

INTERNATIONAL COURT OF JUSTICE

***APPLICATION OF THE CONVENTION ON THE PREVENTION AND
PUNISHMENT OF THE CRIME OF GENOCIDE IN THE GAZA STRIP
(SOUTH AFRICA V. ISRAEL)***

**APPLICATION FOR PERMISSION TO INTERVENE
AND DECLARATION OF INTERVENTION
OF BELIZE**

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INTRODUCTION

1. On 29 December 2023, the Republic of South Africa (**South Africa**) instituted proceedings against the State of Israel (**Israel**) concerning violations by Israel in respect of the Gaza Strip of obligations under the Convention on the Prevention and Punishment of the Crime of Genocide (**Genocide Convention**).¹ South Africa’s Application contained a request for provisional measures.² The Court indicated provisional measures on 26 January 2024,³ 28 March 2024,⁴ and 24 May 2024.⁵
2. On 6 February 2024, the Registrar of the Court notified Belize that, in South Africa’s Application, the Genocide Convention “is invoked both as a basis of the Court’s jurisdiction and as a substantive basis of the Applicant’s claims on the merits” and that “[i]t therefore appears that the construction of this instrument will be in question in the case”.⁶
3. To date, eleven States have made declarations of intervention in the proceedings pursuant to Article 63 of the Statute of the International Court of Justice (**Statute**). In addition, two States have applied for permission to intervene in the proceedings pursuant to Article 62 of the Statute.
4. Belize has the honour to file this application for permission to intervene as a non-party under Article 62 and declaration availing itself of the right of intervention conferred upon it by Article 63 in relation to the proceedings entitled *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)* (**Belize’s Application and Declaration**). Belize’s Application and Declaration are cumulative and alternative.

¹ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)* (**South Africa v. Israel**), Application instituting proceedings and request for the indication of provisional measures, 29 December 2023 (**South Africa’s Application**).

² Application, Part VI.

³ *South Africa v. Israel*, Order on Provisional Measures, 26 January 2024 (**South Africa v. Israel, First Provisional Measures Order**).

⁴ *South Africa v. Israel*, Order on Provisional Measures, 28 March 2024 (**South Africa v. Israel, Second Provisional Measures Order**).

⁵ *South Africa v. Israel*, Order on Provisional Measures, 24 May 2024 (**South Africa v. Israel, Third Provisional Measures Order**).

⁶ Letter from the Registrar of the International Court of Justice to Belize, 6 February 2024, **Annex 8**.

5. In accordance with Articles 81(1) and 82(1) of the Rules of Court (**Rules**), Belize is filing this Application and Declaration as soon as possible. To the extent that Israel makes any preliminary objections to the jurisdiction of the Court or the admissibility of South Africa's Application, Belize's Application and Declaration concerns not only the merits of the proceedings but also any such preliminary objections. In those circumstances, and in accordance with Articles 81(3) and 82(3) of the Rules, Belize's Declaration has been filed before any date fixed for the filing of any written statement of observations and submissions of South Africa on any preliminary objections of Israel.
6. Following this Introduction, the Application and Declaration proceeds in three chapters. **Chapter 1** sets out the background to Belize's Application and Declaration. **Chapter 2** addresses Belize's application for permission to intervene under Article 62 and explains why that application should be granted. **Chapter 3** addresses Belize's declaration of intervention under Article 63 and sets out why that declaration should be found admissible.
7. In accordance with Articles 81(6) and 82(5)(d) of the Rules, a list of the documents in support of Belize's application to intervene under Article 62 of the Statute of the Court and declaration of intervention under Article 63 of the Statute of the Court is contained in an Appendix and the documents themselves are filed with this Application.

CHAPTER 1. BACKGROUND TO BELIZE’S APPLICATION AND DECLARATION

A. ISRAEL’S CONDUCT IN AND IN RELATION TO GAZA

8. Belize welcomes South Africa’s initiation of the present proceedings against Israel under the Genocide Convention. Belize considers that the relevant facts were well set out in South Africa’s Application at the time it was made, and in its subsequent submissions made in the context of its requests for provisional measures in January, February, March and May 2024. Belize also notes the updated facts as presented in the State of Palestine’s Request for Intervention and Declaration of Intervention filed on 31 May 2024.⁷
9. Since that time, the “disastrous”⁸ humanitarian situation in Gaza continued to deteriorate. Despite the Court ordering in May 2024 an immediate halt to Israel’s military offensive in Rafah and that Israel “[m]aintain open the Rafah crossing for unhindered provision at scale of urgently needed basic services and humanitarian assistance”,⁹ the assault of Rafah continued unabated, leading to the evacuation of more than one million Palestinians,¹⁰ strikes on designated “safe” zones,¹¹ and to Israel taking full control, closing — and keeping closed — the Rafah crossing.¹²

⁷ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)*, Request for Intervention and Declaration of Intervention of the State of Palestine, 31 May 2024, paras. 5-19.

⁸ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)*, Provisional Measures, Order of 24 May 2024, para. 28.

⁹ *Ibid.*, para. 57(2)(a)-(b).

¹⁰ UNOCHA, “Humanitarian Situation Update #179 | Gaza Strip”, 14 June 2024, <https://www.unocha.org/publications/report/occupied-palestinian-territory/humanitarian-situation-update-179-gaza-strip>; Geocide as Colonial Erasure: Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, Francesca Albanese, 1 October 2024, UN Doc. A/79/384, para. 16.

¹¹ Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories, UN Doc. A/79/363, 20 September 2024, para. 25.

¹² “IDF estimates 950,000 Gazans have evacuated from Rafah amid offensive”, *Times of Israel*, 20 May 2024, <https://www.timesofisrael.com/idf-estimates-950000-gazans-have-evacuated-from-rafah-amid-offensive/>. The Rafah crossing remained closed by Israel from May 2024 to at least January 2025 when, following the ceasefire agreement (as to which see paragraph 28 below) there are expectations for it to be reopened, but it is unclear for how long: see Egyptian Streets, “Egypt Prepares to Open Rafah Border with Aid Trucks and Medical Supplies”, 19 January 2025, <https://egyptianstreets.com/2025/01/19/egypt-prepares-to-open-rafah-border-with-aid-trucks-and-medical-supplies/>. At the date of writing, it has not been reopened.

10. In September 2024, Israel also began issuing new evacuation orders for Northern Gaza, which was then placed under “near-total siege”.¹³ In December 2024, the UN reported that 80.5% of Gaza’s territory was subject to active evacuation orders.¹⁴
11. Israel has continued to systematically deny and impede the delivery of food, water and medical aid, leading to widespread starvation, malnutrition and disease. Only by way of example, in December 2024, 36 out of 38 (94.7%) requests for humanitarian access to Rafah were denied and one of the two missions that was not denied was impeded.¹⁵ In the same period, 55 out of 60 (91.67%) requests for humanitarian access to reach areas in North Gaza were denied and all five that were not denied were impeded.¹⁶
12. Children, who make up over 50% of the population of Gaza,¹⁷ are particularly affected by limited access to food. In June 2024, UNICEF reported that nine of ten children in Gaza were experiencing “severe food poverty”.¹⁸ In July 2024, malnutrition cases among children, particularly in northern Gaza where access to basic necessities are acutely scarce, increased by more than 300% compared with May 2024.¹⁹
13. The UN reported in June 2024 that Palestinians in Gaza continue to have critically low access to clean water, less per person than the internationally recognized minimum

¹³ UNOHCA, “Humanitarian Situation Update #215 | Gaza Strip, 9 September 2024, <https://www.unocha.org/publications/report/occupied-palestinian-territory/humanitarian-situation-update-215-gaza-strip>; OCHA, “Humanitarian Situation Update #249 | Gaza Strip”, 24 December 2024, <https://www.unocha.org/publications/report/occupied-palestinian-territory/humanitarian-situation-update-249-gaza-strip>.

¹⁴ OCHA, “Humanitarian Situation Update #247 | Gaza Strip”, 17 December 2024, <https://www.unocha.org/publications/report/occupied-palestinian-territory/humanitarian-situation-update-247-gaza-strip>.

¹⁵ UNOCHA, “Humanitarian Situation Update #251 | Gaza Strip”, 31 December 2024, <https://www.unocha.org/publications/report/occupied-palestinian-territory/humanitarian-situation-update-251-gaza-strip>.

