

Over 200 South African and Palestinian Human Rights Organisations Urge South Africa to Return to the International Court of Justice for Provisional Measures

Date: 28 March 2025

Our 211 members of the South African organisations, the Palestinian Human Rights Organisations Council (PHROC), and the Palestinian Non-Governmental Organisations Network (PNGO) applaud the commitment of South Africa who has, and continues to be, a staunch supporter and protector of the fundamental rights and interests of Palestinians. It has seized the opportunity to fight for these rights before the International Court of Justice (ICJ), yet sadly the situation continues to deteriorate. In the early hours of 18 March 2025, Israel resumed its deadly onslaught on the Gaza Strip by killing over 404 Palestinians, including hundreds of women and children across Beit Lahia, Rafah, Nuseirat and Al-Mawasi. The Court may modify an existing Order on provision measures if, in its opinion, some change in the situation justifies such revocation or modification.¹ The Court's discretion in this regard means it is "inherently competent under this provision to interpret, and thus to specify (or clarify), the measures it has previously indicated to ensure the sound administration of justice".² This suggests that "some change in situation", as required by Article 76, may also consist of subsequent developments anticipated by the Court but which raise concerns as to the applicability of existing Provisional Measures Orders (PMOs).³

Unfolding situation in Gaza

Despite a ceasefire being announced on 15 January 2025, and allegedly coming into effect on 19 January 2025, the genocide against Palestinians in Gaza did not end. Under the terms of the fragile agreement, the entry of large and sufficient quantities of humanitarian aid and relief materials and fuel (600 trucks per day) intended to enable the removal of rubble and rehabilitate hospitals, bakeries, kitchens and health centres in all areas of the Gaza Strip was to be allowed unimpeded access. This should have continued throughout all stages of the agreement. Not only did Israel fail to allow sufficient aid to Gaza, since 2 March 2025 Israel has re-imposed a total blockade on all humanitarian aid - in manifest breach of the provisional measures already ordered by the Court.

Just days prior to this total blockade, the Coordinator of Government Activities in the Territories (COGAT), the Israeli army unit responsible for administering the military occupation, unveiled a plan for establishing "humanitarian hubs" in Gaza. Under the plan, COGAT will dictate the distribution of urgently needed humanitarian aid to "vetted Palestinians" only, in areas under the full control of the Israeli Occupying Forces (IOF), which will expand over time, annexing the Palestinian territory. All crossings in and out of Gaza will be permanently closed under the plan, with only the Karem Abu Salem crossing permitted for the entry of humanitarian aid.

¹ Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (*South Africa v. Israel*), Declaration of Judge Nolte (ICJ, 24 May 2024) <<https://www.icj-cij.org/sites/default/files/case-related/192/192-20240524-ord-01-02-en.pdf>> para. 13

² *Ibid.*

³ Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (*South Africa v. Israel*), Declaration of Judge Nolte (ICJ, 24 May 2024) <<https://www.icj-cij.org/sites/default/files/case-related/192/192-20240524-ord-01-02-en.pdf>> para. 15

Furthermore, since the Knesset legislation formally took effect on 30 January 2025, the UN Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) and the largest distributor of aid and direct service provider in Gaza responsible for education, health and other basic services to millions of Palestinian refugees across the region, can no longer rotate international staff in and out of Gaza or have any contact with Israeli officials to coordinate its activities. At the same time, Israel has enacted new [rules](#) to limit the activities of humanitarian organisations requiring new registration criterion which will prevent the operations of humanitarian organisation whose staff have supported or endorsed operations considered hostile to Israel, including supporting boycotts or questioning Israel's definition as a Jewish democratic State. Mr. Muhannad Hadi, Humanitarian Coordinator for the UN Office for the Coordination of Humanitarian Affairs (OCHA), has clearly [explained](#):

Humanitarian aid in Gaza is a lifeline for over two million Palestinians who have endured unimaginable conditions for many months. A sustained supply of aid is indispensable to their survival.

Despite this stark warning, Israel has maintained its complete blockade of life-saving aid, basic commodities and commercial goods into Gaza.

