17</sup> Israel Prime Minister’s Office, *PM Netanyahu at the IDF Induction Base at Tel Hashomer, met with IDF recruits slated to be fighters at crossings and field observers in the various sectors* (9 April 2024), <https://www.gov.il/en/departments/news/event-idf090424> (emphasis added); Benjamin Netanyahu, Tweet (7:37 pm, 30 April 2024), <https://twitter.com/netanyahu/status/1785362914519519597>.

being to “achieve total victory”,<sup>18</sup> underscoring that “no force in the world will stop us,”<sup>19</sup> “we will stand alone” emphasising that “[Israel] will fight with [its] fingernails...”<sup>20</sup>

13.2 **The Israeli Minister of Defence:** Yoav Gallant — a member of both the War Cabinet and Security Cabinet — has made clear that Israel is “*taking apart* neighbourhood after neighbourhood”<sup>21</sup> and “will reach every location” in Gaza.<sup>22</sup>

13.3 **The Israeli Minister of Finance:** Bezalel Smotrich — a member of the Security Cabinet — has asserted in terms: “[T]here are no half measures. Rafah, Deir al-Balah, Nuseirat — *total annihilation*.”<sup>23</sup> He goes on to say: “*We are negotiating with the ones that should not have existed for a long time.*”<sup>24</sup>

14 For Israeli members of Cabinet, it is as if there is no court order which binds them.

15 They are not the only ones. In an interview broadcast on Israeli television on 3 May 2024, the Vice Chair of the international arm of the Likud Party (the Party of the Israeli Prime Minister) stated:

“I think we needed to invade Rafah yesterday. To go in and to get them . . . There are no uninvolved . . . [We] need to go in and *kill and kill and kill* . . . we need to kill them before they kill us.”<sup>25</sup>

16 Taking their cue from the politicians the Israeli army officials have followed suit in entrenching the incitement to genocide and showing their contempt for the Court.<sup>26</sup>

16.1 **The Israeli Army Chief of Staff:** Lieutenant General Herzi Halevi stated — following

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<sup>18</sup> Israel Prime Minister's Office, *PM Netanyahu attended a reading of the Book of Esther with commanders and soldiers from the various crossings, from the Military Police Erez Battalion* (25 March 2024), <https://www.gov.il/en/departments/news/event-purim240324>.

<sup>19</sup> Ahmed Asmar, “‘No force in the world’ to stop Israel from invading Rafah, Netanyahu says” (Anadolu Agency), 9 April 2024 <https://www.aa.com.tr/en/middle-east/-no-force-in-the-world-to-stop-israel-from-invading-rafah-netanyahu-says/3187405>.

<sup>20</sup> Rob Corp “Israel orders more evacuation as Rafah fighting intensifies”, *BBC* (12 May 2024) <https://www.bbc.com/news/articles/cer3mr09vzxo>.

<sup>21</sup> “Gallant: ‘We will not end this war without eliminating Hamas’”, *HM News* (3 March 2024), <https://hm-news.co.il/451577/>.

<sup>22</sup> “Action In Rafah Soon? Galant In Gaza: ‘We Reach Everywhere’”, *Now 14* (13 March 2024), <https://www.now14.co.il/פעולה-ברפיח-בקרוב/>.

<sup>23</sup> “Israel’s Far-right Minister Smotrich Calls for ‘No Half Measures’ in the ‘Total Annihilation’ of Gaza”, *Haaretz* (30 April 2024), <https://www.haaretz.com/israel-news/2024-04-30/ty-article/.premium/smotrich-calls-for-no-half-measures-in-the-total-annihilation-of-gaza/0000018f-2f4c-d9c3-abcf-7f7d25460000>.

<sup>24</sup> “Israel’s Far-right Minister Smotrich Calls for ‘No Half Measures’ in the ‘Total Annihilation’ of Gaza”, *Haaretz* (30 April 2024), <https://www.haaretz.com/israel-news/2024-04-30/ty-article/.premium/smotrich-calls-for-no-half-measures-in-the-total-annihilation-of-gaza/0000018f-2f4c-d9c3-abcf-7f7d25460000>.

<sup>25</sup> “Ofira and Levison”, *Channel 12* (3 May 2024), [https://www.mako.co.il/mako-vod-keshet/ofira\\_levinson-2024/VOD-3cc2a2319283f81027.htm](https://www.mako.co.il/mako-vod-keshet/ofira_levinson-2024/VOD-3cc2a2319283f81027.htm), archived at <https://zionism.observer/storage/documentation/355/video//bqp1yyxvWfRQTXwf9LtIHGVjq0HXziceLeOP91fp.mp4>.