¹⁶ UNOCHA, “Humanitarian Situation Update #251 | Gaza Strip”, 31 December 2024, <https://www.unocha.org/publications/report/occupied-palestinian-territory/humanitarian-situation-update-251-gaza-strip>.

¹⁷ UN, The Question of Palestine, “Humanitarian situation in the Gaza Strip Fast facts – OCHA factsheet”, <https://www.un.org/unispal/humanitarian-situation-in-the-gaza-strip-fast-facts-ocha-factsheet/>.

¹⁸ UNOCHA, “Humanitarian Situation Update #176 | Gaza Strip”, 7 June 2024, <https://www.unocha.org/publications/report/occupied-palestinian-territory/humanitarian-situation-update-176-gaza-strip>.

¹⁹ UNOHCA, “Humanitarian Situation Update #200 | Gaza Strip”, 5 August 2024, <https://www.unocha.org/publications/report/occupied-palestinian-territory/humanitarian-situation-update-200-gaza-strip-enarhe>.

required for survival, and are forced to use contaminated sources.²⁰ In December 2024, it was reported that “Palestinians in Gaza have, on average, consistently not had access to adequate water needed for survival since October 2023”.²¹ Over 67% of water and sanitation facilities and infrastructure have been destroyed or damaged due to the conflict, including a loss of critical assets as a result of Israel’s assault on Rafah that began in May 2024.²² Numerous further facilities are inoperable due to lack of power supply and fuel to operate generators, limited to no availability of spare parts and basic equipment, and constrained access due to insecurity.²³ Since Israel’s latest offensive in North Gaza began on 6 October 2024, access by humanitarian missions to re-supply water production has been consistently denied.²⁴ The lack of clean water and sanitation is compounding the malnutrition crisis and leading to alarming levels of water contamination and the spread of disease.²⁵ By January 2025, the fuel shortage was impacting critical water, sanitation and hygiene (**WASH**) services so severely that it was reported that “all WASH services north and south of Wazi Gaza will imminently cease functioning”, with the exception of one desalination plant that was reconnected to electricity from Israel in November 2024.²⁶

14. Gaza’s health-care system continues to be in a dire state, with no hospital in Gaza remaining fully functional, and critical shortages of medicines and essential supplies,

²⁰ UNOCHA, “Humanitarian Situation Update #179 | Gaza Strip”, 14 June 2024, <https://www.unocha.org/publications/report/occupied-palestinian-territory/humanitarian-situation-update-179-gaza-strip>.

²¹ Human Rights Watch, “Extermination and Acts of Genocide: Israel Deliberately Depriving Palestinians in Gaza of Water”, December 2024, https://www.hrw.org/sites/default/files/media_2024/12/gaza1224web.pdf, p. 165 and see p. 156.

²² UNOCHA, “Humanitarian Situation Update #179 | Gaza Strip”, 14 June 2024, <https://www.unocha.org/publications/report/occupied-palestinian-territory/humanitarian-situation-update-179-gaza-strip>.

²³ Ibid.

²⁴ UNOCHA, “Humanitarian Situation Update #251 | Gaza Strip”, 31 December 2024, <https://www.unocha.org/publications/report/occupied-palestinian-territory/humanitarian-situation-update-251-gaza-strip>.

²⁵ UNOCHA, “Humanitarian Situation Update #179 | Gaza Strip”, 14 June 2024, <https://www.unocha.org/publications/report/occupied-palestinian-territory/humanitarian-situation-update-179-gaza-strip>; UNOCHA, “Humanitarian Situation Update #251 | Gaza Strip”, 31 December 2024, <https://www.unocha.org/publications/report/occupied-palestinian-territory/humanitarian-situation-update-251-gaza-strip>.

²⁶ UNOCHA, Humanitarian Situation Update #255 | Gaza Strip, 14 January 2025, <https://www.ochaopt.org/content/humanitarian-situation-update-255-gaza-strip>.

including fuel for generators.²⁷ In Rafah, by June 2024 no hospital was functional at all.²⁸ Following repeated attacks on Kamal Adwan Hospital in North Gaza — North Gaza’s last major health facility — on 27 December 2024, it was raided, reportedly burned, and severely damaged, and now remains empty and out of service.²⁹ On 8 January 2025, all three key hospitals in Deir al Balah and Khan Younis were “on the verge of total closure due to lack of fuel”.³⁰

15. Israel has continued to attack schools,³¹ refugee camps,³² health facilities³³ and UN installations (including attacks on 190 UNRWA sites sheltering at times up to 1.4 million Palestinians).³⁴ Demolition and detonation of residential buildings and blocks has been consistently reported across Gaza, with destruction in northern Gaza and Rafah reported in December 2024 as having reached “unprecedented levels”.³⁵

²⁷ UNOCHA, “Humanitarian Situation Update #221”, 23 September 2024, <https://www.unocha.org/publications/report/occupied-palestinian-territory/humanitarian-situation-update-221-gaza-strip-enhe>.

²⁸ UNOCHA, “Humanitarian Situation Update #179 | Gaza Strip”, 14 June 2024, <https://www.unocha.org/publications/report/occupied-palestinian-territory/humanitarian-situation-update-179-gaza-strip>.

²⁹ UNOCHA, “Humanitarian Situation Update #251 | Gaza Strip”, 31 December 2024, <https://www.unocha.org/publications/report/occupied-palestinian-territory/humanitarian-situation-update-251-gaza-strip>.

³⁰ UNOCHA, Humanitarian Situation Update #255 | Gaza Strip, 14 January 2025, <https://www.ochaopt.org/content/humanitarian-situation-update-255-gaza-strip>.

³¹ E.g. UNOCHA, “Humanitarian Situation Update #200 | Gaza Strip”, 5 August 2024, <https://www.unocha.org/publications/report/occupied-palestinian-territory/humanitarian-situation-update-200-gaza-strip-enarhe>; UNOCHA, Humanitarian Situation Update #255 | Gaza Strip, 14 January 2025, <https://www.ochaopt.org/content/humanitarian-situation-update-255-gaza-strip>.

³² E.g. UNOCHA, “Humanitarian Situation Update #215 | Gaza Strip”, 9 September 2024, <https://www.unocha.org/publications/report/occupied-palestinian-territory/humanitarian-situation-update-215-gaza-strip>.

³³ E.g. UNOCHA, “Humanitarian Situation Update #200 | Gaza Strip”, 5 August 2024, <https://www.unocha.org/publications/report/occupied-palestinian-territory/humanitarian-situation-update-200-gaza-strip-enarhe>.

³⁴ E.g. UNRWA, “UNRWA Situation Report #151 on the Humanitarian Crisis in the Gaza Strip and the West Bank, including East Jerusalem”, 12 December 2024, <https://www.unrwa.org/resources/reports/unrwa-situation-report-151-situation-gaza-strip-and-west-bank-including-east-jerusalem> (compare the figure of 380,000 Palestinians being sheltered compared to the figure of 1.4 million reported on 2 January 2024: UNRWA, “UNRWA Situation Report #59 on the Situation in the Gaza Strip and the West Bank, including East Jerusalem”, 2 January 2024, <https://www.unrwa.org/resources/reports/unrwa-situation-report-59-situation-gaza-strip-and-west-bank-including-east-jerusalem>).

³⁵ UNOCHA, “Humanitarian Situation Update #251 | Gaza Strip”, 31 December 2024, <https://www.unocha.org/publications/report/occupied-palestinian-territory/humanitarian-situation-update-251-gaza-strip>.

16. Between 7 October 2023 and 15 January 2024, at least 46,707 people including 17,492 children had been killed, more than 109,660 people had been injured, and more than 11,160 remained missing.³⁶
17. In addition to widespread attacks on civilians, the Israeli military has continued to kill individuals attempting to assist Palestinians, including UN staff, humanitarian workers,³⁷ and journalists³⁸ reporting on Israel’s conduct in Gaza (with the UN condemning some such attacks as “deliberate targeting”³⁹). As of December 2024, UNRWA reported that 254 of its staff members had been killed since October 2023.⁴⁰
18. The UN and other bodies have continued to analyse and report on Israel’s conduct against Palestinians in Gaza. Notable findings since May 2024 include the following.
19. In June 2024, the Office of the High Commissioner on Human Rights published a report examining Israel’s use of explosive weapons with wide area effects in densely populated areas in Gaza, concluding that Israel appears to have systematically and consistently violated the fundamental and peremptory norms of international humanitarian law of distinction, proportionality and precaution in attacks.⁴¹ This report

³⁶ Al Jazeera, “Israel-Gaza war in maps and charts: Live tracker”, 15 January 2025, <https://www.aljazeera.com/news/longform/2023/10/9/israel-hamas-war-in-maps-and-charts-live-tracker>, reporting statistics given by the Palestinian Ministry of Health; See also the latest UNOHCA update, reporting figures from 14 January 2025 given by the Palestinian Ministry of Health: UNOCHA, Humanitarian Situation Update #255 | Gaza Strip, 14 January 2025, <https://www.ochaopt.org/content/humanitarian-situation-update-255-gaza-strip>.

