

**COMMUNICATION TO: THE AFRICAN COMMISSION ON PEOPLE AND
HUMAN RIGHTS:**

THE SECRETARIAT

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**AGAINST EGYPT PURSUANT TO ARTICLE 58 OF THE AFRICAN CHARTER
ON HUMAN AND PEOPLES' RIGHTS.**

SUBMITTED BY:

PALESTINE SOLIDARITY

ALLIANCE (PSA)

CAGE PRISONERS NPC

ZIMBABWE PALESTINE

SOLIDARITY COUNCIL

FIRST COMPLAINANT

SECOND COMPLAINANT

THIRD COMPLAINANT

DREAMS DEFENDER

ORGANIZATION TANZANIA

KENYA NA PALESTINE

KENYA FOR PALESTINE (K4P)

FOURTH COMPLAINANT

FIFTH COMPLAINANT

SIXTH COMPLAINANT

A. THE COMPLAINANTS

1. The complainants hereby submit a communication against the Arab Republic of Egypt (hereinafter “Egypt”).
2. Considering the serious and widespread nature of the human rights violations currently occurring in Gaza and mindful of Rule 85 of the Rules of the African Commission on Human and Peoples’ Rights; as well as Article 5 of the Protocol to the African Charter on Human and Peoples’ Rights - on access to the African Court on Human and Peoples’ Rights and Article 58 of the African Charter on Human and Peoples’ Rights, the complainants call on the Commission to urgently seize the Court with the case presented hereunder and to seek appropriate relief including interim relief in the following terms:
 - a. The opening of the Rafah border crossing in order to enable Gazans, many of whom are children, in need of critical medical assistance to leave Gaza for urgent medical aid.

- b. The opening of the Rafah border crossing in order to enable critical personnel such as physicians, nurses and other medical staff and services including much needed medicine and equipment, food stuff and supplements as well as water to find its way to hospitals, shelters, food kitchens, and schools.
 - c. The opening of the Rafah border crossing in order to allow the entrance of all necessary building related items and equipment to enable the removal of rubble and for the purpose of rebuilding in the devastated landscape of Gaza.
 - d. The Plaintiffs merely seek Egypt to uphold its human rights and humanitarian obligations under the African Charter on Human and Peoples' Rights and in accord with well-established standards of international law.
 - e. Further and/or Alternative relief.
- 3. The First Complainant is the **PALESTINE SOLIDARITY ALLIANCE (PSA)**, a voluntary body based in Johannesburg South Africa with *locus standi* to sue and be sued.
- 4. The PSA is at the forefront of the solidarity effort on the issue of Palestine and has organised numerous legal and lawful protests in South Africa to conscientise both the government and the public on the issue of Palestine.

5. After Operation Cast Lead in 2006 the First Complainant together with another South African NGO launched legal proceedings in South Africa for the prosecution of its citizens and members of the Israeli war cabinet and army, for war crimes and crimes against humanity committed during Operation Cast Lead and has continued supporting lawfare activities against the illegal occupation of Palestine and the illegal blockade of Gaza. A copy of the constitution of the PSA is attached hereto marked annexure “1”.
6. The Second Complainant is **CAGE PRISONERS NPC (“CAGE Africa”)** a South African company affiliated with CAGE Advocacy UK Ltd, an organization advocating for communities affected by the War on Terror. In 2013, Cage Prisoners became CAGE in response to a broader remit of confronting other rule of law abuses taking place internationally¹. Proof of CAGE Africa’s incorporation is annexed hereto and marked annexure “2”.
7. The Third complainant is the **ZIMBABWE PALESTINE SOLIDARITY COUNCIL (ZPSC)**, a voluntary body based in Harare, Zimbabwe with locus standi to sue and be sued.
8. The ZPSC is at the forefront of the solidarity effort on the issue of Palestine and has organised numerous legal and lawful protests in Zimbabwe to conscientise both the government and the public on the

¹ <https://www.cage.ngo/about>

issue of Palestine. A copy of the constitution of the ZPSC is attached hereto marked annexure “3”.

9. The Fourth complainant is the **DREAMS DEFENDER ORGANIZATION TANZANIA**, and is a legally registered, youth-led, and community-based organization operating in Tanzania with full legal capacity.
10. Dreams Defender Organization is committed to advancing the rights and well-being of young people, women, and girls in Tanzania through motivation, empowerment, and access to opportunities.
11. The organization conducts lawful and impactful programs aimed at promoting leadership, personal growth, and awareness on social and economic issues affecting marginalized communities. In all its work, Dreams Defender organization Tanzania strongly advocates for the respect and protection of human rights and fundamental freedoms. Since its establishment, Dreams Defender Organization Tanzania has partnered with various stakeholders to carry out educational campaigns, capacity-building workshops, and community dialogues that empower youth and women to thrive while fostering a culture of peace, equality, and justice. The organization continues to be a voice for the voiceless, encouraging national and local authorities to uphold human rights standards and ensure inclusive development.

12. Dreams Defender Organization Tanzania, believes in the universality of human rights and stands in solidarity with all oppressed peoples around the world, including the people of Palestine.
13. The organisation has used its platforms to raise awareness among Tanzanian youth and communities about the human rights violations taking place in Palestine, and continues to encourage peaceful advocacy, education, and dialogue on the issue. The organisation believes that justice, dignity, and freedom must be upheld for all people, regardless of geography, and we support global efforts calling for an end to occupation, violence, and the violation of international law. A copy of the constitution of the **DREAMS DEFENDER ORGANIZATION TANZANIA** is attached hereto marked annexure “4”.
14. The Fifth complainant is the, **KENYA NA PALESTINE, Kenya Palestine Solidarity Movement (KPSM)**, a grassroots volunteer network that brings together Kenyans from all walks of life to stand in solidarity with the people of Palestine. Through public events and creative activism - including peace marches, educational symposia, film screenings, webinars, photo exhibitions, and tree planting - KPSM raises awareness about the ongoing occupation and human rights violations in Palestine, while also connecting local struggles for justice.
15. This complaint is brought against Egypt, a party to the African Charter on Human and Peoples’ Rights since 20 March 1984, and as this complaint

will demonstrate, Egypt is presently in violation of several articles of this charter.