<sup>26</sup> *South Africa v Israel, Application of 29 December 2023*, p. 60, para. 101 and p. 65, para. 103; *South Africa v Israel, Order of 26 January 2024*, pp. 17-18, para. 52.

the Israeli army's siege and destruction of Al Shifa hospital in March 2024: "Here is the realization of an impressive strategy. There is a very, very important message here, a hospital is not a safe place".<sup>27</sup> He described the operation as a "very high achievement".<sup>28</sup> That is notwithstanding eye-witnesses reports of hundreds of civilians having been killed by Israeli troops in the hospital, including patients shot dead in their hospital beds.<sup>29</sup> Mass graves and hundreds of Palestinian bodies were found following the withdrawal of the Israeli army from Al Shifa hospital, including bodies with cannulas in their arms, some with their limbs tied.<sup>30</sup>

- 17 Brigadier General **David Bar Kalifa**, Commander of the 36th Armoured Division of the Israeli Army issued a letter to Israeli soldiers about to deploy to Gaza, exhorting them to continue the killing of Palestinians:

"What has been will be no more! We shall go out to it in war, we shall pulverize every accursed plot of land from which it came, we shall destroy it and the memory of it."<sup>31</sup>

- 18 Brigadier Kalifa has faced no investigation, nor has he been relieved of his command. This is despite the explicit order of this Court for investigations into cases of incitement to genocide. Brigadier Kalifa was promoted to the rank of Major and the Head of Israeli army Personnel Division.<sup>32</sup>
- 19 Similarly, when 130 senior officers in Israel's army penned a letter calling on Israel's war cabinet to "not allow humanitarian supplies and the operation of hospitals within Gaza City", they were not charged with incitement and prosecuted.<sup>33</sup> One of the officers would later be named as

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<sup>27</sup> Kann News, @kann\_news, Tweet (4:55 pm, 30 March 2024), [https://twitter.com/kann\\_news/status/1774118267734434074](https://twitter.com/kann_news/status/1774118267734434074).

<sup>28</sup> Kann News, @kann\_news, Tweet (4:55 pm, 30 March 2024), [https://twitter.com/kann\\_news/status/1774118267734434074](https://twitter.com/kann_news/status/1774118267734434074).

<sup>29</sup> "Gaza's seventh mass grave discovered at al-Shifa Hospital", *Al Jazeera* (9 May 2024) <https://www.aljazeera.com/program/newsfeed/2024/5/9/gazas-seventh-mass-grave-discovered-at-al-shifa-hospital>.

<sup>30</sup> UN News, *Mass graves in Gaza show victims' hands were tied, says UN rights office* (23 April 2024), <https://news.un.org/en/story/2024/04/1148876>; "One man's search for his father in mass graves at Gaza's Al Shifa hospital", *NPR* (April 18, 2024), <https://www.npr.org/2024/04/18/1245654891/one-mans-search-for-his-father-in-mass-graves-at-gazas-al-shifa-hospital>.

<sup>31</sup> "The Divisioner's letter to the fighters: "The enemy who asked for hell, will receive hell", *Ynet* (29 October 2023), <https://www.ynet.co.il/news/article/b1tj8tozt>; **partial** translation available at Uri Misgav, "Opinion | Israel, Beware: In War, Apocalyptic Jewish Ultra-nationalists Are in a State of Ecstasy", *Haaretz* (2 November 2023), <https://www.haaretz.com/opinion/2023-11-02/ty-article-opinion/.premium/israel-beware-nationalist-haredis-are-in-a-state-of-ecstasy/0000018b-8c23-d7a8-afcf-aea34fd90000>. (emphasis added).

<sup>32</sup> Emanuel Fabian, "IDF appoints new intel chief, promotes 4 other generals, despite far-right opposition", *Times of Israel* (2 May 2024), <https://www.timesofisrael.com/idf-appoints-new-intel-chief-promotes-4-other-generals-despite-far-right-opposition/>.