³⁷ See, e.g., UNSG, “Statement attributable to the Spokesperson for the Secretary-General - on Gaza”, 12 September 2024, <https://www.un.org/sg/en/content/sg/statement/2024-09-12/statement-attributable-the-spokesperson-for-the-secretary-general-gaza>; UNSG, “Secretary-General’s remarks to the Cairo Ministerial Conference to Enhance the Humanitarian Response in Gaza”, 2 December 2024, <https://www.un.org/sg/en/content/sg/statement/2024-12-02/secretary-generals-remarks-the-cairo-ministerial-conference-enhance-the-humanitarian-response-gaza-scroll-down-for-arabic>.

³⁸ UN, “Expert denounces killing of two more journalists in Gaza and demands full accountability”, 6 August 2024, <https://www.ohchr.org/en/press-releases/2024/08/expert-denounces-killing-two-more-journalists-gaza-and-demands-full>; UN, “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>.

³⁹ Ibid.

⁴⁰ UNRWA, “UNRWA Situation Report #151 on the Humanitarian Crisis in the Gaza Strip and the West Bank, including East Jerusalem”, 12 December 2024, <https://www.unrwa.org/resources/reports/unrwa-situation-report-151-situation-gaza-strip-and-west-bank-including-east-jerusalem>.

⁴¹ UN High Commissioner on Human Rights, Thematic Report: Indiscriminate and disproportionate attacks during the conflict in Gaza (October – December 2023), 19 June 2024, <https://www.ohchr.org/sites/default/files/documents/countries/opt/20240619-ohchr-thematic-report-indiscrim-disprop-attacks-gaza-oct-dec2023.pdf>, p. 15; “Laws of war likely ‘consistently violated’ in Israeli strikes on Gaza: UN rights office”, 19 June 2024, <https://news.un.org/en/story/2024/06/1151196>.

came in the wake of early reports from February 2024 — just four months after the start of the conflict — that Israel had dropped over 25,000 tonnes of explosives across Gaza, the equivalent of two nuclear bombs.⁴² The Palestinian Environmental Quality Authority reported that, by November 2024, that figure had increased to over 85,000 tonnes of explosives.⁴³

20. In June 2024, the UN Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel (**UN Commission of Inquiry**) concluded that through its “total siege”, Israel weaponized the withholding of life-sustaining necessities, including humanitarian assistance, for strategic and political gains, which constituted collective punishment and reprisal against the civilian population, both in direct violation of international humanitarian law. According to the Commission of Inquiry, Israel’s use of “starvation as a method of war” would affect the entire population of the Gaza Strip for decades to come, with particularly negative consequences for children.⁴⁴
21. On 19 July 2024, the Court issued its Advisory Opinion on *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*, in which it found, among other things, that Israel was engaged in multiple violations of peremptory norms against the Palestinian people, including ongoing practices of racial discrimination, breach of the prohibition on racial segregation and apartheid, and a continued denial of the right to self-determination of the Palestinian people.⁴⁵
22. By 11 September 2024, the UN Commission of Inquiry concluded that Israel had committed war crimes (including wilful killing, torture, rape, attacks intentionally directed against civilians and specifically protected persons such as medical staff, attacks intentionally directed against civilian and specifically protected objects such as

⁴² See, e.g., Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories, UN Doc. A/79/363, 20 September 2024, para. 34.

⁴³ Middle East Monitor, “Israel dropped over 85,000 tons of bombs on Gaza”, 7 November 2024, <https://www.middleeastmonitor.com/20241107-israel-dropped-over-85000-tons-of-bombs-on-gaza/>.

⁴⁴ Report of the Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel, 14 June 2024, UN Doc A/HRC/56/26, para. 102.

⁴⁵ *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory*, Advisory Opinion, General List No. 186, 19 July 2024, in particular paras. 223-243.

medical facilities, inhuman treatment of detainees and outrages upon personal dignity, using detainees as human shields, forced displacement and seizing protected property) and crimes against humanity (including extermination, torture, rape, forcible transfer, enforced disappearance and other inhumane acts) against Palestinians.⁴⁶

23. Just over a week later, on 20 September 2024, the UN Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories (**Special Committee**) concluded that Israel’s policies and practices since October 2023 “were consistent with the characteristics of genocide”.⁴⁷ It found that “[s]ince the escalation of the conflict, Israeli officials have publicly supported policies depriving civilians of food, water, and fuel, indicating their intent to instrumentalize the provision of basic necessities for political and military objectives and retribution”.⁴⁸ It also reported on systematic efforts to postpone, deny or impede the delivery of humanitarian aid, coupled with attacks on civilians seeking humanitarian aid as well as on humanitarian facilities, food distribution centres and aid convoys that had shared coordinates with the Israeli army in accordance with deconfliction procedures.⁴⁹ By June 2024, the entirety of Gaza was classified at emergency levels of food insecurity.⁵⁰
24. In October 2024, the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 issued a report titled “Genocide as colonial erasure”, which focused on Israel’s genocidal intent, situated within a broader historical and political context, and warned of a risk of genocide against Palestinians in the West Bank including East Jerusalem.⁵¹ This analysis expanded upon her 2024 report entitled

⁴⁶ Report of the Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel, 11 September 2024, UN Doc A/79/232, paras. 89, 91, 94-95, 98, 100, 102, 105, 107-110.

⁴⁷ Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories, UN Doc. A/79/363, 20 September 2024, Para. 69

⁴⁸ Ibid, para. 22.

⁴⁹ Ibid, paras. 25-26.

⁵⁰ Ibid, para. 25.

⁵¹ Geocide as Colonial Erasure: Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, Francesca Albanese, 1 October 2024, UN Doc. A/79/384.

“Anatomy of a Genocide” which had concluded that there were reasonable grounds to believe that Israel had committed acts of genocide in Gaza.⁵²

25. On 21 November 2024, Pre-Trial Chamber I of the International Criminal Court issued arrest warrants for Benjamin Netanyahu, Israel’s Prime Minister, and Yoav Gallant, Israel’s Defence Minister until November 2024, finding “reasonable grounds to believe” that they were each responsible for the war crime of starvation as a method of warfare, and the crimes against humanity of murder, persecution, and other inhumane acts.⁵³
26. In December 2024, detailed investigative reports were published by Amnesty International⁵⁴ and Human Rights Watch⁵⁵ concluding that Israel was committing genocide in Gaza, with Human Rights Watch focusing specifically on Israel’s acts calculated to deprive Palestinians in Gaza of water.
27. On 31 December 2024, the Office of the High Commissioner on Human Rights published a report on attacks on hospitals in Gaza. It referred to “the destruction of most hospitals in Gaza, pushing the healthcare system to the point of almost complete collapse” and concluded that the “conduct of hostilities in Gaza since 7 October has destroyed the healthcare system in Gaza, with predictably devastating consequences for the Palestinian people”.⁵⁶

⁵² Anatomy of a Genocide: Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, Francesca Albanese, 25 March 2024, UN Doc. A/HRC/55/73.

⁵³ ICC, “Situation in the State of Palestine: ICC Pre-Trial Chamber I rejects the State of Israel’s challenges to jurisdiction and issues warrants of arrest for Benjamin Netanyahu and Yoav Gallant”, 21 November 2024, <https://www.icc-cpi.int/news/situation-state-palestine-icc-pre-trial-chamber-i-rejects-state-israels-challenges>.

⁵⁴ Amnesty International, ““You feel like you are subhuman’: Israel’s Genocide against Palestinians in Gaza”, December 2024, <https://www.amnesty.org/en/documents/mde15/8668/2024/en/>.