16. The Complainants are represented by attorney Nadeem Mahomed, the attorney of record who practices from 10 Chester Road, Greenside East, Johannesburg, South Africa, Telephone: 0823411808, Fax: 086 645 0085/6.
17. The Sixth Complainant is Kenyans for Palestine (K4P), a grassroots network of internationalists standing in anti-colonial solidarity with the Palestinian people; against apartheid and racism and for freedom.
18. K4P focuses on raising awareness of the potential of the non-violent strategy of the BDS movement worldwide. It is represented on the steering committee of the Pan African Palestine Solidarity Committee (PAPSN). They educate Kenyans on the organisations and individuals that engage in non-ethical trade and advocate for boycotts of products and services that support Apartheid Israel.
19. After October 7th, K4P has engaged in raising money for relief and humanitarian efforts in Gaza and has also hosted candlelight vigils and educational forums in support of the Palestinian people's struggle for self-determination.

B. NEED FOR URGENT PROCESSING OF THE COMMUNICATION

20. The fact that the genocide continues unabated and the citizens of Gaza are still being illegally occupied, oppressed and massacred daily by Israel and the fact that Israel continues to commit war crimes and crimes against humanity and in light of the increasingly numerous loss of life and liberty arising therefrom, the complainants submit that this communication should be treated with the utmost urgency by the African Commission on Human and Peoples' Rights.
21. Accordingly, in conformity with Rule 84.1 of the Rules of the African Commission on Human and Peoples' Rights read with Article 58.1 of the African Charter on Human and Peoples' Rights - on the African Court on Human and Peoples' Rights, the complainants submit that the Commission should refer this Application to the African Court on Human and Peoples' Rights in accordance with Article 5 of the Protocol to the African Charter on Human and Peoples' Rights on access to the African Court on Human and Peoples' Rights.
22. Considering that the situation brought to its knowledge amounts to serious and massive violations of human rights and that Egypt is a State Party to the Protocol to the African Charter regarding the African Court on Human and Peoples' Rights, it is imperative that the Commission consider this Communication as a matter of emergency and grants the Complainants

access to the African Court.

EXHAUSTION OF LOCAL REMEDIES:

23. Article 56 of the Charter requires exhaustion of domestic remedies, but exceptions apply for widespread violations (see *Zaire Communications* 25/89, 47/90, 56/91, 103/93).
24. There are No Effective Remedies in Egypt as:
 - 24.1. Border control is a sovereign policy issue with no judicial recourse.
 - 24.2. Egypt's judiciary lacks independence in national security matters.
 - 24.3. Past petitions (e.g., Communication 334/06) confirm the futility of domestic challenges.
25. The Commission has waived exhaustion where remedies are unavailable, ineffective, or insufficient (*Egyptian Initiative for Personal Rights v. Egypt*).
26. The current situation is unprecedented.
27. **Genocide and War Crimes:**
 - 27.1. The ICJ found Israel "plausibly" committing genocide (January 2024).
 - 27.2. ICC issued arrest warrants for Israeli leaders (May 2024).
 - 27.3. Israel's blockade and bombardment have destroyed 69% of Gaza's structures, 68% of roads, and 84% of health facilities.

28. **Egypt's Complicity:**

28.1. Rafah remains sealed despite ICJ orders for humanitarian access.

28.2. Egypt's restrictions violate the Charter and customary international law.

29. **Casualties:** 50,950+ killed, 116,156+ injured (70% women/children).

30. **Displacement:** 1.9 million (90% of Gaza's population).

31. **Health Crisis:**

31.1. Only 12 of 36 hospitals are partially functional.

31.2. 1,000+ healthcare workers killed.

32. **Infrastructure:**

32.1. 69% of buildings destroyed.

32.2. Water access at 2–8 liters/day (WHO emergency minimum: 15 liters).

33. **Famine:** 91% of people face acute food insecurity (IPC Phase 4/5).

C. ADMISSIBILITY OF THE APPLICATION

34. The condition requiring the prior exhaustion of local remedies (Article 56 of the African Charter) before an application is deemed admissible carries exceptions raised on several occasions in the jurisprudence of the African Commission on Human and Peoples' Rights.

35. This is the case *inter alia* in a decision on applications 25/89, 47/90, 56/91 and 103/93 against Zaire in regard to serious and widespread violations of human rights in that country; the African Commission on Human and Peoples' Rights had affirmed in that regard that, "the Commission had never held that the condition requiring the exhaustion of local remedies would apply to the letter when it was neither practicable nor desirable for the complainant to seize domestic tribunals in the case of each violation".
36. The case against Egypt Communication 334/06 - Egyptian Initiative for Personal Rights and Interights v Arab Republic of Egypt also sets out the relevant principles. All the necessary conditions for admissibility remain applicable in this present complaint and indeed the need for urgent intervention in this case is far greater than it was in the above decision. The conditions in Gaza are most dire and there is simply no access to justice at this point in time.
37. There is simply no prospect of the complainants exhausting any internal remedy in Egypt as this is an issue relating to border control.
38. In light of the ongoing genocide in Gaza and the serious and massive violations of human rights and the obvious ineffectiveness of the process of appeal, this communication should be considered as admissible and urgent.
39. Three major criteria could be deduced from the practice of the Commission in determining this rule, namely: the remedy must be available; effective;

and sufficient. None of this exists internally in Egypt. There are simply no domestic remedies which are available, effective or sufficient.

40. The African Commission in several Communications held that the condition of exhaustion of local remedies, “should not constitute an unjustifiable impediment to access international remedies. Therefore, Article 4 should be applied concomitantly with Article 12, which establishes and protects both the right to life and the right to freedom of movement respectively.
41. Therefore, if the victim cannot turn to the government or judiciary of his country due to the lack of an effective legal or humanitarian remedy to address the massive loss of life and urgent humanitarian needs, local remedies would be considered to be unavailable to him. This is indeed the present case.
42. Furthermore, in light of the fact that this complaint is a request for positive action from the Egyptian government, it is simply impossible to exhaust any internal remedies as none are practically or legally available to the victims.