Over one million people risk being left without [food parcels](#) in March, if supplies are not allowed into Gaza. The Southern Gaza Desalination Plant - the only facility that received electricity since November 2024, which was repaired between 3 and 6 of March - is now no longer functional after Israel cut its electrical feed on 9 March, limiting access to clean water for 600,000 people. Israel has even rejected a request for approval to conduct repair works on the Mekerot Bani Said waterline, located in the buffer and "[no-go](#)" zones. The temporary solid waste dump sites are reaching full capacity, while the landfill sites at Sofa and Johr al Dik remain inaccessible. With the closure of crossings for incoming cargo for almost three consecutive weeks, UN agencies warn that life-saving health equipment, including 20 [ventilators](#) for neonatal intensive care units and nine portable newborn incubators, alongside other aid supplies, are stalled at the border. UNICEF Middle East and North Africa Regional Director, Edouard Beigbeder, has [alerted](#) the international community to the fact that:

Without aid entering the Gaza Strip, roughly 1 million children are living without the very basics they need to survive – yet again... Tragically, approximately 4,000 newborns are currently unable to access essential lifesaving care due to the major impact on medical facilities in the Gaza Strip. Every day without these ventilators, lives are lost, especially among vulnerable, premature newborns in the northern Gaza Strip.

On 18 March for 19, the Israeli army issued [evacuation](#) orders for neighbourhoods in North Gaza and eastern Khan Younis, affecting an estimated 30,000 and 35,000 people, respectively — and three primary health care (PHC) facilities and one field hospital —within the evacuated area. Additionally, within 1 kilometre of these areas, there are four Primary Health Care facilities, two hospitals, one field hospital, and four medical points.

Shelter needs are critically high, with shelter stocks rapidly dwindling and infants now dying from [hypothermia](#) due to a lack of supplies capable of protecting them and their families from the harsh weather. Families are living in damaged and structurally unsafe buildings or structures that are at risk of collapse. Israel has consistently denied the entry of heavy machinery capable of clearing away the mounds of [rubble](#), and this debris is now obstructing access and further complicating the delivery of aid to those most in need. The devastating situation is exacerbated by the fact that [UN OCHA](#) has only received a shocking 4 percent of

the funding needed for its humanitarian response. This is not even enough to get through this quarter.

Against this backdrop, Israel's Prime Minister, Benjamin [Netanyahu](#), has announced that Israel has resumed "intense fighting" in "full force". Noting that its bombing campaign, which killed and injured over 1,000 Palestinians in just a couple of hours, "is just the beginning". Prime Minister Netanyahu stated that [negotiations](#) "will continue only under fire". This is echoed by Israel's Minister of Defence, Israel Katz, who told reporters that "the gates of hell will open and it will face the full might of the IDF in the air, at sea and on land".

A change in the situation & requests pursuant to Articles 41, 75 and 76:

These horrific developments mark a notable change in the situation since provisional measures were last indicated, and follow another overwhelmingly passed UN General Assembly resolution on 11 December 2024 which repeats, *inter alia*, previous demands for an immediate, unconditional and permanent ceasefire in Gaza and that Israel allow UNRWA to proceed with its aid operations without restriction.⁴ These calls, just like the Court's previous Orders on provisional measures, continue to go ignored.

Since the Court's Order of 24 May 2024, Palestinians in Gaza have been subjected to a further seven months of unrelenting bombardment, forced displacement, starvation and erasure before the brief ceasefire that was violated by Israel hundreds of times in its 42-day existence. Israel has continued to attack Palestinians in the West Bank carrying out further acts in breach of the Genocide Convention. The Order of 24 May 2024 was motivated by the situation unfolding in Rafah, which at the time was effectively the last refuge in Gaza for 1.5 million Palestinians, and its control of all exit and entry points of aid into Gaza, which it had placed under full blockade. The total blockade has been reinstated, with all crossings closed and crucial aid left to rot and expire at the border. Rafah has been reduced to rubble.

South Africa can request Provisional Measures should the situation entail a risk of irreparable prejudice to the plausible rights claimed by South Africa and whether there exists an element of urgency.⁵ As you recall, in its decision communicated to the Parties in a letter dated 16 February 2024, the Court highlighted that the catastrophic living conditions of the Palestinians in the Gaza Strip had continued to deteriorate since January 2024, especially as a result of the prolonged and widespread deprivation of food and other basic necessities.⁶ In its Order of 24 May, the Court noted the same foreseeable development and characterised the humanitarian situation as "disastrous".⁷ Based on the notion of exceptional gravity Judge Aurescu pointed out that subsequent cases can draw from the finding that: "[A] change in the degree or the aggravation of an already existing situation, even though predicted, can justify the need for the Court to issue new or modify the already indicated provisional measures".⁸

