

**BEFORE THE INTERNATIONAL COURT OF JUSTICE**

**ON BEHALF OF THE REPUBLIC OF SOUTH AFRICA**

**ORAL PROCEEDINGS**

**29 APRIL 2025**

**10H00**

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**OBLIGATIONS OF ISRAEL IN RELATION TO THE PRESENCE AND ACTIVITIES  
OF THE UNITED NATIONS, OTHER INTERNATIONAL ORGANIZATIONS AND  
THIRD STATES IN AND IN RELATION TO THE OCCUPIED PALESTINIAN  
TERRITORY**

**PART I – INTRODUCTION**

**MR ZANE DANGOR**

**DIRECTOR-GENERAL, DEPARTMENT OF INTERNATIONAL RELATIONS AND  
COOPERATION, REPUBLIC OF SOUTH AFRICA**

## PART I – INTRODUCTION

### I. Introduction

1. Mr President, Members of the Court, it is an honour to appear before this Court on behalf of the Republic of South Africa. We appear before the Court pursuant to General Assembly Resolution 79/232, which requested an Advisory Opinion on the Obligations of Israel in relation to the presence and activities of the United Nations and other International Organisations and third States. This resolution was initiated by Norway and supported overwhelmingly by Member States.
2. We make these submissions while Gaza is once again under a complete siege following Israel's breach of **the ceasefire brokered by the United States, Qatar and Egypt**. Israel has also intensified its aggression against Palestinians in the West Bank. Israel is blocking food, water, and medicines — all of which are essential to life — from entering Gaza.<sup>1</sup>
3. As cited in this Court yesterday, the United Nations Secretary General stated that "Gaza is a killing field". He added, "aid has dried up; the floodgates of horror have reopened".<sup>2</sup> On 11 April, the UN Office of the High Commissioner for Human Rights reported that Israel, "appears to be inflicting on Palestinians in Gaza conditions of life increasingly incompatible with their continued existence as a group in Gaza".<sup>3</sup>

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<sup>1</sup> Israel, Prime Minister's Office Announcement (2 March 2025), <https://www.gov.il/en/pages/spoke-part020325>; UN OHCHR, *Gaza: Experts condemn Israeli decision to re-open 'gates of hell' and unilaterally change conditions of truce deal* (6 March 2025), <https://www.ohchr.org/en/press-releases/2025/03/gaza-experts-condemn-israeli-decision-re-open-gates-hell-and-unilaterally>.

<sup>2</sup> *Secretary-General's remarks to the press on Gaza* (08 April 2025), <https://www.un.org/sg/en/content/highlight/2025-04-08.html>

<sup>3</sup> UN News, *Gaza: Guterres calls on Israel to ensure life-saving aid reaches civilians* (8 April 2025), <https://news.un.org/en/story/2025/04/1161996>; António Guterres, @antonioguterres, Tweet (6:30 p, 8 April 2025), <https://x.com/antonioguterres/status/1909660054854549635>; UN Human Rights, @UNHumanRights, Tweet (3:05 pm, 11 April 2025), <https://x.com/UNHumanRights/status/1910695680428868056>; UN Secretary-General, *Statement attributable to the Spokesperson for the Secretary-General – on Gaza* (14 April 2025), <https://www.un.org/sg/en/content/sg/statement/2025-04-14/statement-attributable-the-spokesperson-for-the-secretary-general-%E2%80%93-gaza>.

4. Palestinian NGOs and major aid groups have warned that Gaza is entering into famine,<sup>4</sup> and that “the humanitarian aid system is facing total collapse”.<sup>5</sup> This collapse is by design. Israel’s Defence Minister, Israel Katz, said on 16 April 2025, “Israel’s policy is clear – no humanitarian aid is about to enter Gaza . . . there are no preparations to enable such aid”.<sup>6</sup>
5. Under the world’s watchful eye, Palestinians across the Occupied Palestinian Territory are being subjected to atrocity crimes,<sup>7</sup> persecution, apartheid and

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<sup>4</sup> 140 Palestinian organisations in the PNGO Portal issue “*Urgent Appeal from the Palestinian Non-Governmental Organizations Network (PNGO): ‘Stop the famine... Stop the genocide in the Gaza Strip’*” (11 April 2025), <https://en.pngoportals.org/post/3855/Urgent-Appeal-from-the-Palestinian-Non-Governmental-Organizations-Network-PNGO-Stop-the-famine-Stop-the-genocide-in-the-Gaza-Strip>;