D. PREVIOUS APPLICATION

43. In August of 2014, Communication 479/14 - Palestine Solidarity Alliance (PSA) and 5 Others v. Egypt was brought before this Commission as a response to Operation Protective Edge, another brutal military operation

launched by Israel on 8 July 2014 in the Gaza Strip. Like in this application, the relief sought a decade ago was:

- (a) The opening of the Rafah border crossing in order to enable critical personnel such as physicians, nurses and other medical staff and services including much medicine and equipment, food stuff and supplements and water to find its way to hospitals, shelters, food kitchens, and schools.
- (b) The Plaintiffs merely seek that Egypt uphold its human rights and humanitarian obligations under the African Charter on Human and Peoples' Rights and in accord with well-established standards of international law.
- (c) Further and/or Alternative relief.

44. More than a decade later, despite the very public and utter destruction of Gaza, broadcast and live streamed for all to see by international media since October of 2023, as with the unresolved complaint in 2014. Egypt continues to ignore its humanitarian obligations to those Palestinians trapped in Rafah.

45. **E. BACKGROUND AND ESSENTIAL FACTS TO SUPPORT THE APPLICATION**

46. As noted, although directed at Egypt, the application before this Court is neither *sui generis* nor should be considered in a vacuum, with the prime mover of its necessity, Israel, having already been found “plausibly” culpable for acts of genocide by the ICJ and the ICC having indicted and issued arrest warrants against the Israeli leadership for violation of the 1948 Convention on the Prevention and Punishment for the Crime of Genocide.²
47. Against this long-settled and palpable record of genocide these past 18 months, Israel has rightfully been accused of various war crimes ranging from the murder, crippling, torture and disappearance of hundreds of thousands of civilians (more than half of which being children and women), to the targeted bombings of shelters, hospitals, food kitchens, schools and universities, to the designed destruction and displacement of 85% of Gaza and all of its civilian population, to the imposition of starvation and pandemics through its assault on humanitarian aid and medicines and the destruction of essential infrastructure.
48. With the predictable and long-patterned talisman of “self-defence,” once again Israel, with a perverse sense of pride and purpose, sterilizes away its

² In 1948, the United Nations General Assembly unanimously adopted the Convention on the Prevention and Punishment of the Crime of Genocide, which defined genocide as any of five “acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group”. The acts were: killing members of the protected group, causing them serious bodily or mental harm, imposing living conditions intended to destroy the group, preventing births, and forcibly transferring children out of the protected group. Victims must be targeted because of their real or perceived membership of a protected national, ethnic, racial or religious group

obscene violation of international law as necessary in the name of “self-defence.” The numerous mass graves which have been found in Gaza since October 2023, where often the hands of the corpses are tied, make it apparent that these horrific atrocities are not in any manner or form related to acts of self-defence.³

49. Meanwhile Egypt continues to keep the gates of Rafah not just sealed but has refused to confront its Israeli partner over the latter’s establishment of a “safety zone” denying tens of thousands of critically injured Palestinian civilians the ability to pass through Rafah and onto essential life-saving medical treatment, awaiting them across the globe.
50. Within the first two months of its war, Israel dropped 25 000 tonnes of explosives on the Gaza Strip, according to the Euro-Med Human Rights Monitor, this was equivalent to two nuclear bombs.⁴ Many of these were unguided explosives dropped in very densely populated areas.
51. On 11 April the Office of the High Commissioner for Human Rights (OHCHR), stated that between 18 March and 9 April 2025, there were some 224 incidents of Israeli strikes on residential buildings and tents for internally displaced people. In about 36 of those strikes about which the UN Human Rights Office had been able to corroborate information, the fatalities recorded so far were only women and children. There was also an

³ <https://www.aljazeera.com/news/2024/5/11/gazas-mass-graves-is-the-truth-being-uncovered>
<https://press.un.org/en/2025/sc16037.doc.htm>

⁴ <https://euromedmonitor.org/en/article/5908/Israel-hits-Gaza-Strip-with-the-equivalent-of-two-nuclear-bombs>

alarming trend of targeting and killing Palestinian journalists and intentionally directing attacks against civilians not taking a direct part in hostilities that constituted a war crime.⁵

52. The Health Ministry in Gaza places the overall number of fatalities since Israel resumed its bombardment of Gaza on March 18, at 1563. Hundreds of them were children, according to rescuers. Israel also has imposed a total blockade on Gaza, leading the UN and rights groups to warn that food, water, medicine and other critical supplies are quickly running out.⁶

53. In the first week of April 2025, the UN Secretary-General stated:

“More than an entire month has passed without a drop of aid into Gaza. No food. No fuel. No medicine. No commercial supplies.”

“As aid has dried up, the floodgates of horror have reopened. Gaza is a killing field – and civilians are in an endless death loop.”⁷

54. In January of this year, research published in The Lancet Medical Journal estimated that the death toll in Gaza during the first nine months of the

⁵ <https://www.ohchr.org/en/press-briefing-notes/2025/04/gaza-increasing-israeli-evacuation-orders-lead-forcible-transfer>

⁶ <https://www.aljazeera.com/news/2025/4/12/at-least-500-gaza-children-killed-since-israel-broke-truce-official>

⁷ <https://www.aljazeera.com/news/2025/4/8/un-chief-says-palestinians-in-gaza-in-death-loop-demands-end-to-blockade>

Israel's genocide was around 40% higher than recorded by the Palestinian territory's health ministry.⁸

55. The United Nations and many news outlets have estimated that about 70% of Palestinians killed in Gaza are women and children, with at least 20,000 Palestinians having been killed in Gaza by December 2023. The number of dead in Gaza now totals over 50 950⁹ with over 10 000 additional bodies estimated to be buried under the rubble. The number of injured is approximately 116 156.¹⁰
56. In November of 2024, the UN's Human Rights Office analysis already showed that approximately 70% of the verified victims over the previous six months had been women and children^{11,12} In fact Gaza has the most child amputees per capita in the world.¹³
57. According to many prominent human rights groups, Israel has committed genocide against the Palestinian people during its ongoing invasion and bombing of the Gaza Strip. Various observers, including the UN Special Committee to investigate Israeli practices and the United Nations Special Rapporteur, have cited statements by senior Israeli