⁵⁵ Human Rights Watch, “Extermination and Acts of Genocide: Israel Deliberately Depriving Palestinians in Gaza of Water”, December 2024, https://www.hrw.org/sites/default/files/media_2024/12/gaza1224web.pdf.

⁵⁶ UN High Commissioner on Human Rights, Attacks on hospitals during the escalation of hostilities in Gaza (7 October 2023 – 30 June 2024), 31 December 2024, <https://www.ohchr.org/sites/default/files/documents/countries/opt/20241231-attacks-hospitals-gaza-en.pdf>.

28. On 15 January 2025, a ceasefire deal was announced in respect of Israel’s war in Gaza.⁵⁷ The details of such a ceasefire are yet to be made public, but Israel has publicly called it a “temporary ceasefire” and declared that it has “reserved the right to resume” its war.⁵⁸

B. BELIZE’S RESPONSE TO ISRAEL’S GENOCIDE IN GAZA

29. Belize takes extremely seriously its obligation to prevent genocide in all its manifestations, including not to recognise any situation arising from the commission of genocide and to cooperate in bringing genocide immediately to an end. In intervening in these proceedings, Belize is acting in furtherance of its obligation to prevent and suppress genocide, and its interest in avoiding impunity where breaches of the Genocide Convention have occurred.
30. Belize has taken a number of measures in response to what became clear following 7 October 2023 was genocide against Palestinians in Gaza, including the following.
- (a) On 25 October 2023, Belize highlighted evidence of incitement to genocide and the risk of genocide being committed against the Palestinian people in Gaza in its written comments in the ICJ’s Advisory Opinion proceedings entitled *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*.⁵⁹
 - (b) On 26 October 2023, Belize’s Foreign Minister made a Statement to the Senate of Belize denouncing, among other things, Israel’s intentional deprivation of necessities to sustain life in Gaza, such as food, water, electricity and medicine.⁶⁰
 - (c) On 8 November 2023, Belize sent a note verbale to Israel which: conveyed “its strongest protest” at the continued violations by Israel of international

⁵⁷ BBC, “Gaza ceasefire deal reached by Israel and Hamas”, 15 January 2025, <https://www.bbc.co.uk/news/articles/cly9vx3d0j3o>.

⁵⁸ BBC, “Netanyahu says Israel ‘reserves right to resume war’ and calls first phase a ‘temporary ceasefire’”, 18 January 2025, <https://www.bbc.co.uk/news/live/crlkddjw330t>.

⁵⁹ *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*, Written Comments of Belize, 25 October 2023, paras. 12-13 and footnote 154.

⁶⁰ Statement in the Senate on the Situation in Gaza by the Hon. Eamon Courtenay, Minister of Foreign Affairs, Foreign Trade and Immigration, 26 October 2023, **Annex 2**.

humanitarian and human rights law in Gaza and called for their immediate cessation; stated that “it appears that Israel is targeting not only ... armed groups, but rather the whole Palestinian people in Gaza, and potentially the West Bank”; called on Israel immediately to cease its “collective siege” of Gaza and noted that “denying an entire civilian population access to food, drinking water and medicines are clear contraventions of international humanitarian law and amounts to collective punishment against Palestinians”; expressed its extreme concern at the forced displacement of Gazans from their homes; called on Israel to allow the unimpeded access of humanitarian supplies to Gaza; and expressed its grave concern in respect of statements by Israeli leaders that constituted “indications of ... incitement to commit genocide against the people of Gaza”.⁶¹ Belize received no response to this note from Israel.

- (d) On 14 November 2023, Belize took a series of diplomatic measures against Israel: withdrawing its agreement to accreditation of Israel’s Ambassador Designate to Belize; suspending all activities by the Israeli Honorary Consulate in Belize and the appointment of the Israeli Honorary Consul in Belize; withdrawing the appointment of Belize’s Honorary Consul in Israel; withdrawing Belize’s request to Israel for accreditation of Belize’s Honorary Consul; and suspending all activities of Belize’s Honorary Consulate in Tel Aviv.⁶²
- (e) On 20 February 2024, in its oral statement to the ICJ in the advisory opinion proceedings entitled *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*, Belize denounced “Israel’s genocidal campaign in Gaza” including as an instance of denying the right of Palestinians to exist as a group in violation of their inalienable right to self-determination.⁶³

⁶¹ Note Verbale from the Ministry of Foreign Affairs, Foreign Trade and Immigration of Belize to the Israeli Embassy in Mexico City, 8 November 2023, **Annex 5**.

⁶² Government of Belize Press Office, “Belize Takes Measures against Israel”, 14 November 2023, <https://www.pressoffice.gov.bz/belize-takes-measures-against-israel/>.

⁶³ *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*, CR 2024/6, 20 February 2024, 3:00pm, pp. 10-11 (paras. 11-14).

- (f) On 17 September 2024, Belize delivered a speech at the UN General Assembly’s Tenth Emergency Special Session on Israel’s illegal actions in the Occupied Palestinian Territory, calling on all UN Member States to “join forces to end the genocide” by Israel against Palestinians.⁶⁴
- (g) On 5 November 2024, Belize firmly and unequivocally condemned Israel’s passing of legislation to prevent UNRWA from operating within Israel and thus from continuing its attempts to deliver life-saving services to Palestinians in Gaza. In this connection Belize noted that “starvation and deprivation of water and the destruction of health services have been used by the Israeli state to complement its bombing and shelling in its commission of genocide” and stated that Israel “can no longer simply be allowed to exterminate a people”.⁶⁵
- (h) Since October 2023, Belize has also consistently and repeatedly called for an immediate ceasefire in Gaza and the unimpeded access of humanitarian aid and supplies into Gaza,⁶⁶ conscious that the conditions of life inflicted upon Palestinians in Gaza are likely to bring about their destruction in whole or in part.
31. Former Prime Ministers and former Foreign Ministers of Belize have also issued joint statements on 30 October 2023, 31 October 2023, 16 November 2023 and 29 January 2024, drawing attention to early evidence of Israeli statements inciting genocide and condemning Israel’s commission of genocide against Palestinians in Gaza.⁶⁷

⁶⁴ Statement by Belize delivered by H.E. Assad Shoman, Special Envoy of the Prime Minister responsible for sovereignty matters at the 10th Emergency Special Session of the General Assembly, 17 September 2024, https://estatemnts.unmeetings.org/estatemnts/10.0010/2024091715000000/uEsNdsGQIG/YCAAdgVNmBDaoN_nyc_en.pdf.

⁶⁵ Belize Government Press Office, “Statement on Israeli Legislation on UNRWA”, 5 November 2024, <https://www.pressoffice.gov.bz/wp-content/uploads/2024/11/Nov-5-PR176-24-Statement-on-the-Israeli-Legislation-on-UNRWA.pdf>.

⁶⁶ See in addition to the footnotes to the preceding sub-paragraphs in this list, Government of Belize Press Office, “Belize Calls on the Reinstatement of Funds to UNRWA”, 2 February 2024, <https://www.pressoffice.gov.bz/wp-content/uploads/2019/12/Feb-2-PR018-24-Belize-Calls-on-the-Reinstatement-of-Funds-to-UNRWA.pdf> Government of Belize Press Office, “Statement by the Government of Belize on the Situation in the Middle East”, 1 October 2024, <https://www.pressoffice.gov.bz/wp-content/uploads/2024/10/Oct-1-PR150-24-Statement-by-the-Government-of-Belize-on-Situation-in-the-Middle-East.pdf>.

⁶⁷ Former Prime Ministers’ and Foreign Ministers’ Statement on Israel’s Genocide in Palestine, 29 January 2024, **Annex 7**, Statement by Former Prime Ministers and Foreign Ministers, 16 November 2023, **Annex 6**, Joint Press Release: Former Foreign Ministers’ Statement on Situation in Palestine, 31 October

32. Belize is proud to continue its longstanding⁶⁸ solidarity with the Palestinian people. Although it seeks to intervene in this case formally in respect of its own legal interests and the proper interpretation of the Genocide Convention, it does so in the knowledge that the substance of its legal arguments will support the peremptory right of Palestinians not to be subjected to acts intended to destroy them, in whole or in part, and thus wholly deny their right to existence and self-determination.

2023, **Annex 4**; Joint Press Release, Former Belize Prime Ministers Call for Immediate Ceasefire in Gaza, 30 October 2023, **Annex 3**.