<sup>5</sup> Oxfam, “*Let us do our jobs*” — Major aid groups in Gaza warn aid system is collapsing (17 April 2025), <https://www.oxfam.org/en/press-releases/let-us-do-our-jobs-major-aid-groups-gaza-warn-aid-system-collapsing>; In March 2025 alone, 3,696 children were newly admitted for acute malnutrition in Gaza, marking a sharp increase compared to February, when 2,027 children were admitted, UN OCHA, *Humanitarian Situation Update #280 | Gaza Strip* (15 April 2025), <https://www.ochaopt.org/content/humanitarian-situation-update-280-gaza-strip>; “54 per cent of medications for cancer treatment, 40 per cent of those for primary care and 51 per cent of medicines for maternal and child health”, at “zero stock”, UN OCHA, *Humanitarian Situation Update #278 | Gaza Strip* (8 April 2025), <https://www.ochaopt.org/content/humanitarian-situation-update-278-gaza-strip>.

<sup>6</sup> ‘No humanitarian aid will enter Gaza’ Israel defence minister says, *France24*, (16 April 2025), <https://www.france24.com/en/live-news/20250416-israel-says-no-humanitarian-aid-will-enter-gaza>; See also, Israel Katz, @Israel\_katz, Tweet (8:28 am, 16 April 2025), [https://x.com/Israel\\_katz/status/1912407758869057781](https://x.com/Israel_katz/status/1912407758869057781); Israel Katz @Israel\_katz, Tweet (9:19 am, 16 April 2025), [https://x.com/Israel\\_katz/status/1912420672401285534](https://x.com/Israel_katz/status/1912420672401285534): “As I mentioned in my announcement, Israel’s policy is clear and no humanitarian aid is about to enter Gaza, and preventing humanitarian aid from [entering] Gaza is one of the main pressure mechanisms preventing Hamas from using this measure against the population... In the current reality, no one is going to admit any humanitarian aid into Gaza, and we are not preparing to bring in any such aid...”; Itamar Ben-Gvir, @itamarbengvir, Tweet (8:55 am, 16 April 2025), <https://x.com/itamarbengvir/status/1912414605436952706>, “As long as our hostages languish in the tunnels, there is no reason for one single gram of food or aid of any kind to enter Gaza...”; Itamar Ben-Gvir, @itamarbengvir, Tweet (9:11 pm, 17 April 2025), <https://x.com/itamarbengvir/status/1912962228766023839>: “No deal, no ceasefire, and no aid - just continued fighting until the Nazis from Gaza are defeated. Increase the pressure, exert all the power and might – until Hamas begs on its knees. Until complete victory”; Yoav Zitun, “Ministers slam IDF over planned resumption of humanitarian aid deliveries to Gaza”, *Ynet* (7 April 2025), <https://www.ynetnews.com/article/b1pdwkbckl>; <https://x.com/IsraeliPM/status/1896213902486307134>.

<sup>7</sup> Human Rights Council (‘HRC’), “*More than a human can bear*”: Israel’s systematic use of sexual, reproductive and other forms of gender-based violence since 7 October 2023, 13 March 2025 (A/HRC/58/CRP.6), <https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/sessions-regular/session58/a-hrc-58-crp-6.pdf>, paras. 213-226; HRC, *Detailed findings on the military operations and attacks carried out in the Occupied Palestinian Territory from 7 October to 31 December 2023* (10 June 2024), <https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/sessions-regular/session56/a-hrc-56-crp-4.pdf>, paras. 459-474; UNGA, *Report of the Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel*, 11 September 2024 (A/79/232), <https://documents.un.org/doc/undoc/gen/n24/262/79/pdf/n2426279.pdf>, paras. 88-110.

genocide. While we watch, the gaze of Palestinians is directed squarely at the international community, and this Court – whose advice is urgently being sought, for the protection of their most fundamental rights, including the right to life.