⁸ [https://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(24\)02678-3/fulltext](https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(24)02678-3/fulltext)

⁹ <https://www.middleeastmonitor.com/20250413-gaza-death-toll-nears-50950-as-israeli-army-kills-11-more-palestinians/>

¹⁰ <https://www.middleeastmonitor.com/20250413-gaza-death-toll-nears-50950-as-israeli-army-kills-11-more-palestinians/>

¹¹ <https://www.bbc.com/news/articles/cn5wel11pgdo>

¹² <https://www.ochaopt.org/content/humanitarian-situation-update-278-gaza-strip>

¹³ <https://www.unicefusa.org/stories/unicef-delivers-wheelchairs-gazas-children>

officials that may indicate, "an intent to destroy" Gaza's population in whole or in part, a necessary condition for the legal threshold of genocide to be met.

58. As of August 2024, only 17 of Gaza's 36 hospitals were partially functional and 84% of its health centres had been destroyed or suffered damage. At the beginning of April 2025, 12 out of 17 hospitals in the Gaza Strip were partially functional and there was only one operational field hospital.¹⁴ The destruction of Gaza's health infrastructure continues unabated.
59. An enforced illegal Israeli blockade heavily contributed to starvation and the threat of famine in Gaza, while some Israeli civilians have blocked or attacked aid convoys delivering humanitarian supplies across the border.
60. Very early on, Israel cut off Gaza's water and electricity supply. Israel has also destroyed numerous culturally significant buildings, such as all of Gaza's 12 universities, 80% of its schools, and numerous mosques, churches, museums, and libraries.¹⁵
61. As noted, with success the South Africa government through its Department of International Relations and Cooperation has instituted proceedings at the International Court of Justice, against Israel alleging a violation of the Genocide Convention.¹⁶ In so doing members of the South

¹⁴ <https://news.un.org/en/story/2025/04/1162106>

¹⁵ <https://www.hrw.org/report/2024/11/14/hopeless-starving-and-besieged/israels-forced-displacement-palestinians-gaza>

¹⁶ As of this submission at least Fourteen countries have joined or announced their intention to intervene in the context of South Africa's complaint, which accuses Israel of "genocide" in the Gaza Strip, before the ICJ.

African legal team to the International Court of Justice stated, “the first genocide in history where its victims are broadcasting their own destruction in real time in the desperate so far vain hope that the world might do something.”¹⁷

62. Gaza has been under siege by both Israel and Egypt through the Erez and Rafah crossings respectively for years. Together these two countries have collaborated in an orchestrated and tightly structured illegal blockade that has controlled what goods and services and people could and could not enter the Gaza Strip.
63. The illegal blockade leaves one operational border crossing for movement out of Gaza. As a result, the entire population of Gaza, 2.1 million – more than half of them children under the age of 18 - relied on humanitarian aid before this worsening of the genocide. Various restrictions apply on the use of land and water within the Gaza strip. Already in 2011, a report by the United Nations Office for the Coordination of Humanitarian Affairs (OCHA) revealed that 35% of Gaza’s farmland and 85% of its fishing waters were totally or partially inaccessible.¹⁸

Among these states are Palestine, Nicaragua, Belgium, Ireland, Colombia, Libya, Cuba, Mexico, Spain, Türkiye, Chile, Maldives, Bolivia, and Egypt which some 10 months ago formally joined South Africa's case against Israel at the International Court of Justice but yet continues to subsidize Israeli genocide through its own as hereinabove above-described complicity.

¹⁷ <https://www.theguardian.com/world/video/2024/jan/11/world-has-failed-gaza-in-livestreamed-genocide-south-africas-delegation-says-at-icj-video>

¹⁸ https://www.ochaopt.org/sites/default/files/ocha_opt_Gaza_Fact_Sheet_July_2011.pdf

F. SITUATION OVERVIEW

Hostilities and Causalities

64. To reiterate what was stated in paragraphs 26 and 33 above, the reported casualties in Gaza are as follows, 50 944 killed and 116 156 injured.¹⁹
65. According to UNRWA's Commissioner-General, since Israel violated the ceasefire on 18 March 2025, at least 100 children are reported killed or injured every day in Gaza.²⁰

Displacement

66. According to the UN, at least 1.9 million people about 90% of the population of Gaza have been internally displaced, many have been displaced repeatedly, some 10 times or more.²¹

Health Services

67. At the start of January 2025, the World Health Organisation (WHO) reported that 16 of Gaza's 36 hospitals were partially operational offering

¹⁹ <https://www.middleeastmonitor.com/20250413-gaza-death-toll-nears-50950-as-israeli-army-kills-11-more-palestinians/>

²⁰ https://www.unrwa.org/newsroom/official-statements/unrwa-commissioner-general-gaza-harrowing-least-100-children-are-reported-killed?__cf_chl_tk=gPRH54VF48.IKz0djgkXjK.DFdSkAPeeaMbrHuOdHYE-1744581889-1.0.1.1-8o36j855_hrNwvVGFqBdwqsBw2ulTbNclHPXpWc_6Pc

²¹ <https://www.unrwa.org/resources/reports/unrwa-situation-report-163-situation-gaza-strip-and-west-bank-including-east-jerusalem>

just 1822 beds and 20 were closed.²² This evolving situation continued to place the health system under immense strain. Doctor Rik Peeperkorn, WHO representative for the West Bank and Gaza, described hospitals as “battlegrounds,” with over 25% of the 105,000 civilians who've been injured facing life-changing injuries.

