

BEFORE THE INTERNATIONAL COURT OF JUSTICE

ON BEHALF OF THE REPUBLIC OF SOUTH AFRICA

ORAL PROCEEDINGS

29 APRIL 2025

10H00

**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 III

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PART III – CONCLUSIONS AND LEGAL CONSEQUENCES

I. Violation by Israel of Palestinian human rights, right to self-determination

1. Mr President, Members of the Court, international law prohibits Israel from the use of starvation as a method of warfare, including under a siege or blockade. Israel may not collectively punish the protected Palestinian population which it holds under unlawful occupation.¹
2. The Special Rapporteur on the Right to Food, in his report of 17 July 2024, stated that, “[s]tarvation reflects a State’s fundamental abandonment of its human rights obligations”, and further, that “[t]he State of Israel has deployed the full range of techniques of hunger and starvation ... perfecting the degree of control, suffering and death that it can cause through food systems, leading to this moment of genocide.”²
3. Despite attempts by Israeli officials to characterise them otherwise,³ Palestinians are human beings – they are flesh and blood.
4. Palestinian people are entitled to the same fundamental protections,⁴ as we – in this Great Hall of Justice. This includes the right not to be arbitrarily deprived of life – “the supreme right from which no derogation is permitted, even in situations of armed conflict”.⁵

¹ See Articles 50 of the 1907 Hague Regulations, Article 33 of the Fourth Geneva Convention and Article 75(2)(d) of Additional Protocol I; Art 54(1) Additional Protocol I.

² Michael Fakhri, *Starvation and the Right to Food, with an Emphasis on the Palestinian People’s Food Sovereignty: Report of the Special Rapporteur on the Right to Food*, UN Doc. A/79/171, 17 July 2024, para. 21 and para 80, available at: <https://www.un.org/unispal/document/right-to-food-report-17jul24/>

³ See Annexes I-III, S/2024/419, Public Dossier of Evidence Relating to the State of Israel’s Intent and Incitement to Commit Genocide Against The Palestinians In Gaza Presented By The Republic of South Africa to The President of the United Nations Security Council, 29 May 2024, <https://undocs.org/S/2024/419>; and S/2025/130 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, <https://undocs.org/S/2025/130>.

⁴ UN OCHA, *Humanitarian Situation Update #277 | Gaza Strip* (4 April 2025), <https://www.ochaopt.org/content/humanitarian-situation-update-277-gaza-strip>.

⁵ International Covenant on Civil and Political Rights, Art. 4; Human Rights Committee, general comment No. 6 (1982) on the right to life, para. 1; general comment No. 14 (1984) on the right to life,

5. Israel's humanitarian blockade, including its banning of UNRWA, renders the Palestinian people significantly *less resilient* to Israel's acquisition of Palestinian territory by force and genocide. In so doing, Israel is breaching the right to self-determination of the Palestinian people, a peremptory norm of international law, enshrined in the UN Charter and Common Article 1 of the International Covenants on human rights.⁶
6. Furthermore, Israel is impeding the United Nations and third States from exercising their *erga omnes* obligations – and international solidarity – with respect to the exercise of the “fundamental human right[s]” of the Palestinian people, which this Court held to include the right to self-determination.⁷

II. Israel's obligations towards the United Nations

7. In relation to Israel's obligations towards the United Nations, the 1946 General Convention provides for no exceptions to the inviolability of the United Nations, which applies equally in times of peace and armed conflict.
8. States are under a legal obligation to protect the inviolability of all UN premises and property, *wherever* located and by *whomever* held.⁸
9. Israel must therefore cooperate in good faith with the United Nations and render it *every assistance*.⁹ Despite its abrogation of its bilateral, operational agreement with UNRWA, Israel's obligations under the UN Charter and the General Convention, prevail.¹⁰

para. 1; *Camargo v. Colombia*, communication No. 45/1979, para. 13.1; *Baboeram-Adhin et al. v. Suriname*, communications Nos. 146/1983 and 148–154/1983, para. 14.3

⁶ Article 1, International Covenant on Civil and Political Rights (ICCPR), and the International Covenant on Economic and Social Rights (ICESR).

⁷ *Legal Consequences Advisory Opinion* (19 July 2024), para. 233.