6. The scale of the harms inflicted on Palestinians by Israel was laid out in detail in oral submissions made yesterday. We wish to emphasise the impunity with which Israel is inflicting these harms.
7. Israel continues to act with impunity as it does enjoy some form of exceptionalism from accountability to international law and norms. Conversely, any person or entity which seeks to hold Israel to account for its inhumane and unlawful actions, is subjected to counter-measures and censure, from which the United Nations and this Court have not been spared.<sup>8</sup>
8. In this context, The United Nations Relief and Works Agency for Palestinian Refugees (UNRWA), established after the 1948 Nakba, is but one of Israel's latest casualties. UNRWA is being attacked in furtherance of Israel's goal<sup>9</sup> to deny the inalienable right of return of Palestinian refugees<sup>10</sup>, the restitution of

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<sup>8</sup> UN Security Council, Letter from the Permanent Representative of South Africa containing the "Public Dossier of Openly Available Evidence on The State of Israel's Acts Of Genocide Against The Palestinians in Gaza as At 4 February 2025", 28 February 2025 (S/2025/130), <https://undocs.org/S/2025/130>, ANNEX IV, Public Statements Evidencing Contempt for the International Court of Justice and the United Nations by Israeli Government Officials, pp. 210-227; Peter Beaumont, "Israel to close Dublin embassy after Ireland supports ICJ genocide petition", *The Guardian* (15 December 2024), <https://www.theguardian.com/world/2024/dec/15/israel-to-close-dublin-embassy-after-ireland-supports-icj-genocide-petition>

<sup>9</sup> Israel's Prime Minister Netanyahu stated in 2018: "UNRWA is an organisation that perpetuates the Palestinian refugee problem. It also enshrines the narrative of the so-called 'right of return' in a bid to eliminate the state of Israel. Therefore, UNRWA should pass from the world", "Netanyahu: 'Shut down UNRWA'", *EuroNews* (7 January 2018), <https://www.euronews.com/2018/01/07/netanyahu-shut-down-unrwa->; Israel's Minister of Defence, Israel Katz stated in February 2024 that UNRWA is "[p]art of the Palestinian lie that there are 'refugees' who need to return to the State of Israel. We are working to remove UNRWA from Gaza. They are the problem - not the solution", Israel Katz, @Israel\_katz, Tweet (4:05 pm, 4 February 2024), [https://x.com/Israel\\_katz/status/1754174311768695267](https://x.com/Israel_katz/status/1754174311768695267).

<sup>10</sup> UNGA Resolution 194 (III), *Palestine-Progress Report of the United Nations Mediator*, 11 December 1948 (A/Res/194(III)), [https://undocs.org/A/RES/194\(III\)](https://undocs.org/A/RES/194(III)); and Resolution 302 (IV); UNGA Resolution 302 (IV), *Assistance to Palestine Refugees*, 8 December 1949 (A/Res/302(IV)), [https://docs.un.org/en/A/RES/302\(IV\)](https://docs.un.org/en/A/RES/302(IV)); UN CERD, *Consideration of Reports Submitted by States Parties under Article 9 of the Convention, Concluding Observations of the Committee on the Elimination of Racial Discrimination: Israel*, UN doc. CERD/C/304/Add.45, (30 Mar. 1998), <https://www.refworld.org/policy/polrec/cerd/1998/en/11465>, para. 18; UNGA, *Report of the Committee on the Elimination of Racial Discrimination, 70th session* (19 Feb.-9 Mar. 2007), A/62/18, <https://undocs.org/A/62/18>, para. 211.

their land, homes and property appropriated since 1948,<sup>11</sup> and to further its apartheid policies and practices. The attacks on UNRWA are also, deliberately, imperriling the existence of Palestinians as a group.

## II. JURISDICTION AND JUDICIAL PROPRIETY

9. Mr President, Members of the Court, turning now to the Court's jurisdiction, South Africa considers that the Court's jurisdictional requirements have undoubtedly been met. In relation to judicial propriety, South Africa observes that the Court had already, in its 19 July 2024 Advisory Opinion, dispensed with the arguments raised by some States in these proceedings. The Court held that the arguments did not constitute compelling reasons to decline to give the Advisory Opinion **then**. The same reasoning should apply **now**.<sup>12</sup> In the interest of brevity, South Africa will not repeat the Court's longstanding and clear jurisprudence on this aspect.
10. Providing an Advisory Opinion does not require the Court to pre-judge elements relevant to the contentious proceedings in *South Africa v. Israel* in which South Africa argues, based on facts and law, that Israel is in breach of the Genocide Convention.<sup>13</sup> The question asked of the Court in the present matter concerns Israel's obligations as an Occupying Power and its obligations as a Member of