⁶⁸ Belize also participated in the oral proceedings for the advisory opinion entitled *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*. See also, e.g., Government of Belize Press Office, “Statement by the Government of Belize on recent developments in Jerusalem”, 10 May 2021, <https://www.pressoffice.gov.bz/statement-by-the-government-of-belize-on-recent-developments-in-jerusalem/>; Address by The Honourable Said Musa, Prime Minister and Minister of Finance and Foreign Affairs of Belize to the General Assembly, Fifty-third Session, 17th plenary meeting, UN Doc. A/53/PV.17, 28 September 1998, p. 17.

CHAPTER 2. APPLICATION FOR PERMISSION TO INTERVENE UNDER ARTICLE 62

33. In accordance with Article 81(5) of the Rules, in this Chapter Belize sets out: (a) the interest of a legal nature that Belize considers may be affected by the decision in the case (**Section A**); (b) the precise object of Belize’s intervention (**Section B**); and (c) any basis of jurisdiction which is claimed to exist as between the State applying to intervene and the parties to the case (**Section C**).

A. BELIZE’S INTEREST OF A LEGAL NATURE WHICH MAY BE AFFECTED

34. The “interest of a legal nature” that Belize considers “may be affected by the decision in the case”⁶⁹ is Belize’s interest in Israel’s compliance with its obligations under the Genocide Convention in respect of Gaza.
35. It is settled that the obligations of States under the Genocide Convention are obligations *erga omnes partes*.⁷⁰ They are “owed by any State party to all the other States parties”.⁷¹ As a State party to the Genocide Convention, Belize is one of the States to which Israel owes its obligations under the Genocide Convention.
36. The Court has recognised that each State party to the Genocide Convention has a legal interest in the others’ compliance with their obligations under that treaty. It has noted that the States parties have a “common interest in compliance with the relevant obligations under the Genocide Convention”.⁷² More specifically, the Court has observed that all States parties have a “common interest to ensure the prevention, suppression and punishment of genocide”,⁷³ and a “common interest to ensure that acts

⁶⁹ Statute, Article 62(1).

⁷⁰ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide, Preliminary Objections, Judgment, I.C.J. Reports 1996 (Bosnia Genocide, Preliminary Objections)*, p. 616, para. 31; *Armed Activities on the Territory of the Congo (New Application: 2002) (Democratic Republic of the Congo v. Rwanda), Jurisdiction and Admissibility, Judgment, I.C.J. Reports 2006*, p. 31, para. 64; *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v. Serbia), Judgment, I.C.J. Reports 2015 (Croatia v. Serbia)*, p. 47, para. 87; *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (The Gambia v. Myanmar), Preliminary Objections, Judgment, I.C.J. Reports 2022 (Gambia v. Myanmar, Preliminary Objections)*, pp. 515-516, para. 107; *South Africa v. Israel*, First Provisional Measures Order, para. 33.

⁷¹ *Gambia v. Myanmar*, Preliminary Objections, pp. 515-516, para. 107.

⁷² *Gambia v. Myanmar*, Preliminary Objections, p. 516, para. 108.

⁷³ *Gambia v. Myanmar*, Preliminary Objections, p. 515, para. 107.

of genocide are prevented and that, if they occur, their authors do not enjoy impunity”.⁷⁴ This interest is not simply a general interest in other States parties observing their legal obligations, but an interest in them doing so in specific situations. As the Court has stated, “each State party has an interest in compliance” with obligations under the Genocide Convention “in any *given case*”.⁷⁵ Belize thus has an interest in Israel’s compliance with its obligations under the Genocide Convention in respect of Gaza.

37. Belize’s interest is a relevant “interest” for the purpose of Article 62 of the Statute. As a Chamber of the Court has stated: “In order to be permitted to intervene, a State does not have to show that it has rights which need to be protected, but merely an interest of a legal nature which may be affected by the decision in the case”.⁷⁶ This reflects the terms of Article 62(1) of the Statute, which require that the intervening State have an “interest of a legal nature”. Belize’s interest in Israel’s compliance with its obligations under the Genocide Convention in respect of Gaza is an interest of a “legal nature” because it is an interest recognised under international law.⁷⁷ Moreover, and although not strictly required, Belize does have relevant rights in the present circumstances: Israel’s obligations under the Genocide Convention in respect of Gaza are obligations *owed to Belize*, as a State party to that convention, and thus Belize has correlative *rights* to performance by Israel of those obligations.
38. Belize’s interest is distinguishable from other types of interests that the Court has indicated would be insufficient to justify intervention under Article 62:
- (a) In *El Salvador/Honduras*, a Chamber of the Court observed that the “Chamber does not however consider that an interest of a third State in the general legal rules and principles likely to be applied by the decision can justify an intervention”.⁷⁸ In the present case, Belize’s interest is not a general interest in

⁷⁴ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (The Gambia v. Myanmar)*, *Provisional Measures, Order of 23 January 2020*, I.C.J. Reports 2020, p. 17, para. 41.

⁷⁵ *Gambia v. Myanmar*, Preliminary Objections, p. 516, para. 107 (emphasis added).

⁷⁶ *Land, Island and Maritime Frontier Dispute (El Salvador/Honduras), Application to Intervene, Judgment*, I.C.J. Reports 1990 (***El Salvador/Honduras, Intervention***), p. 129, para. 87.

⁷⁷ See, e.g., A Miron & C Chinkin, “Article 62” in A Zimmermann *et al.*, *The Statute of the International Court of Justice: A Commentary* (3rd edn, 2019) p. 1686, at p. 1705, para. 47 (“The adjective ‘legal’ suggests that this interest is protected under international law. The State seeking to intervene must thus define its interests by reference to rules of international law”).

⁷⁸ *El Salvador/Honduras, Intervention*, p. 124, para. 76.

the legal rules relevant to determining South Africa's claims, but an interest in the application of those rules to the facts of the case and in "ensur[ing] the prevention, suppression and punishment of genocide".⁷⁹ Moreover, *El Salvador/Honduras* did not involve obligations *erga omnes*.

- (b) In *Tunisia/Libya*, the Court did not grant Malta's application to intervene under Article 62 and observed that the:

"interest of a legal nature invoked by Malta does not relate to any legal interest of its own directly in issue as between Tunisia and Libya in the present proceedings or as between itself and either one of those countries. It concerns rather the potential implications of reasons which the Court may give in its decision in the present case on matters in issue as between Tunisia and Libya with respect to the delimitation of their continental shelves for a subsequent delimitation of Malta's own continental shelf."

In contrast, in the present case, Belize's own interest in Israel's compliance with its obligations under the Genocide Convention in respect of Gaza is directly in issue: the Court will determine whether Israel has complied with those obligations, which Israel owes to all State parties, including Belize.⁸⁰

39. Belize's interest will be affected by the decision in the case in one or more different ways:

- (a) *First*, the legal interest that Belize invokes to justify its intervention in these proceedings is the same as the legal interest that South Africa relied on to commence the proceedings. Formally, the Court's decision on South Africa's claims will determine Israel's obligations in respect of South Africa. However, in so deciding, the Court will in substance also be determining Israel's obligations in respect of Belize as a State party to the Genocide Convention. Belize's interest in Israel's compliance with its obligations will plainly be affected by a decision that will determine whether Israel is in breach of the Genocide Convention and thus, in substance, whether obligations also owed to Belize are being breached. This is so both in terms of the Court's legal conclusion

⁷⁹ *Gambia v. Myanmar*, Preliminary Objections, p. 515, para. 107.

⁸⁰ *Continental Shelf (Tunisia/Libyan Arab Jamahiriya), Application to Intervene, Judgment, I.C.J. Reports 1981 (Tunisia/Libya, Intervention)*, p. 12, para. 19.

as to whether Israel has breached the Genocide Convention and its treatment of the evidence in arriving at that conclusion.

- (b) *Second*, a decision determining whether Israel is in breach of the Genocide Convention (or even a factual finding about when a serious risk of genocide in Gaza arose on the evidence) will have implications for Belize’s own primary obligations under international law, including its obligations under the Genocide Convention and customary international law to prevent and punish genocide, as well as its duties not to recognize a situation arising out of a genocide, not to aid or assist in the maintenance of a genocide, and to cooperate in bringing the genocide to an end. Belize has already taken and announced an intention to take a number of steps in respect of its position vis-à-vis Israel based on its own determination of Israel’s non-compliance with international law.⁸¹ The basis for a number of these steps by Belize will now be considered by the Court in this case.