68. On 13 April, Israel deliberately targeted and bombed the last remaining operational hospital in Gaza, ‘Al-Ahli Arab Hospital’ in Gaza City.²³ According to Euro-Med Human Rights Monitor:

“this reflects a broader intent to systematically dismantle essential aspects of life in the Gaza Strip and part of a clear strategy to erode all means of survival by disregarding international legal protections for civilians in order to deliberately deprive them of basic living conditions and strike vital infrastructure; it demonstrates a calculated Israeli policy designed to induce a slow collapse and push the people in the Strip towards a total breakdown”.²⁴

69. The UN High Commissioner for Human Rights Volker Türk called the destruction of hospitals a “human rights catastrophe,” highlighting the targeted attacks on healthcare facilities.²⁵

70. More than 1000 healthcare workers have been killed in Gaza since

²² <https://news.un.org/en/story/2025/01/1158716>

²³ <https://www.bbc.com/news/articles/cjr71123zy5o>

²⁴ <https://euromedmonitor.org/en/article/6683/Israeli-targeting-of-Al-Ahli-Arab-Hospital-is-a-deliberate-assault-on-life-and-Gaza%E2%80%99s-last-refuge>

²⁵ <https://www.ohchr.org/en/statements-and-speeches/2025/01/israels-attacks-have-devastating-impact-gazas-hospitals-turk-tells>

October 2023.²⁶ To further evidence the targeting of healthcare workers, at the end of March 2025 an Israeli military unit killed 15 Palestinian paramedics and rescue workers, “one by one” in the Gaza Strip.²⁷ A video of the attack was found on a mobile phone with the body of one of the murdered health workers. Evidence showed that their bodies had been gathered and buried in a mass grave along with the ambulances they were driving.²⁸

Infrastructure

71. The United Nations Satellite Centre (UNOSAT) has calculated 69% of all structures had been destroyed or damaged as well as 68% of the road network in the Gaza strip had been damaged or destroyed.²⁹

Water, Sanitation and Hygiene (WASH)

72. By October 9, 2023, Israel had cut off water being piped into Gaza from Israel, which accounted for about 12% of Gaza’s total water supply and more than half of its drinking water.³⁰

²⁶ <https://www.msf.org/strikes-raids-and-incursions-year-relentless-attacks-healthcare-palestine>

²⁷ <https://www.theguardian.com/world/2025/mar/31/israel-killed-15-palestinian-paramedics-and-rescue-workers-one-by-one-says-un>

²⁸ <https://www.unocha.org/media-centre/gaza-tal-sultan-aftermath-30-march-2025>

²⁹ <https://unosat.org/products/4047>

³⁰ <https://oxfamilibrary.openrepository.com/bitstream/handle/10546/621609/bp-water-war-crimes-180724-en.pdf>

73. Israeli authorities then proceeded to also cut off the electricity³¹ that Israel supplies to Gaza, plunging the strip into darkness and impairing the operability of nearly all of Gaza's water and sanitation infrastructure, as well as other infrastructure necessary for the delivery of goods and services essential to life, including hospitals.³²
74. According to an interim damage assessment released by the World Bank in March 2024, an estimated \$502.7 million of damage was inflicted on the WASH sector in Gaza in the initial months of bombing, including damage to approximately 57% of the water infrastructure.³³
75. The United Nations reported that water desalination plants in Gaza, 162 water wells and two of the three water connections with Israel's national water provider had been severely damaged. As a result, the amount of available water in Gaza was at that point reduced to roughly two to eight litres per person per day – below the World Health Organization emergency daily minimum of 15 litres and far below its standard recommendation of 50 - 100 litres per day.
76. In November of 2024, Oxfam reported that all five wastewater treatment plants in Gaza had been forced to shut down, along with the majority of its 65 wastewater pumping stations.³⁴ This resulted in ongoing discharges of

³¹ https://www.timesofisrael.com/liveblog_entry/israel-cuts-electricity-supply-to-gaza/

³² https://www.hrw.org/report/2024/12/19/extermination-and-acts-genocide/israel-deliberately-depriving-palestinians-gaza#_ftn20

³³ <https://thedocs.worldbank.org/en/doc/14e309cd34e04e40b90eb19afa7b5d15-0280012024/original/Gaza-Interim-Damage-Assessment-032924-Final.pdf>

³⁴ <https://views-voices.oxfam.org.uk/2023/11/water-catastrophe-gaza/>

raw, untreated sewage into the environment.

Food Insecurity

77. In October of 2024, the updated report from the Integrated Food Security Phase Classification, or IPC, projected that over the coming months 345,000 Palestinians will face Catastrophic or Phase 5 level of hunger. Another 876,000 people, or 41% of the population, will be a step behind them in Phase 4 — Emergency level.
78. Overall, the IPC said 91% of Gazans — or nearly 2 million Palestinians, will face acute food insecurity. Although less populated, Rafah and the northern governorates will likely face more severe acute food insecurity.³⁵

Education

79. In what human rights groups have labeled a Scholasticide, Israel has pursued the wholesale destruction of places of learning across the Gaza Strip.³⁶ According to the Palestinian Ministry of Education and Higher Education, since 7 October 2023, Israel's genocidal military campaign in Gaza has killed at least 10,490 school and university students, and 16,700 more have been injured. More than 500 schoolteachers and university

³⁵ <https://www.voanews.com/a/threat-of-famine-persists-in-gaza-experts-warn/7826335.html>

³⁶ <https://www.ohchr.org/en/press-releases/2024/04/un-experts-deeply-concerned-over-scholasticide-gaza>

educators have also been killed.³⁷ By the middle of 2024 approximately 90000 Palestinian university students had their studies suspended.³⁸

80. Schools, universities and training centres in Gaza have remained closed since the beginning of the genocide, allowing 625,000 school-aged children to miss an entire academic year with no prospect of schooling resuming any time soon.
81. As of 10 July 2024, the United Nations Relief and Works Agency for Palestine Refugees (UNRWA) reported that two-thirds of its schools, 188 out of 288 had been subjected to attacks by Israeli forces, including 76 schools that were directly targeted. Public schools have suffered similar devastation, with 285 of the 448 institutions destroyed. Israeli attacks have destroyed about two-thirds of the public schools in Gaza. The Palestinian Minister of Education reported that more than 80% of the buildings housing higher education institutions have been destroyed by the Israeli military.³⁹

G. SCOPE OF APPLICATION

82. Legal Instruments:

- 82.1. **African Charter:** Articles 4 (right to life), 12 (freedom of movement), 20 (duty to assist oppressed peoples).