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<sup>11</sup> UNGA, Resolution adopted by the General Assembly on 7 December 2023, A/RES/78/75 (11 December 2023), <https://docs.un.org/en/A/RES/78/75>; UNGA Resolution 3236 (XXIX), (22 November 1974), <https://www.un.org/unispal/wp-content/uploads/2016/05/ARES3236XXIX.pdf>; United Nations, The Question of Palestine, Palestine refugees' properties and their revenues Report of the Secretary-General, <https://www.un.org/unispal/document/sg-report-palestine-refugees-05aug24/>; United Nations, Committee on the Exercise of the Inalienable Rights of the Palestinian People, *Acquisition of Land in Palestine* (1980), <https://www.un.org/unispal/document/auto-insert-208638/>; Hanna Dib Nakara, Israeli Land Seizure Under Various Defense and Emergency Regulations, *Journal of Palestine Studies*, Vol. 14 No. 2, 1985, [https://www.palquest.org/sites/default/files/Israeli\\_Land\\_Seizure\\_under\\_Various\\_Defense\\_and\\_Emergency\\_Regulations-Hanna\\_Dib\\_Nakkara.pdf](https://www.palquest.org/sites/default/files/Israeli_Land_Seizure_under_Various_Defense_and_Emergency_Regulations-Hanna_Dib_Nakkara.pdf); Sabri Jiryis, The Legal Structure for the Expropriation and Absorption of Arab Lands in Israel, *Journal of Palestine Studies*, Vol. 2 No. 4, 1973, <https://www.jstor.org/stable/2535632?seq=1>; also George E. Bisharat, Land, Law and Legitimacy in Israel and the occupied territories, *The American University Law Review*, Vol. 43, 1994, <https://digitalcommons.wcl.american.edu/cgi/viewcontent.cgi?article=1537&context=aulr>.

<sup>12</sup> *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory*, Advisory Opinion of 19 July 2024, paras 30-49.

<sup>13</sup> *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v Israel)*, General List No 192 [2024] ICJ, [https://icj-cij.org/sites/default/files/case\\_related/192/192-20240524-ord-01-00-en.pdf](https://icj-cij.org/sites/default/files/case_related/192/192-20240524-ord-01-00-en.pdf)

the United Nations, and specifically, the legal consequences arising from its acts and omissions in these contexts.

11. The Court has extensive facts available to it by virtue of the dossier transmitted to it by the United Nations<sup>14</sup> and submissions made in writing by States.<sup>15</sup>
12. This is despite Israel imposing an information blackout, including through prohibiting the entry of international media;<sup>16</sup> and by killing journalists. Israel is also denying access to the Occupied Palestinian Territory to UN agencies, persons and entities mandated by it to investigate Israel's violations of Palestinian rights.<sup>17</sup> Accepting Israel's argument, under the circumstances, that this Court has insufficient facts before it, would be rewarding it for its own egregious conduct. Any further actions by Israel that censor remaining humanitarian organisations requiring access, UNRWA in particular,<sup>18</sup> would contribute to rendering Israel's conduct unreviewable.
13. The international community cannot accept a reality in which an entire civilian population is deliberately starved by Israel: Where the United Nations is evicted

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<sup>14</sup> See e.g. *Presence and Activities of the United Nations, Documents compiled pursuant to Article 65, Paragraph 2 of the Statute of the International Court of Justice*, <https://icj-cij.org/sites/default/files/case-related/196/196-20250130-req-01-00-en.pdf>; *Presence and Activities of the United Nations, Materials compiled pursuant to Article 65, Paragraph 2 of the Statute of the ICJ*, <https://icj-cij.org/sites/default/files/case-related/196/196-20250130-req-01-01-en.pdf>.

<sup>15</sup> See also *The Wall 2004 Advisory Opinion*, para. 57; *Legal Consequences 2024 Advisory Opinion*, paras. 44-47.

<sup>16</sup> UN OHCHR, Gaza: UN experts condemn killing and silencing of journalists (1 February 2024), <https://www.ohchr.org/en/press-releases/2024/02/gaza-un-experts-condemn-killing-and-silencing-journalists>; UNRWA, *UNRWA Commissioner-General on Gaza: Since the war began 1.5 years ago, the Israeli Authorities have banned the entry of international media to Gaza* (17 April 2025), <https://www.unrwa.org/newsroom/official-statements/unrwa-commissioner-general-gaza-war-began-15-years-ago-israeli>.