⁴ See UNGA Res. A/ES-10/L.33 (5 December 2024); UNGA Res. A/ES-10/L.32 (5 December 2024)

⁵ Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (*South Africa v. Israel*), Order on Request for the Modification of the Order of 28 March 2024 (ICJ, 24 May 2024) <<https://www.icj-cij.org/sites/default/files/case-related/192/192-20240524-ord-01-00-en.pdf>> paras. 31-34

⁶ *Ibid.*, para. 27; see Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (*South Africa v. Israel*), Order on Request for the Modification of the Order of 26 January 2024 Indicating Provisional Measures (ICJ, 28 March 2024) <<https://www.icj-cij.org/sites/default/files/case-related/192/192-20240328-ord-01-00-en.pdf>> para. 18

⁷ Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (*South Africa v. Israel*), Order on Request for the Modification of the Order of 28 March 2024 (ICJ, 24 May 2024) <<https://www.icj-cij.org/sites/default/files/case-related/192/192-20240524-ord-01-00-en.pdf>> para. 28

⁸ *Ibid.*, para. 7

This view is shared by Judge Tladi, who also supported the Court’s finding that an “intensification” – which may be conceived as merely a continuation of the same military operation – was sufficient to justify issuing an additional Order on provisional measures.⁹ As Judge Tladi drew attention to in his Declaration, this finding is wholly consistent with the Court’s ruling in *Bosnia and Herzegovina v. Yugoslavia*. In this case, which also centred on the Genocide Convention, the Court found that “the grave risk” underlined in its first PMO “has been deepened by the *persistence* of conflicts on the territory of Bosnia-Herzegovina and the commission of heinous acts in the course of those conflicts” which provided sufficient evidence of “some change in the situation”.¹⁰ Bosnia and Herzegovina’s request was also based on the “continuing... campaign of genocide”, referring to the “rapidly escalating human catastrophe”.¹¹

South African organisations, PHROC and PNGO Urge that South Africa Return to the ICJ for the Following Requested Measures:

1. That Israel immediately cease its military operations in the Gaza Strip and the West Bank and withdraw its forces: A new Provisional Measures Application should require Israel to take all necessary and effective steps to implement with immediate effect the Security Council resolution 2728 (2024), including a “lasting sustainable ceasefire”.¹² Judge Aurescu rightly notes an array of benefits to this: it would constitute an innovation in the Court’s jurisprudence; it would underscore the complementary functions of the Security Council and the Court in maintaining international peace and security, as already discussed above in the context of Judge Nolte’s Declaration; and it would extend the binding, legal force of provisional measures indicated by the Court to the relevant provisions of the Security Council resolution – “thus inaugurating new, promising cooperation avenues between the two principal organs of the United Nations”.¹³
2. Take all effective measures to ensure and facilitate the unimpeded access to Gaza of UN and other officials engaged in the provision of humanitarian aid and assistance to the population of Gaza, and the unimpeded entry of all reconstruction materials and equipment;
3. For Israel to stop receiving arms from Third States for use in genocidal acts against the Palestinian group;
4. Ensure the unimpeded entry of fact-finding missions, internationally mandated bodies and/or officials investigators, and journalists, in order to assess and record conditions on the ground in Gaza and enable the effective preservation and retention of evidence;
5. Ensure the return of all Palestinian refugees, and the return of Palestinian prisoners deported during the ceasefire;

⁹ *Ibid*, Declaration of Judge Tladi (ICJ, 24 May 2024) <<https://www.icj-cij.org/sites/default/files/case-related/192/192-20240524-ord-01-04-enc.pdf>> para. 4

¹⁰ Application of the Convention on the Prevention and Punishment of the Crime of Genocide (*Bosnia and Herzegovina v. Yugoslavia (Serbia and Montenegro)*), Provisional Measures Order of 13 September 1993 (I.C.J. Reports 1993) para. 22, read with para. 53 (emphasis added)

¹¹ Application of the Convention on the Prevention and Punishment of the Crime of Genocide (*Bosnia and Herzegovina v. Yugoslavia (Serbia and Montenegro)*), Request for the Indication of Provisional Measures of Protection Submitted by the Government of the Republic of Bosnia and Herzegovina (ICJ, 27 July 1993) 1, 3

¹² Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (*South Africa v. Israel*), Declaration of Judge Aurescu (ICJ, 24 May 2024) <<https://www.icj-cij.org/sites/default/files/case-related/192/192-20240524-ord-01-03-en.pdf>> para. 8

¹³ *Ibid*.