<sup>33</sup> See Commanders and Reserve Fighters Forum, *The Officer's letter: continue until victory* (22 January 2024), <https://hamefakdim-bemiluim.org/מכתב-הקצינים/>.

involved in the killing of World Central Kitchen workers.<sup>34</sup>

- 20 Genocidal rhetoric is not punished but rewarded by the Israeli government.
- 21 On 6 March 2024, reservist First Sergeant Yachin — a veteran from the April 1948 Deir Yasin massacre of at least 250 Palestinians<sup>35</sup> — was rewarded with a certificate of thanks and commendation by the Israeli President for his “motivational speeches” he gave to Israeli soldiers as they prepared for the ground invasion of Gaza in October 2023. In at least one of those speeches, he said “*Erase the memory of them. Erase them, their families, mothers and children. These animals can no longer live.*”<sup>36</sup>
- 22 In his speech at the award ceremony, Israeli President Herzog told the senior reservists including Ezra Yachin that: “*you have been a tremendous personal example for generations of Israeli citizens and the whole world* and I want to on behalf of all the Israeli people to say to you, ‘Thank you’”.<sup>37</sup>
- 23 In their destruction of Rafah, Israeli soldiers deployed to Gaza continue to invoke the Prime Minister’s speeches which are themselves genocidal. In case what I have said is not clear enough, let us hear them in their own words:
- 24 The destruction of Gaza and Palestinian life is understood by commanders and soldiers. An Israeli soldier from the 9203<sup>rd</sup> Battalion commented as follows on photographs and footage he posted online of Palestinian homes and neighbourhoods in Khan Younis completely destroyed by the Israeli army: “This year we were honoured to fulfil the command of the *annihilation of Amalek*”<sup>38</sup> and “may we finish the job”.<sup>39</sup>
- 25 Such language continues to be widespread, alongside calls by Israeli soldiers on the ground “to conquer Gaza”; “to flatten Gaza”, “to erase Gaza”<sup>40</sup> and “to destroy Gaza . . . [and a]fter that,

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<sup>34</sup> World Central Kitchen, *7 WCK team members killed in Gaza* (2 April 2024), <https://wck.org/news/gaza-team-update>; “Top IDF commander in aid strike wanted to block humanitarian supplies into Gaza”, *The Telegraph* (11 April 2024), <https://www.telegraph.co.uk/global-health/terror-and-security/israel-hamas-war-gaza-idf-aid-strike-world-central-kitchen/>.

<sup>35</sup> UN The Question of Palestine, *United Nations Palestine Commission — Attack on Deir Yassin (9 April 1948) — Letter from United Kingdom* (20 April 1948), <https://www.un.org/unispal/document/auto-insert-211346/>.

<sup>36</sup> *South Africa v Israel, Application of 29 December 2023*, p. 64, para. 102.

<sup>37</sup> Isaac Herzog, @Isaac\_Herzog, Tweet (6 March 2024), [https://twitter.com/Isaac\\_Herzog/status/1765378196449501227](https://twitter.com/Isaac_Herzog/status/1765378196449501227).

<sup>38</sup> Liran Ben Sushan, Facebook (24 March 2024), <https://www.facebook.com/reel/948173186471996>.

<sup>39</sup> Liran Ben Sushan, Facebook (24 March 2024), <https://www.facebook.com/liran.bensushan.5/posts/pfbid02Rj3E1t2o8DxdV3yHwDtjDNng1P7MsjDpgwK67g1sxiNc6Fhh4FBWjZ5qbLNdnLW7I>; Translation at Younis Tirawi, @ytirawi, Tweet (1:33 pm, 27 March 2024), <https://twitter.com/ytirawi/status/1772965195683336261>.

<sup>40</sup> Younis Tirawi, @ytirawi, Tweet (5:49 pm, 25 March 2024), <https://twitter.com/ytirawi/status/1772304727457317039>.

Ramallah also”.<sup>41</sup> Israeli soldiers serving in Gaza continue to openly call for the “deaths to Arabs”,<sup>42</sup> declaring “may you burn alive”,<sup>43</sup> that “Gaza is burning”,<sup>44</sup> “we’ll burn your mother”<sup>45</sup> and that “[a]ll of Sajaiya will burn in flames.”<sup>46</sup>

26 The aims of Israel is to do no less than what its own Minister of Finance has stated, and that is to ensure “total annihilation”<sup>47</sup> of Palestinians “that will erase the memory of Amalek.” He has also called for Rafah to be “completely conquered and the sooner the better.”<sup>48</sup>

27 Israel’s genocidal intent continues to receive support and endorsement at the Knesset. As Tali Gotlieb, a Member of the Knesset and the Prime Minister’s party, has stated:

“To attack Rafah as we attacked in the northern Strip ... Unlike the responder, intentionally not specifically addressing but rather the entire Rafah system. To attack mercilessly from the air. Instead of turning an eye to the Hague court, turn an eye to the people of Israel.”<sup>49</sup>

28 Public statements such as this, show that even Members of Israeli’s Parliament are fully aware of the orders of this Court, but have continued openly to incite genocide, without censure.