<sup>17</sup> See e.g. UNGA, Report of the Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel, A/79/232 (11 September 2024), para. 2: "The Commission sent nine requests for information and access to the Government of Israel, two requests for information to the State of Palestine and one request for information to the Ministry of Health in Gaza. The State of Palestine and the Ministry of Health in Gaza provided information. No response was received from Israel." UN News, Gaza: Israel's censure of rights expert should not distract from possible war crimes (15 February 2024), <https://news.un.org/en/story/2024/02/1146587>.

<sup>18</sup> Oxfam, "Let us do our jobs" — Major aid groups in Gaza warn aid system is collapsing (17 April 2025), <https://www.oxfam.org/en/press-releases/let-us-do-our-jobs-major-aid-groups-gaza-warn-aid-system-collapsing>; Eitan Diamond, "New Israeli Guidelines Threaten to Eliminate Humanitarian Action in the Occupied Palestinian Territory Almost Entirely", *Just Security* (8 April 2025), <https://www.justsecurity.org/109772/israel-humanitarian-ngo-guidelines/>.



and deprived of its immunities and privileges; Where third States and humanitarian organisations<sup>19</sup> are prevented from rendering humanitarian assistance in solidarity, and in fulfilment of their *erga omnes* obligations. Nor can we accept that journalists,<sup>20</sup> aid workers and first responders are being assassinated, and hastily buried in mass graves.<sup>21</sup> The United Nations is rightfully seized of this matter, and calls for the Court's urgent advice on the questions put to it by the General Assembly.

14. **Mr President, Members of the Court, this brings to an end the first part of South Africa's oral submission. I kindly request that the Court calls upon Miss Nokukhanya Jele, Special Adviser to the President of the Republic of South Africa on Legal and International Affairs, to address it on Israel's obligations as an Occupying Power.**
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<sup>19</sup> "PNGO Condemns the Israeli occupation's New NGO Registration Criteria" (16 March 2025), <https://en.pngoportal.org/post/3843/PNGO-Condemns-the-Israeli-occupation-s-New-NGO-Registration-Criteria>; "New Israeli Guidelines Threaten to Eliminate Humanitarian Action in the Occupied Palestinian Territory Almost Entirely" Just Security (8 April 2025), <https://www.justsecurity.org/109772/israel-humanitarian-ngo-guidelines/>.

<sup>20</sup> UNESCO, "UNESCO Director-General condemns killing of journalist Hossam Shabat in Palestine (26 March 2025), <https://www.unesco.org/en/articles/unesco-director-general-condemns-killing-journalist-hossam-shabat-palestine#>; See also, Justin Salhani and Maram Humaid, "Targeted, killed, burned alive: Journalists in Gaza attacked by Israel", *Al Jazeera* (7 April 2025), <https://www.aljazeera.com/features/2025/4/7/targeted-killed-burned-alive-journalists-in-gaza-attacked-by-israel>; Francesca Albanese, UN Special Rapporteur oPt @FranceskaAlbs, Tweet (10:49 am, 17 April 2025), <https://x.com/FranceskaAlbs/status/1912805565509644535>; UN OCHA, *Humanitarian Situation Update #278 | Gaza Strip* (8 April 2025), <https://www.ochaopt.org/content/humanitarian-situation-update-278-gaza-strip>.

<sup>21</sup> ICRC, *Israel and the occupied territories: ICRC appalled by killing of PRCS medics and first responders* (30 March 2025), <https://www.icrc.org/en/news-release/israel-and-occupied-territories-icrc-appalled-killing-prcs-medics>; Head of Office UN OCHA, Jonathan Whittall

@\_jwhittall, Tweet (10:15 pm, 30 March 2025), [https://x.com/\\_jwhittall/status/1906455238371905901](https://x.com/_jwhittall/status/1906455238371905901);

"Two hours of terror: Sky News investigation reveals how Israel's deadly attack on aid workers unfolded" *Sky News* (22 April 2025), <https://news.sky.com/story/two-hours-of-terror-sky-news-investigation-reveals-how-israels-deadly-attack-on-aid-workers-unfolded-13348776>.