⁸ Convention on the Privileges and Immunities of the United Nations, 1946, Art. II, Section 3.

⁹ UN Charter, Art 2(2), 2(5), 55, 56, 100, 104, and 105.

¹⁰ Article 103, UN Charter.

III. Legal Consequences for Israel, the United Nations and Third States

10. Mr President, Members of the Court, turning now to the legal consequences which flow from the question before the Court.

(a) *Obligations on Israel*

11. South Africa submits that Israel's unlawful occupation and its aforementioned violations of peremptory norms, constitute internationally wrongful acts attributable to the State Israel.

12. This necessarily invokes the law of State Responsibility.¹¹ Israel must therefore immediately cease its internationally wrongful acts and make reparation in *full*, including restitution, compensation, and satisfaction.

13. Israel must comply with its obligations as an Occupying Power, to *ensure* food and medical supplies, and *facilitate* the unhindered provision of humanitarian goods, essential services, and development assistance by the UN, third States and other international organisations. It must fully cease hostilities to ensure the "ability to deliver assistance".¹²

14. Israel must comply with this Court's binding provisional measures Orders in *South Africa v. Israel*, and take effective measures to *ensure, without delay*, and in *full* cooperation with the United Nations, the unhindered provision *at scale* and *by all concerned*, of urgently needed basic services and humanitarian assistance to Palestinians in Gaza.¹³

15. Finally, Israel must immediately reverse its decision to expel UNRWA, and other UN bodies from carrying out their mandated activities.

¹¹ Article 3 of the International Law Commission's *Draft Articles on the Responsibility of States for Internationally Wrongful Acts* (2001).

¹² UN News, Global Perspective Human Stories, *Gaza: Guterres calls on Israel to ensure life-saving aid reaches civilians* (8 April 2025), <https://news.un.org/en/story/2025/04/1161996>

¹³ *South Africa v. Israel* (Provisional Measures, Order) [28 March 2024], para. 51, Provisional Measure 2(a).

(b) *Obligations on the United Nations*

16. The United Nations and its bodies are under a duty not to recognise Israel's internationally wrongful acts, such as its unlawful eviction of UNRWA, and its unlawful exercise of powers reserved for the legitimate sovereign in Palestine.
17. Despite Israeli restrictions, the UN and its agencies, including UNRWA, must continue to render humanitarian assistance to the Palestinian people. It must demand and negotiate for the removal of barriers imposed by Israel.

(c) *Obligations on Third States*

18. Third States have an obligation not to recognise as lawful Israel's internationally wrongful acts, including Israel's banning of UNRWA, to not maintain the acts, and to collaborate to bring such acts to an end.¹⁴
19. It is imperative that third States refrain from providing arms which enable Israel's breaches of international law in the occupied Palestinian territory.¹⁵

IV. Conclusion

20. Mr President, Members of the Court, in conclusion, South Africa shares the UN Secretary-General's view, that the "world has failed" the Palestinian people – "the only certainty they have is that tomorrow will be worse."¹⁶
21. Therefore, we must "save whatever is left of humanity", by ending Israel's unlawful occupation and its intentional starving of the Palestinian population, who are being systematically brutalised and deprived of elementary considerations of

¹⁴ See also Common Article 1, Geneva Conventions (1949), obligation to respect and ensure respect for the Geneva Conventions.

¹⁵ *Legal Consequences Advisory Opinion* (19 July 2024), para. 278; UNGA, *Illegal Israeli actions in Occupied East Jerusalem and the rest of the Occupied Palestinian Territory*, A/ES-10/L.31/Rev.1 (13 September 2024), para 5.

¹⁶ United Nations, 'We have failed the people of Gaza,' Guterres tells ministers" (26 September 2024), <https://news.un.org/en/story/2024/09/1154971>

humanity. Palestinians look to the world, and this Court, for an end to their enduring loss, their pain and their suffering.¹⁷

22. Mr President, Members of the Court, this brings to an end South Africa's oral submission. I wish to thank the Court for your attention.

¹⁷ UNRWA, *UNRWA Commissioner-General on Gaza: How much longer until hollow words of condemnation will translate into action to lift the siege* (22 April 2025), <https://www.unrwa.org/newsroom/official-statements/unrwa-commissioner-general-gaza-how-much-longer-until-hollow-words>