³⁷ <https://x.com/PalestineMoE/status/1828356845863383403>

³⁸ <https://www.theguardian.com/commentisfree/article/2024/jun/08/israel-destroying-schools-scholasticide>

³⁹ <https://news.un.org/en/story/2024/07/1151921>

82.2. **International Law:**

82.2.1. Geneva Conventions (obligation to provide humanitarian aid).

82.2.2. ICESCR (right to health, food, water).

82.2.3. UN Charter (self-determination).

82.3. **Customary Law:**

82.3.1. *Erga omnes* duty to prevent genocide.

82.3.2. Non-refoulement (prohibition on returning persons to harm).

79.4 Article 4 (Right to Life):

Rafah's closure denies medical care, food, and water, leading to preventable deaths.

79.5 Article 12 (Freedom of Movement):

Gazans cannot flee or access asylum, violating refugee protections.

79.6 Article 20 (Assistance to Oppressed Peoples):

Egypt fails to aid Palestinians under occupation.

83. Customary Law:

83.1. **R2P (Responsibility to Protect):** Egypt must facilitate aid.

83.2. **Non-Refoulement:** Trapping Gazans under bombardment violates prohibitions on forced return to danger.

84. Geneva Conventions:

84.1. Collective punishment (Article 33) and denial of humanitarian access (Article 55) are war crimes.

85. Before this Commission is an application which seeks an order compelling Egypt to open the border crossing at Rafah to permit critically ill patients from Gaza to leave for essential medical assistance and for the delivery of necessary goods and services and travel for essential personnel and families to and from the Gaza Strip.
86. In considering the instant application the Commission is necessarily bound by the Charter of the African Union, which was established in 1963 and which subsequently accepted Egypt's entry as a member state and signatory in June of 2014.
87. The Charter itself specifically looks to other international laws and statutes in determining the reach of its application regarding fundamental human rights. Under the circumstances before this Commission, it is respectfully submitted that the following Articles should be considered, along with the Charter, with regards to the humanitarian crisis in the Gaza Strip, and the freedom of movement at the border crossing at Rafah both during and after the conclusion of the current genocide.
88. Thus Article 1(2) of the Charter of the United Nations recognises the inalienable the right to self-determination of peoples; to defend sovereignty and integrity of territory, regarding the occupied and captive nature of the people of the Gaza Strip; to promote their liberty and aspirations towards freedom and independence.

89. This is instructive in considering the manners and means by which to apply the Charter's mandate to the current crisis in Gaza. This lends further assistance to the Commission as it considers and addresses the intent of the Charter on the humanitarian crises placed squarely before it.

90. In considering the depth and breadth of the African Charter's applicability to the humanitarian catastrophe in Gaza it is respectfully submitted that the Commission must necessarily take a wide view of Egypt's obligations under it as a member state of the African Union. The preamble of the Charter states:

“Conscious of their duty to achieve the total liberation of Africa, the peoples of which are still struggling for their dignity and genuine independence, and undertaking to eliminate colonialism, neo-colonialism, apartheid, zionism and to dismantle aggressive foreign military bases and all forms of discrimination, language, religion or political opinions;”

91. Further in this regard Section 60 of the Charter notes that:

“The Commission shall draw inspiration from international law on human and peoples' rights, particularly from the provisions of various African instruments on Human and Peoples' Rights, the Charter of the United Nations, the Charter of the Organization of African Unity, the Universal Declaration of Human Rights, other instruments adopted by the United Nations and by African

countries in the field of Human and Peoples' Rights, as well as from the provisions of various instruments adopted within the Specialized Agencies of the United Nations of which the Parties to the present Charter are members."

92. Any question about the need for a generous and broad interpretation of Egypt's responsibility to human rights and humanitarian protections as informed by settled principles of international law is further spelled out under Article 61 of the Charter. As noted:

"The Commission shall also take into consideration, as subsidiary measures to determine the principles of law, other general or special international conventions, laying down rules expressly recognized by Member States of the Organization of African Unity, African practices consistent with international norms on Human and Peoples' Rights, customs generally accepted as law, general principles of law recognized by African States as well as legal precedents and doctrine."

93. Internationally there is absolute consensus among organizations, legal bodies and NGO's alike that an enormous humanitarian crisis is under way in Gaza that has and will continue without immediate intervention and relief. Widespread death and destruction will continue unabated amongst a defenseless and almost exclusively civilian population that has been stripped of essential resources and the most rudimentary infrastructure

necessary to sustain life.

94. In this light, the issues before the Commission are necessarily narrow:

94.1. whether Egypt as a member state of the African Union and a signatory of its Charter on Human and Peoples' Rights and in due consideration of other national and international law is obligated to immediately open the border crossing at Rafah to permit for emergency movement of persons, goods and services to address a full-scale human rights catastrophe in Gaza; and

94.2. whether this Commission has the jurisdiction, competence and authority to order Egypt to immediately open the border crossing at Rafah for the human rights purposes hereinafter set forth. In sum, and for the reasons to follow, it is respectfully submitted that upon due consideration the Commission should order Egypt to immediately open the Rafah crossing for humanitarian purposes.

H. VIOLATIONS OF ARTICLE 4 OF THE AFRICAN CHARTER

95. According to Article 4 – Human beings are inviolable. Every human being shall be entitled to respect for his life and the integrity of his person. No one may be arbitrarily deprived of this right.

96. By maintaining a total closure of the Rafah border crossing, Egypt has

violated the following rights contained in the charter: Article 4 – Human beings are inviolable. Every human being shall be entitled to respect for his life and the integrity of his person. No one may be arbitrarily deprived of this right. As indicated above, refugees are in urgent need of medical treatment from physicians, nurses and other medical support personnel. Trapped refugees are also in need of food, baby formula and supplements, water and other essential health and life sustaining provisions and necessities. The closure of the Rafah border crossing prevents access to these basic needs of the people of Gaza which are essential for survival. Egypt has thus violated the right to life and integrity protected in Article 4.