40. For the above reasons, Belize has an “interest of a legal nature” that “may be affected by the decision in the case” and thus fulfils the requirements for intervention under Article 62 of the Statute. As the Court has previously observed, in accordance with Article 62(2), “it is for the Court itself to decide upon any request for permission to intervene under that Article”.⁸² The Court has nonetheless simultaneously emphasized “that it does not consider paragraph 2 to confer upon it any general discretion to accept or reject a request for permission to intervene for reasons simply of policy”.⁸³ Taking all of the above matters into account, Belize respectfully submits that the Court should grant its application to intervene under Article 62.

B. THE OBJECT OF BELIZE’S INTERVENTION

41. As the Court has previously made clear, the object of intervention is to enable a State that has an interest of a legal nature that may be affected, to protect that interest:

⁸¹ See paragraph 30 above.

⁸² *Tunisia/Libya*, Intervention, p. 12, para. 17.

⁸³ *Tunisia/Libya*, Intervention, p. 12, para. 17.

“the *raison d’être* of intervention is to enable a third State, whose legal interest might be affected by a possible decision of the Court, to participate in the main case *in order to protect that interest*”.⁸⁴ (Emphasis added.)

And:

“The decision of the Court granting permission to intervene can be understood as a preventive one, since it is aimed at allowing the intervening State to take part in the main proceedings in order *to protect an interest of a legal nature which risks being affected in those proceedings*.”⁸⁵ (Emphasis added.)

42. This is precisely the object of Belize’s intervention in the present proceedings. As explained above, Belize’s “interest of a legal nature” that may be affected by the decision in the case is Belize’s interest in Israel’s compliance with its obligations under the Genocide Convention in respect of Gaza. The “precise object of [Belize’s] intervention”⁸⁶ is to protect that interest. That is, to protect Belize’s interest in ensuring that Israel is held accountable for its violations of the Genocide Convention; its interest in ensuring that the authors of genocide do not enjoy impunity; and its interest in the prevention, suppression and punishment of genocide. Belize’s intervention would not introduce a new case.⁸⁷

C. ANY BASIS OF JURISDICTION

43. As the Court has observed, “it is not necessary to establish the existence of a basis of jurisdiction between the parties to the proceedings and the State which is seeking to intervene as a non-party”.⁸⁸ Belize does not seek to intervene in the present proceedings as a party. In those circumstances, it is not necessary for Belize to identify any basis for its Application other than Article 62 of the Statute.

⁸⁴ *Territorial and Maritime Dispute (Nicaragua v. Colombia)*, Application for Permission to Intervene, Judgment, I.C.J. Reports 2011 (*Nicaragua v. Colombia*), p. 436, para. 46.

⁸⁵ *Nicaragua v. Colombia*, p. 434, para. 38. See also *Sovereignty over Pulau Ligitan und Pulau Sipadan (Indonesia/Malaysia)*, Application for Permission to Intervene, Judgment, I.C.J. Reports 2001, p. 606, para. 87.

⁸⁶ Rules, Article 81(5)(b).

⁸⁷ *Cf. Nicaragua v. Colombia*, p. 436, para. 37.

⁸⁸ *Jurisdictional Immunities of the State (Germany v. Italy)*, Application for Permission to Intervene, Order of 4 July 2011, I.C.J. Reports 2011, pp. 502-503, para. 31.

CHAPTER 3. DECLARATION OF INTERVENTION UNDER ARTICLE 63

44. In accordance with Article 82(5) of the Rules, in this Chapter Belize sets out: (a) the particulars of the basis on which it considers itself a party to the Genocide Convention (**Section A**); (b) the particular provisions of the Genocide Convention the construction of which Belize considers to be in question (**Section B**); and (c) a statement of the construction of those provisions for which Belize contends (**Section C**).

A. THE BASIS ON WHICH BELIZE IS A PARTY TO THE GENOCIDE CONVENTION

45. On 10 March 1998, Belize deposited its instrument of accession to the Genocide Convention with the Secretary-General of the United Nations, in accordance with Article XI of the Convention, and its accession took effect on 8 June 1998.⁸⁹ Belize has not filed any reservations or declarations to the Genocide Convention, or objections to any reservations or declarations made by other States, and remains a party to the Convention.

B. THE PROVISIONS THE CONSTRUCTION OF WHICH ARE IN QUESTION

46. Belize considers that the construction of Articles I, II, III, IV, V, VI and IX of the Genocide Convention is in question in these proceedings. In South Africa's Application, South Africa alleges that Israel has breached each of Articles I, III(a), III(b), III(c), III(d), III(e), IV, V and VI, which puts in question the construction of each of those provisions.⁹⁰ The definition of genocide set out in Article II(a), (b), (c) and (d) is relevant to each of South Africa's claims of breach, and therefore the construction of Article II is also in question.⁹¹ Additionally, the construction of Article IX is in question, as South Africa relies on that provision to establish the Court's jurisdiction in these proceedings.⁹²
47. Should Israel make any preliminary objections to the jurisdiction of the Court or the admissibility of South Africa's Application, it will not necessarily only be the

⁸⁹ See Depository Notification regarding the accession by Belize to the Genocide Convention, 28 April 1998, **Annex 1** (available [here](#)).

⁹⁰ See South Africa's Application, paras. 110, 111, 117, 126, 129.

⁹¹ See South Africa's Application, paras. 110, 111(2)(a), 117, 125, 141, 144(4), 144(7).

⁹² See South Africa's Application, paras. 10-11, 17, 121-122.

construction of Article IX that will be in question in that preliminary phase of the proceedings. Rather, to the extent that any objections by Israel raise issues relating to the construction of Articles I, II, III, IV, V or VI, the construction of those Articles will also be in issue in any preliminary phase of the proceedings.

C. THE CONSTRUCTIONS FOR WHICH BELIZE CONTENDS

48. In this Section, Belize sets out the constructions of Articles I, II, III, IV, V, VI and IX of the Genocide Convention for which it contends.

1. Article I

49. Article I provides as follows:

“The Contracting Parties confirm that genocide, whether committed in time of peace or in time of war, is a crime under international law which they undertake to prevent and to punish.”

50. Article I imposes distinct obligations additional to those imposed by other Articles of the Genocide Convention.⁹³ In particular, it imposes on States:

- (a) an obligation to prevent genocide;⁹⁴
- (b) an obligation not to commit genocide;⁹⁵ and
- (c) an obligation to punish those responsible for the crime of genocide.

51. The obligation to prevent genocide in Article 1 requires States to “employ all means reasonably available to them, so as to prevent genocide so far as possible”.⁹⁶ It is well-established that this “obligation to prevent, and the corresponding duty to act, arise at the instant that the State learns of, or should normally have learned of, the existence of a serious risk that genocide will be committed. From that moment onwards, if the State has available to it means likely to have a deterrent effect on those suspected of preparing genocide, or reasonably suspected of harbouring specific intent (*dolus specialis*), it is

⁹³ *Bosnia Genocide*, p. 113, para. 165.

⁹⁴ *Bosnia Genocide*, p. 113, para. 165.

⁹⁵ *Bosnia Genocide*, p. 113, para. 166. See also p. 114, para. 167.

⁹⁶ *Bosnia Genocide*, p. 221, para. 430.

under a duty to make such use of these means as the circumstances permit”.⁹⁷ The Court has accordingly characterised the obligation to prevent as one of due diligence that calls for an “*in concreto* assessment”,⁹⁸ which requires States proactively to ascertain the risk that certain conduct will violate the Convention, assess what means the State has available to avoid such a violation, and to use all such means as far as possible.⁹⁹ Although the standard of diligence required will vary depending on the circumstances, factors guiding the assessment include the State’s capacity to influence effectively the actions of the perpetrator which depends, among other things, on the geographical distance of the State concerned from the scene of the events, and on the strength of the political and other links between the authorities of that State and the perpetrators.¹⁰⁰ It is irrelevant to the question of breach whether the State would have been able to prevent the genocide had it employed all means reasonably at its disposal.¹⁰¹

52. The obligation not to commit genocide applies both to individuals and to States.¹⁰² It prohibits the commission of any of the acts enumerated in Article II or other modes of involvement in such acts as enumerated in Article III.
53. The obligation to punish those responsible for the crime of genocide involves a duty both to adopt the necessary domestic legislative framework to criminalise acts of genocide in Articles II and III of the Convention, and also the duty to apply that framework effectively in individual cases. The obligation to punish is further specified in Article IV.

