

FINAL SUBMISSIONS

By the Agent of the Republic of South Africa, His Excellency

MR VUSIMUZI MADONSELA,

Ambassador Extraordinary and Plenipotentiary of South Africa to the

Kingdom of the Netherlands

1. Madam President, it remains my honour to read to your Excellencies the provisional measures that South Africa requests from the Court.
2. You have heard the reasons set out that justify the measures sought. To sum up, the indication of provisional measures is, we recognize, without prejudice to the merits of the underlying claim. Yet the evidence at this stage indicates grave violence and genocidal acts against the Palestinians in Gaza, in flagrant contravention of the Genocide Convention and in breach of their rights.
3. South Africa has come to this Court to prevent genocide, and to do so in the discharge of the international obligation that rests on South Africa and all other states under the Convention. The consequences of not indicating clear and particularized, specific provisional measures, and not taking steps to intervene while Israel disregards its international obligations before our eyes, would, we fear, be very grave indeed: for the Palestinians in Gaza, who remain at real risk of further genocidal acts; for the integrity of the Convention; for the rights of South Africa; and for the reputation of this Court, which is equipped with and must exercise its powers to afford an effective realization of the rights under the Convention.

4. That means, we respectfully submit, indicating the provisional measures sought by South Africa, as well as any others in addition the Court might deem appropriate. Justice, and equal respect for the rights of Palestinians, points overwhelmingly in favour of these critically-required provisional measures.
5. I now proceed to read the measures requested by South Africa:

On the basis of the facts set forth above, South Africa, as a State party to the Convention on the Prevention and Punishment of the Crime of Genocide, respectfully requests the Court, as a matter of extreme urgency, pending the Court's determination of this case on the merits, to indicate the following provisional measures in relation to the Palestinian people as a group protected by the Genocide Convention. These measures are directly linked to the rights that form the subject matter of South Africa's dispute with Israel:

- (1) The State of Israel shall immediately suspend its military operations in and against Gaza.
- (2) The State of Israel shall ensure that any military or irregular armed units which may be directed, supported or influenced by it, as well as any organisations and persons which may be subject to its control, direction or influence, take no steps in furtherance of the military operations referred to point (1) above.
- (3) The Republic of South Africa and the State of Israel shall each, in accordance with their obligations under the Convention on the Prevention and Punishment of the

Crime of Genocide, in relation to the Palestinian people, take all reasonable measures within their power to prevent genocide.

(4) The State of Israel shall, in accordance with its obligations under the Convention on the Prevention and Punishment of the Crime of Genocide, in relation to the Palestinian people as a group protected by the Convention on the Prevention and Punishment of the Crime of Genocide, desist from the commission of any and all acts within the scope of Article II of the Convention, in particular:

- (a) killing members of the group;
- (b) causing serious bodily or mental harm to the members of the group;
- (c) deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; and
- (d) imposing measures intended to prevent births within the group.

(5) The State of Israel shall, pursuant to point (4)(c) above, in relation to Palestinians, desist from, and take all measures within its power including the rescinding of relevant orders, of restrictions and/or of prohibitions to prevent:

- (a) the expulsion and forced displacement from their homes;
- (b) the deprivation of:
 - (i) access to adequate food and water;
 - (ii) access to humanitarian assistance, including access to adequate fuel, shelter, clothes, hygiene and sanitation;
 - (iii) medical supplies and assistance; and

(c) the destruction of Palestinian life in Gaza.

- (6) The State of Israel shall, in relation to Palestinians, ensure that its military, as well as any irregular armed units or individuals which may be directed, supported or otherwise influenced by it and any organizations and persons which may be subject to its control, direction or influence, do not commit any acts described in (4) and (5) above, or engage in direct and public incitement to commit genocide, conspiracy to commit genocide, attempt to commit genocide, or complicity in genocide, and insofar as they do engage therein, that steps are taken towards their punishment pursuant to Articles I, II, III and IV of the Convention on the Prevention and Punishment of the Crime of Genocide.
- (7) The State of Israel shall take effective measures to prevent the destruction and ensure the preservation of evidence related to allegations of acts within the scope of Article II of the Convention on the Prevention and Punishment of the Crime of Genocide; to that end, the State of Israel shall not act to deny or otherwise restrict access by fact-finding missions, international mandates and other bodies to Gaza to assist in ensuring the preservation and retention of said evidence.
- (8) The State of Israel shall submit a report to the Court on all measures taken to give effect to this Order within one week, as from the date of this Order, and thereafter at such regular intervals as the Court shall order, until a final decision on the case is rendered by the Court, and that such reports shall be published by the Court.

(9) The State of Israel shall refrain from any action and shall ensure that no action is taken which might aggravate or extend the dispute before the Court or make it more difficult to resolve.

Thank you Madam President, and Members of the Court. That concludes South Africa's address.