97. Egypt has knowingly and willfully violated its obligations, as well as the humanitarian imperative, regarding the Rafah crossing.
98. Whether in coordination with Israel, or of its own accord, Egypt has maintained and continues to maintain essentially a total closure of the Rafah border crossing thereby creating, contributing to or intentionally compounding an enormous humanitarian crisis confronting a defenseless and vulnerable refugee population of almost two million people, half or more of whom are children.
99. Egypt has a national, regional and international responsibility to open the Rafah crossing both under the humanitarian imperative and in the name of their obligations under the Charter of the African Union, upholding responsibility of application of human rights law and international

humanitarian law (IHL), especially in regard to Article 3, Geneva Convention of 1949, for the respect of the wounded and the sick in time of war, which has not been respected by Israel.

100. Egypt's actions at the Rafah Border crossing are in violation of the provisions of the African Charter Human and People's rights and the international law.

I. ARTICLE 12 VIOLATIONS

101. According to article 12 – (1) Every individual shall have the right to freedom of movement and residence within the borders of a State provided he abides by the law. (2) Every individual shall have the right to leave any country including his own, and to return to his own country. This right may only be subject to restrictions provided for by the law for the protection of national security, law and order, public health or morality. (3) Every individual shall have the right, when prosecuted, to seek and obtain asylum in other countries in accordance with laws of those countries and international conventions.

102. Hundreds of thousands of Gazans are in urgent need of access to medical treatment, the closest of which is in Egypt due to Israel's wanton destruction of Gaza's medical infrastructure. The Palestinians of Gaza also

have the right to seek asylum, therefore the closure of the Rafah border crossing manifestly violates Article 12 of the Charter. Based upon information reported by the United Nations Office of the High Commissioner for Human Rights (UNHCR), United Nations Office for the Coordination of Humanitarian Affairs (OCHA), United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA), Ministry of Social Affairs (MoSA), Ministry of Education and Higher Education (MoEHE), Palestinian Red Crescent Society (PCRS) and Internal Committee of the Red Cross (ICRC), the World Health Organization (WHO) and their respective representatives and formal written statements submitted to the United Nations Human Rights Council as well as public statements by other non-state actors and NGOs, it has become clear that the humanitarian situation caused by the genocide in Gaza as well as the unique and unlawful nature thereof has led not only to an obscene death and injury toll among civilians, but to the destruction of civilian infrastructure, and humanitarian facilities including, but not limited to, hospitals, schools and shelters.

103. The ongoing genocide has only worsened becoming critical and posing an imminent threat to the life, safety and essential well-being of almost 2 million refugee residents of the Gaza Strip held captive and defenseless, unable to evacuate through the sealed Rafah border, and denied access to essential life sustaining and medical aid due to the same closure.

104. Once again Egypt is in violation of the provisions of Article 12 of the

Charter.

J. ARTICLE 20 VIOLATIONS

105. Egypt is also in violation of article 20(2) and 20(3). Egypt is obliged to aid the people of Gaza in their struggle against occupation and oppression.

106. Further Egypt is best positioned to alleviate the suffering of the people of Gaza and ameliorating the dire humanitarian conditions caused by the consequences of Israel's genocide by opening the Rafah border crossing. Its failure to do so is in direct violation of Article 20(3) of the Charter.

K. VIOLATIONS OF INTERNATIONAL CUSTOMARY LAW

107. There is an *erga omnes* duty in Egypt to provide humanitarian relief efforts to the people of Gaza. This obligation flows from the R2P principle that is internationally accepted and was, for example utilized by NATO in its intervention in Kosovo, the difference in this application is that the complainants seek is not military intervention but rather something far narrower i.e. humanitarian assistance and intervention.

108. The principle of non-refoulement provides protection by creating a prohibition on the removal or transfer of persons to a state where substantial grounds exist, which would put the person at risk of irreparable harm upon return, including persecution, torture, ill-treatment or other serious human rights violations. Non-refoulment flows from the obligation on States to respect, protect and fulfil human rights. By not allowing Palestinians to leave Rafah, Egypt is violating the principle of non-refoulement and placing Gazans at risk of irreparable harm.

L. PALESTINIANS WHO RESIDE IN GAZA ARE REFUGEES

109. It is well settled that Palestinians who reside in the Gaza Strip have been legally accorded refugee status and are thus entitled to all the protections set forth under international law to be respected in times of war.

110. In this light Egypt's on-going unwillingness to open the Rafah border as hereinabove set forth constitutes clear violations of the rights of refugees by closure of the border Egypt has compounded the humanitarian crises confronting millions of Palestinian refugees by denying them access to critically needed, indeed lifesaving, access to medical services, goods, materials and services.

111. In the first instance the humanitarian imperative is a duty long bestowed

upon all international member states to the Geneva Conventions requiring them to aid wherever and whenever it is needed to ensure that the international community does not sit idly by in matters of grave breaches of international humanitarian law and, as here, in the presence of abundant evidence of war crimes. Indeed, in the light of copious findings by numerous United Nations agencies and NGOs cited elsewhere herein, Egypt is in a unique and privileged position, nay obligation, to open the Rafah border crossing thereby allowing for humanitarian efforts and relief.

112. Indeed, under all the surrounding circumstances there can be no reasonable finding, but that Egypt is bound by international law and the law of the African Union of which it is a member state to act, and act immediately, to ensure full and necessary compliance with the humanitarian imperative.

113. This Imperative is no less articulated or compelling under the African Charter. Indeed, Egypt's misconduct with regard to its collaboration with Israel in the complete closure of the Rafah border crossing during this Israeli onslaught upon the civilian population of Gaza reads like a veritable primer in human right's transgression and, in itself, amounts to a prima facie case of complicity in war crimes.