6. That Israel revokes all discriminatory legislation against UNRWA, international aid organisations, media and human rights organisations operating in the Palestinian territory;
7. Ensure the release of all detainees from Gaza and their immediate return to Gaza;
8. Request that Israel submits an open report to the Court on all measures taken to give effect to these orders within one week of their issuance; and submit a report on all measures taken to give effect to all previous provisional measures indicated by the Court within one month, with continued reporting and monitoring.¹⁴

South African Organizations

1. Africa4Palestine (AFP)
2. African Legal Students Association and Justice Chapter (ALSA JC)
3. African Migration Organisation
4. African National Congress
5. Botshabelo Unemployed Movement
6. Centre for Social Change (Johannesburg)
7. Co-Create Communications
8. Cooperative and Policy Alternative Centre (COPAC)
9. Eastern Cape Palestine Solidarity
10. Economic Freedom Fighters
11. Educators for Humanity
12. Extinction Rebellion - Gauteng (XR Gauteng)
13. Gauteng Housing Crisis Committee
14. Goringhaicona Khoi Khoin Indigenous Traditional Council
15. Green Hope Foundation SA
16. Harnessing Rights Initiative: Advocacy for Global Gender Justice
17. Healthcare Workers 4 Palestine
18. Human Rights Institute of South Africa (HURISA)
19. Informal Settlements Committee
20. In Transformation Initiative
21. Ismalic Medical Association of South Africa
22. Keep Left - Socialism from Below
23. Kensington Palestinian Solidarity Group
24. Kopanang Africa Against Exnophobia (KAAX)
25. # KZN PalArt
26. Lawyers for Human Rights
27. Leratong Advice Centre
28. Media Review Network
29. Mining Affected Communities United in Action (MACUA)
30. Mohadin Civic Association

¹⁴ Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (*South Africa v. Israel*), Order on Request for the Modification of the Order of 28 March 2024 (ICJ, 24 May 2024) <<https://www.icj-cij.org/sites/default/files/case-related/192/192-20240524-ord-01-00-en.pdf>> paras. 13, 17.

31. Muslim Student's Association - NorthWest University
32. Ndifuna Ukwazi (Cape Town)
33. Nehawu
34. Nelson Mandela University
35. Palestine Solidarity Alliance Youth League (PSA YL)
36. Palestine Solidarity Campaign
37. Palestine Solidarity Campaign - Cape Town
38. #PayTheGrants
39. Phoenix Zululand
40. Potch for Palestine
41. Potch Muslim Congregation
42. Potch Muslim Women's Forum
43. Richtersveld Intergrated Development Agency
44. SA Jews for Free Palestine
45. Salt River Heritage Society (Cape Town)
46. Serapeng sa Ditlhare & Environmental NPC
47. Sisonke Revolutionary Movement
48. Sharp Ecosocialist Collective
49. Social Intifada Solidarity Action Committee's Collective
50. Solidarity Group for Peace and Justice (SGPJ)
51. South African BDS Coalition
52. South African Chapter, Anti Apartheid Movement
53. South African Lawyers for Justice (SAL4J)
54. South African litigation Centre
55. South Africa Palestine Movement
56. Stilfontein Solidarity Committee
57. The Active Citizens Movement (ACM)
58. The Association of Muslim Accountants and Lawyers of South Africa (AMAL)
59. The KwaSulu-Natal Palestine Solidarity Forum (KZN Palestine Solidarity Forum)
60. The Legal Resources Centre
61. The National Association of Democratic Lawyers (NADEL)
62. The Palestine Solidarity Alliance (SA)
63. The Palestinian Solidarity Organisation
64. Tosunga Banninga
65. United for Palestine
66. University of Johannesburg
67. United Front
68. Women Affected by Mining United in Action (WAMUA)

Palestinian Human Rights Organisations Council (PHROC)

69. Addameer Prisoners' Support and Human Rights Association
70. Al-Haq
71. Al Mezan Centre for Human Rights

72. Aldameer Association for Human Rights
73. Defence for Children International – Palestine
74. Hurriyat Centre for Defence of Liberties and Civil Rights
75. Jerusalem Centre for Legal Aid and Human Rights
76. The Palestinian Centre for Human Rights
77. Ramallah Centre for Human Rights
78. Independent Commission for Human Rights (Observer)
79. Muwatin Institute for Democracy and Human Rights (Observer)

Palestinian Non-Governmental Organisations Network (PNGO) representing 132 Palestinian civil society organisations.