29 Such sentiments are also widely expressed across Israeli society. Many Israelis — including Israelis living in illegal settlements in the West Bank — have actioned statements by government officials calling for the denial of aid to Gaza,<sup>50</sup> by destroying food aid on its way including setting trucks on fire, putting sugar in tanks and destroying the food itself.<sup>51</sup> Israeli public figures — including singers inciting to genocide in Gaza — have had their incitement rewarded. One singer

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<sup>41</sup> Hamzah Saadah, @Hamzah\_1948 (11:02 am, 10 March 2024),

[https://twitter.com/hamzah\\_1948/status/1766781731196072086](https://twitter.com/hamzah_1948/status/1766781731196072086)

<sup>42</sup> Younis Tirawi, @ytirawi, Tweet (9:27 pm, 14 March 2024),

<https://twitter.com/ytirawi/status/1768388440876306830>.

<sup>43</sup> Younis Tirawi, @ytirawi, Tweet (2 March 2024), <https://twitter.com/ytirawi/status/1763708375626359153>.

<sup>44</sup> Younis Tirawi, @ytirawi, Tweet (2 March 2024), <https://twitter.com/ytirawi/status/1763708375626359153>.

<sup>45</sup> Younis Tirawi, @ytirawi, Tweet (27 March 2024), <https://twitter.com/ytirawi/status/1772964772629111095>.

<sup>46</sup> Younis Tirawi, @ytirawi, Tweet (27 March 2024), <https://twitter.com/ytirawi/status/1772964772629111095>.

<sup>47</sup> “Israel’s Far-right Minister Smotrich Calls for ‘No Half Measures’ in the ‘Total Annihilation’ of Gaza”, *Haaretz* (30 April 2024), <https://www.haaretz.com/israel-news/2024-04-30/ty-article/.premium/smotrich-calls-for-no-half-measures-in-the-total-annihilation-of-gaza/0000018f-2f4c-d9c3-abcf-7f7d25460000>.

<sup>48</sup> Jason Burke and Malak A Tantesh “More than 100 000 flee Rafah as Israel steps up strikes, says UN”, *The Guardian*, 9 May 2024 <https://www.theguardian.com/world/article/2024/may/09/more-than-100000-flee-rafah-israel-steps-up-strikes-says-un>

<sup>49</sup> Younis Tirawi, @ytirawi, Tweet (9:25 pm, 10 May 2024)

<https://twitter.com/ytirawi/status/1789013854602592486> (translation) and Tally Gotliv, @tallygotliv, Tweet, (6:02pm, 10 May 2024(<https://twitter.com/TallyGotliv/status/1788962952176976231> (original link).

<sup>50</sup> Israel Minister of Economy and Industry Nir Barkat, @NirBarkat, Tweet (7:36 pm, 5 February 2024),

<https://twitter.com/NirBarkat/status/1754574757171790041>; Itamar Ben-Gvir, @itamarbengvir, Tweet (2:37 pm,

29 February 2024), <https://twitter.com/itamarbengvir/status/1763196768458604583>; Israel Ministry of Foreign

Affairs, Statement by PM Netanyahu (18 October 2023), <https://www.gov.il/en/departments/news/pm-netanyahu-statement-18-oct-2023>;

*South Africa v Israel, Application of 29 December 2023*, pp. 60-61, paras. 101-102

<sup>51</sup> “Palestinian truckers fear for safety after aid convoy for Gaza wrecked” *Reuters* (14 May 2024)

<https://www.reuters.com/world/middle-east/palestinian-truckers-fear-safety-after-aid-convoy-gaza-wrecked-2024-05-14/>.

who popularised and adapted to Israel's current military operations in Gaza, the racist Israeli football chant 'May Your Village Burn',<sup>52</sup> changed it to "may Gaza be erased"<sup>53</sup> and singing it to Israeli soldiers in live performances;<sup>54</sup> was presented with a certificate of appreciation for his "work for the IDF soldiers during the war" by the Deputy Speaker of the Knesset, hosted by Israel's Minister for Social Equality and the Advancement of Women.<sup>55</sup>