114. Thus, other than a few isolated instances during this period in which Egypt has opened the Rafah border to permit a miniscule number of wounded Palestinians to enter Egypt for medical treatment it has maintained a strict

and complete embargo on travel and goods and services from entering or exiting the besieged Palestinian enclave.

115. In short, Egypt's systematic closure of the Rafah border crossing violates the well-established international legal principle of *ius cogens*: responsibility of the member states of the international community to protect civilians from war crimes.

116. Egypt, by closing the border or only temporarily opening it has not only prevented the refugee population of Gaza from obtaining essential humanitarian goods and services but has violated and continues to violate its fundamental international obligation to protect civilians from war crimes. Indeed, as noted, this omission in itself very likely establishes a war crime without more on the part of Egypt. As noted, after the Bosnian conflict in 1999 international humanitarian law reinforced a previous finding that, as here, the denial of humanitarian assistance can be considered a war crime:

"The denial of humanitarian assistance may have various aims. In a conflict where civilians are targeted, the displacement of part of the population or their starvation is such an aim; this could, for example, further a policy of "ethnic cleansing". The aim of sieges or blockades is to bring hostilities to a quicker end with less casualties for the besieging forces by obliging the besieged forces to

surrender."⁴⁰

M. SOUTH AFRICA v ISRAEL

117. On 29 December 2023, South Africa launched proceedings against Israel at the International Court of Justice (ICJ), alleging that Israel's conduct in the Gaza Strip violated their obligations under the Genocide Convention. South Africa requested the Court to issue preliminary measures and framed its case for the commission of acts of genocide within the broader context of Israel's conduct towards Palestinians during its 75-year apartheid, its 56-year belligerent occupation of Palestinian territory and its 16- year illegal blockade of Gaza.

118. On 26 January 2024, the International Court of Justice (ICJ) issued provisional measures in Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip. The provisional measures ordered against Israel were as follows⁴¹:

(1) 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 Palestinians in Gaza, take all

⁴⁰ <https://international-review.icrc.org/sites/default/files/S1560775500059794a.pdf>

⁴¹ <https://www.un.org/unispal/document/icj-provisional-measures-24may24/>

measures within its power to prevent the commission of all acts within the scope of Article II of this convention, in particular:

- a. killing members of the group;
- b. causing serious bodily or mental harm to 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;

(2) The State of Israel shall ensure with immediate effect that its military does not commit any acts described in point 1 above;

(3) The State of Israel shall 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;

(4) The State of Israel shall take immediate and effective measures to enable the provision of urgently needed basic services and humanitarian assistance to address the adverse conditions of life faced by Palestinians in the Gaza Strip;

(5) 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 and Article III of the Convention on the Prevention and Punishment of the Crime of Genocide against members of the Palestinian group in the Gaza Strip;

(6) The State of Israel shall submit a report to the Court on all measures taken to give effect to this Order within one month as from the date of this Order.

119. On the 16 February 2024, the ICJ issued a further decision noting the ‘perilous’ situation in the southern Gaza city of Rafah, but declining South Africa’s request for additional urgent measures to safeguard Palestinians being threatened by an Israeli ground assault there.

120. 14 countries have since announced their intention to join South Africa’s case, amongst them two African countries, Libya on 10 May 2024 and Egypt on 12 May 2024.

121. Having regard to Egypt’s joining of the case at the ICJ it is apparent that Egypt understands and acknowledges the grave violations of the Genocide Convention and the repercussions of Israel’s genocide in Gaza. It follows that Egypt would have no difficulty in ensuring the provisional measures ordered by the ICJ are carried out more specifically in relation to this complaint that the provision of urgently needed basic services and

humanitarian assistance to address the adverse conditions of life faced by Palestinians in the Gaza Strip is enabled in this case not just by Israel but by Egypt as aid enters Gaza through the Rafah Crossing.

N. REMEDIES

122. The Complainants do not seek a wide range of relief from this Honorable Commission. On the contrary they seek a single act which by its very nature will help to alleviate and immediately so an enormous humanitarian crisis that has engulfed the 2 million refugees that call Gaza home.
123. Indeed, the single act of opening the Rafah border crossing will enable critical personnel such as physicians, nurses and other medical staff and services including much needed medicine and equipment, food stuff and supplements and water to find its way to hospitals, shelters, food kitchens, and schools. It will permit persons trapped by the horrors of genocide to find their way to safety.
124. It will allow temporary housing and additional shelters to provide necessary and safe accommodation for several hundred thousand refugees that have not only been left homeless but powerless to act with the onset of inclement weather not far away.

125. It will facilitate critical and immediate triage and repair work to be undertaken on a civilian infrastructure including electrical and water treatment systems that have been rendered all but useless by years of embargo and destroyed by an unbroken month of targeted attacks that by any reasonable application of regional and international law constitute war crimes.
126. The Complainants merely seek Egypt to uphold its human rights and humanitarian obligations under the African Charter on Human and Peoples' Rights and in accord with well-established standards of international law.
127. That obligation can be fulfilled by the single necessary act of opening Rafah and would be in accord with widespread demands for that very step.
128. Egypt's actions are indefensible under the Charter and international law. Immediate intervention is required to prevent further loss of life.
129. Where the complainants seek the following urgent relief:
- 129.1. The opening of the Rafah border crossing in order to enable Gazans, many of whom are children, in need of critical medical assistance to leave Gaza for urgent medical aid;
 - 129.2. The opening of the Rafah border crossing in order to enable critical personnel such as physicians, nurses and other medical staff and services including much medicine and equipment, food stuff and supplements and water to find its way to hospitals,

shelters, food kitchens, and schools;

- 129.3. The opening of the Rafah border crossing in order to allow the entrance of all necessary building related items and equipment to enable the removal of rubble and rebuilding in the devastated landscape of Gaza;
- 129.4. The Plaintiffs merely seek Egypt to uphold its human rights and humanitarian obligations under the African Charter on Human and Peoples' Rights and in accord with well-established standards of international law; and
- 129.5. Further and/or Alternative relief.

Dated at Johannesburg on this 17th day of April 2025

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