⁹⁷ *Bosnia Genocide*, p. 222, para. 431.

⁹⁸ *Bosnia Genocide*, p. 221, para. 430.

⁹⁹ See also *Alleged Breaches of Certain International Obligations in respect of the Occupied Palestinian Territory (Nicaragua v. Germany)*, Order of 30 April 2024, Declaration of Judge Cleveland, quoting from the Order at para. 24.

¹⁰⁰ *Bosnia Genocide*, p. 221, para. 430.

¹⁰¹ *Bosnia Genocide*, p. 221, para. 430.

¹⁰² *Bosnia Genocide*, p. 113, para. 166. See also p. 114, para. 167.

2. Article II

54. Article II provides as follows:

“In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

- (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;
- (d) Imposing measures intended to prevent births within the group;
- (e) Forcibly transferring children of the group to another group.”

a. “*intent*”

i. A specific intent

55. State or individual perpetrators of genocide must carry out one or more of the acts enumerated in Article II with a specific intent to destroy, in whole or part, a national, ethnical, racial or religious group as such.¹⁰³ The intent must be “convincingly shown” by reference either to (i) “particular circumstances”¹⁰⁴ or, as may be more appropriate in the case of State responsibility, (ii) a “State policy”¹⁰⁵ or “general plan to that end”.¹⁰⁶
56. As to “destroy”, the Court has confirmed that the Genocide Convention protects only physical or biological genocide.¹⁰⁷
57. As to “in part”, the Court has held that that “the intent must be to destroy at least a substantial part of the particular group”.¹⁰⁸ What counts as a “substantial part of the particular group” will depend on all the circumstances. The Court has further noted that “it is widely accepted that genocide may be found to have been committed where the

¹⁰³ *Bosnia Genocide*, p. 121, para. 187.

¹⁰⁴ *Bosnia Genocide*, p. 196, para. 373.

¹⁰⁵ *Croatia v. Serbia*, p. 65, para. 143.

¹⁰⁶ *Bosnia Genocide*, p. 196, para. 373.

¹⁰⁷ *Croatia v. Serbia*, p. 63, para. 136.

¹⁰⁸ *Bosnia Genocide*, p. 126, para. 198.

intent is to destroy the group within a geographically limited area” and that accordingly, “[t]he area of the perpetrator’s activity and control are to be considered”.¹⁰⁹

ii. No requirement of exclusivity of intent

58. There is no requirement that the State or individual act exclusively with genocidal intent. It is the case that “genocidal *intent* may exist *simultaneously* with other, *ulterior motives*”,¹¹⁰ such as achieving military objectives, including defeating the enemy in the context of an armed conflict.¹¹¹
59. Relatedly, it is possible for conduct to be simultaneously unlawful under the Genocide Convention and lawful under another body of law, such as international humanitarian law (IHL). As recognised by the Court, there can be “no doubt that, as a general rule, a particular act may be perfectly lawful under one body of legal rules and unlawful under another”.¹¹² It follows that it is possible for a State to intend to destroy, in whole or part, a relevant group for the purposes of Article II, and for it to carry out that intent by, *inter alia*, engaging in a series of IHL-compliant attacks resulting in the collateral deaths of members of the group. In this respect, attacks directed exclusively at military targets and which do not deliberately target civilians can still be *intentional killings* of civilians. This is because the State, in conducting the proportionality assessment in order to conclude that the attack is lawful as a matter of IHL, necessarily has to take into account and accept the proportionality of the collateral civilian deaths; those killings are thereby necessarily intentional.¹¹³ Similarly, the use of force in an IHL-compliant manner, especially over a prolonged period, may impose upon a group conditions of life calculated to bring about its physical destruction in whole or part.¹¹⁴

¹⁰⁹ *Bosnia Genocide*, p. 126, para. 199.

¹¹⁰ *Croatia v. Serbia*, Separate Opinion of Judge Bhandari, para. 50 (emphasis in original).

¹¹¹ *Croatia v. Serbia*, Dissenting Opinion of Judge Cançado Trindade, para. 144.

¹¹² *Croatia v. Serbia*, p. 138, para. 474 (“Thus it cannot be excluded in principle that an act carried out during an armed conflict and lawful under international humanitarian law can at the same time constitute a violation by the State in question of some other international obligation incumbent upon it”). See also, leaving the question open: *Legality of Use of Force (Yugoslavia v. Belgium), Provisional Measures, Order of 2 June 1999, I.C.J. Reports 1999*, p. 138, para. 40.

¹¹³ *Croatia v. Serbia*, Declaration of Judge Donoghue, p. 393, para. 11; cf. Judgment, p. 138, para. 474.

¹¹⁴ See, also acknowledging this, *Legality of Use of Force (Yugoslavia v. Belgium), Provisional Measures, Order of 2 June 1999, I.C.J. Reports 1999*, Dissenting Opinion of Judge Kreća, pp. 239-240, para. 12 (“Extensive use of armed force, in particular if it is used against objects and means constituting conditions

iii. Proving specific intent by inference

60. Genocidal intent is rarely proved by direct evidence.¹¹⁵ It is consequently well-established that specific intent can be proved by circumstantial evidence, in particular by inference from a pattern of conduct.¹¹⁶ As the Court in *Croatia v. Serbia* stated: “in order to infer the existence of *dolus specialis* from a pattern of conduct, it is necessary and sufficient that this is the only inference that could reasonably be drawn from the acts in question”.¹¹⁷
61. Although this standard is high, the Court has endorsed a “notion of ‘reasonableness’” in the exercise of inferring intent, mindful to avoid a situation that “would make it impossible to reason conclusions by way of inference”.¹¹⁸ This notion of reasonableness is key to the Court’s evaluation of the evidence in a way that ensures unreasonable inferences are disregarded, but also that avoids the evidential standard for establishing genocidal intent being set unrealistically high.
62. The Court must assess the evidence comprehensively and holistically.¹¹⁹ This includes a consideration of contextual factors including the scale and severity of the genocidal and related¹²⁰ acts carried out against the protected group. In this respect, the International Criminal Tribunal for the former Yugoslavia has stated that “absent direct evidence, the intent to destroy may be inferred from a number of facts and circumstances, such as the general context, the perpetration of other culpable acts

of normal life, can be conducive to ‘inflicting on the group conditions of life’ bringing about ‘its physical destruction’. Of course, it can be argued that such acts are in the function of degrading the military capacity of the Federal Republic of Yugoslavia. But such an explanation can hardly be regarded as a serious argument. For, the spiral of such a line of thinking may easily come to a point when, having in mind that military power is after all comprised of people, even mass killing of civilians can be claimed to constitute some sort of a precautionary measure that should prevent the maintenance or, in case of mobilization, the increase of military power of the State”).

¹¹⁵ *Croatia v. Serbia*, p. 65, para. 143; *Prosecutor v. Karadžić* (Case No. IT-95-5/18-T), Rule 98 bis Appeals Judgement, 11 July 2013, para. 80 (“by its nature, genocidal intent is not usually susceptible to direct proof”); *Prosecutor v. Tolimir* (Case No. IT-05-88/2-T), Trial Judgment, 12 December 2012, para. 745 (“[i]ndications of ... [genocidal] intent are rarely overt”).

¹¹⁶ *Bosnia Genocide*, pp. 196-197, para. 373; *Croatia v. Serbia*, p. 67, para. 148.

¹¹⁷ *Croatia v. Serbia*, p. 67, para. 148; see also p. 151, para. 510.

¹¹⁸ *Croatia v. Serbia*, p. 67, para. 148.

¹¹⁹ *Prosecutor v. Stakić* (Case No. IT-97-24-A), Appeal Judgment, 22 March 2006, para. 55 (“whether all of the evidence, taken together, demonstrated a genocidal mental state”, recognising that a “compartmentalized mode of analysis [would] obscur[e] the proper inquiry”).