30 Another singer referenced by South Africa before this Court in January 2024 for his call to "[e]rase Gaza" and to "not leave a single person there",<sup>56</sup> has similarly been awarded.<sup>57</sup> Both were brought to the attention of Israeli authorities in South Africa's Application and its pleadings before this Court.<sup>58</sup> Neither of them — nor any of the other Israeli officials and civilians inciting to genocide against Palestinians — have been prosecuted, much less punished.<sup>59</sup>

31 The genocidal acts described in South Africa's application were foreseen and foreseeable from the onset. Israel's intent was always to destroy Palestinian life and to wipe them off the face of the Earth. Rafah is the final stand – without Rafah, there is no more Palestinian life in Gaza to speak of; no more Palestinian identity and no possibility of reconstruction.

32 Mister President, the rule of law can only survive through the orders of this Court. If the rule of law is to have any meaning, let it be today and with this case. It is no longer enough to order unhindered access to humanitarian aid, when it is in fact the military operation in Gaza that is preventing it; it is no longer enough to encourage compliance with the peremptory precepts of the Genocide Convention when Israel's deliberate contempt for the international rule of law has been so plain and so public.

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<sup>52</sup> See "Peretz sings may your village burn 2", *OfekCenter* (26 November 2023), <https://www.youtube.com/watch?v=xCH2o4c5KZY>; "Peretz sings may your village burn", *OfekCenter* (26 November 2024), <https://www.youtube.com/watch?v=YQXF-3nTK0M>.

<sup>53</sup> "Peretz sings may your village burn 2", *OfekCenter* (26 November 2023), <https://www.youtube.com/watch?v=xCH2o4c5KZY>. See also "The Patriots with Yinon Magal | 10.03.2024 | The full program" (10 March 2024), *Now 14*, [https://www.youtube.com/watch?v=yYBi\\_P2JzX8](https://www.youtube.com/watch?v=yYBi_P2JzX8). Translated at Middle East Eye, @MiddleEastEye, Tweet (5:28 am, 14 March 2024), <https://twitter.com/MiddleEastEye/status/1768147176461316336> (emphasis added).

<sup>54</sup> See e.g., "Ishmacha Hatani: the moving tribute of the singer Kobi Peretz to the fighters in the south", *Now 14* (26 November 2023), <https://www.now14.co.il/קובי-פרץ-התחייב-אם-תיקחו-מצוות-תפילין/>; See "Peretz sings may your village burn 2", *OfekCenter* (26 November 2023), <https://www.youtube.com/watch?v=xCH2o4c5KZY>.

<sup>55</sup> "After the embarrassing incident: the deputy speaker of the Knesset in a surprising tribute to Kobi Peretz", *Now14* (6 March 2024), <https://www.now14.co.il/לאחר-התקרית-המביכה-סגן-יור-הכנסת-במחול/>.

<sup>56</sup> Interview with Eyal Golan on *Now 14*, 15 October 2023: *Now 14*, @Now14Israel, Tweet (1:24 pm, 15 October 2023), <https://twitter.com/Now14Israel/status/1713531211300167928>; "Israeli soldiers sing while demolishing homes in Gaza", *Middle East Eye* (2 January 2024) <https://www.youtube.com/shorts/YiolU7WwpUQ>.

<sup>57</sup> Gil mishali, @gilmishali, Tweet (12:33 pm, 16 April 2024), <https://twitter.com/gilmishali/status/1780197723821461880>; "Eyal Golan received an award "on behalf of the Knesset" for his contribution in the 'Iron Swords' war", *Mako* (16 April 2024), <https://www.mako.co.il/music-news/Article-5b0c2d0e4b6ee81026.htm>.

<sup>58</sup> *South Africa v Israel, Application of 29 December 2023*, p. 65. para. 103; *South Africa v Israel, Verbatim Record of 11 January 2024*, p. 36, para. 22.

<sup>59</sup> Letter from Adalah of 8 April 2024: *Opening an investigation for inciting the destruction of a people* (8 April 2024), [https://www.adalah.org/uploads/uploads/incitement\\_genocide\\_080424.pdf](https://www.adalah.org/uploads/uploads/incitement_genocide_080424.pdf).



33 Mister President, it is now my honour to call upon, Ms Blinne Ní Ghrálaigh to address the Court on the remedies we ask for and why the Court can and should grant the orders we seek.