¹²⁰ See paragraph 67 below.

systematically directed against the same group, the scale of atrocities committed, the systematic targeting of victims on account of their membership in a particular group, or the repetition of destructive and discriminatory acts.”¹²¹

63. As to scale as a basis for inferring intent,¹²² this does not concern solely a focus on the number of people killed. This is evident not least because the acts in Article II are not limited to killing (or even acts causing immediate death), and because Article III prohibits attempt and other inchoate crimes. A specific intent to destroy a group is therefore not contingent upon the number of people killed. The Court should take into account all relevant evidence relating to all acts committed against the protected group.

iv. Certain types of evidence may be of particular significance in inferring genocidal intent

64. Certain types of evidence may be particularly useful in determining genocidal intent, including but not limited to the following.
65. *The type of weapons (or means or methods of warfare) used and expected scale of destruction:* The Court accepted in the *Nuclear Weapons* Advisory Opinion that “the number of deaths occasioned by the use of nuclear weapons would be enormous ... the intention to destroy such groups could be inferred from the fact that the user of the nuclear weapon would have omitted to take account of the well-known effects of the use of such weapons”.¹²³ The rationale of this observation is not limited to the use of nuclear weapons, and would apply similarly in respect of any weapons or means or methods of warfare known or could be expected to have effects on a significant scale.
66. *Targeting of children:* The targeting of children may assist in determining intention to target the group as such, given that the targeting of children is likely unable to be explained as being based on other reasons (e.g. member of armed group, security threat etc). Moreover, children are essential to the survival of the group. Targeting children affects the group’s ability to renew¹²⁴ and therefore provides the basis for a clear

¹²¹ *Prosecutor v. Popović* (Case T-05-88-T), Trial Judgment, 10 June 2010, para. 823. See also *Prosecutor v. Popović* (Case IT-05-88-A), Appeal Judgment, 30 January 2015, para. 503.

¹²² See also *Croatia v. Serbia*, p. 64, para. 139.

¹²³ *Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion, I.C.J. Reports 1996*, p. 240, para. 26. See also Dissenting Opinion of Judge Weeramantry, pp. 501-502.

¹²⁴ *Croatia v. Serbia*, p. 63, para. 136.

inference of an intention to destroy the group in whole or in part. Similar considerations apply in respect of *sexual, gender and reproductive-based violence*: it is unable to be explained by military or security objectives and may also have implications for the ability of the group to renew, thereby constituting a means through which a genocidal strategy may be implemented.¹²⁵

67. *Acts committed against the group in parallel to genocidal acts*: Acts committed against the group, in particular those that target the group or members thereof as such, can provide evidence of genocidal intent, even where such acts themselves do not constitute genocidal acts. Forced displacement, for example, may constitute evidence of genocidal intent, irrespective of whether the acts triggering the forced displacement constitute genocide or the conditions to which the group is subjected following forced displacement are calculated to lead to their destruction. In this respect, the Court in *Croatia v. Serbia* acknowledged that “the mass forced displacement of Croats is a significant factor in assessing whether there was an intent to destroy the group, in whole or in part”, and that “the fact of forced displacement occurring in parallel to acts falling under Article II of the Convention may be ‘indicative of the presence of a specific intent (*dolus specialis*) inspiring those acts’”.¹²⁶ In *Bosnia Genocide*, the Court similarly recognised that “acts of ‘ethnic cleansing’ may occur in parallel to acts prohibited by Article II of the Convention, and may be significant as indicative of the presence of a specific intent”.¹²⁷ Similar considerations apply in respect of collective punishment, racial discrimination, segregation and apartheid. Violations of other rules of international law, including of IHL, can equally “bear on the evaluation of evidence as to genocidal intent”.¹²⁸

b. “national, ethnical, racial or religious group”

68. A people with a right to self-determination can constitute a “national” group for the purpose of Article II of the Genocide Convention. The right to self-determination is a right that inheres in a defined group of people with a common entitlement freely to

¹²⁵ *Prosecutor v. Akayesu* (Case No. ICTR-96-4-T), 2 September 1998, para. 731, see also para. 732; *Prosecutor v. Kayishema and Ruzindana* (Case No. ICTR-95-I-T), 21 May 1999, para. 116.

¹²⁶ *Croatia v. Serbia*, p. 126, para. 434. See also *Prosecutor v. Tolimir* (Case No. IT-05-88/2-A), Appeal Judgment, 8 April 2015, para. 254.

¹²⁷ *Bosnia Genocide*, pp. 122-123, para. 190.

¹²⁸ *Croatia v. Serbia*, Declaration of Judge Donoghue, p. 393, para. 11.

pursue their political, economic, social and cultural development within an inviolable territorial unit.¹²⁹ The right to self-determination relates directly to the group's existence and expression as a group.¹³⁰ The self-determination unit is accordingly a group defined by its relationship to a nation. Acts intending the physical or biological destruction of such a group in whole or in part constitute genocide.

c. "Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part"

69. The phrase "conditions of life calculated to bring about ... physical destruction" means "methods of physical destruction, other than killing, whereby the perpetrator ultimately seeks the death of the members of the group".¹³¹ The "conditions" that can "bring about ... physical destruction" include:
- (a) a "systematic or general" deprivation of food, being a situation in which food is in "extremely short supply";¹³²
 - (b) "systematic expulsion from homes";¹³³
 - (c) a "systematic or general" deprivation of medical care;¹³⁴ and
 - (d) "deliberate deprivation of resources indispensable for survival",¹³⁵ such as water.
70. Deliberately inflicting on a group conditions of life calculated to bring about its physical destruction in whole or in part can result from either an act *or* an omission.¹³⁶

"Experience provides that a state of war or a military operations *régime* gives authorities a convenient pretext not to provide a population or a group with

¹²⁹ See generally General Assembly resolution 1514 (XV), Declaration on the granting of independence to colonial countries and peoples, document A/RES/1514(XV), 14 December 1960.

¹³⁰ D. Lisson, "Defining "National Group" in the Genocide Convention: A Case Study of Timor-Leste", 60 *Stanford Law Review* (2008) 1459, p. 1472.

¹³¹ *Croatia v. Serbia*, p. 70, para. 161.

¹³² *Croatia v. Serbia*, p. 70, para. 161, pp. 110-111, paras. 366-367.

¹³³ *Croatia v. Serbia*, p. 70, para. 161.

¹³⁴ *Croatia v. Serbia*, p. 70, para. 161, p. 111, para. 370.

¹³⁵ P. Gaeta, *The UN Genocide Convention: A Commentary* (2009), p. 100.

¹³⁶ Cf. *Bosnia Genocide*, pp. 222-223, para. 432, which may be read as implying that any act of genocide must result from a positive action (in distinction to the obligation to prevent which arises from an omission).

what they need to subsist – food, medicines, clothing, housing ... this is inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part.”¹³⁷

71. The Court should consider the evidence of the conditions to which the group is subjected holistically, taking into account all the evidence.¹³⁸ This includes taking into account the composition of the group (e.g. the fact that more than 50% of the population of Gaza are children¹³⁹) and how the conditions to which the group are subjected may have differential impacts on constituent parts of the group.

3. Article III

72. Article III provides as follows:

“The following acts shall be punishable:

- (a) Genocide;
- (b) Conspiracy to commit genocide;
- (c) Direct and public incitement to commit genocide;
- (d) Attempt to commit genocide;
- (e) Complicity in genocide.”

73. Read with Articles I and IX, Article III imposes an obligation on States not to commit any of the acts enumerated in Article III.¹⁴⁰ This includes, pursuant to Article III(c), direct and public incitement to commit genocide.

74. Belize makes four points regarding the construction of Article III(c).

75. *First*, a State can breach its obligation not to commit incitement to commit genocide in circumstances where no genocide ultimately results. Incitement to commit genocide is an inchoate offence. As explained by the Appeals Chamber of the International Criminal Tribunal for Rwanda (ICTR):

“the crime of direct and public incitement to commit genocide is an inchoate offence, punishable even if no act of genocide has resulted therefrom. This

¹³⁷ Study of the Question of the Prevention and Punishment of the Crime of Genocide, UN Doc. E/CN.4/Sub.2/416, 4 July 1978, p. 27.

¹³⁸ See also paragraphs 62-63 above.

¹³⁹ See paragraph 12 above,

¹⁴⁰ *Bosnia Genocide*, p. 114, paras. 167, 169.

is confirmed by the *travaux préparatoires* to the Genocide Convention, from which it can be concluded that the drafters of the Convention intended to punish direct and public incitement to commit genocide, even if no act of genocide was committed, the aim being to forestall the occurrence of such acts.”¹⁴¹

76. *Second*, the mental element of incitement to commit genocide is the intent to incite others to commit genocide. This has been affirmed by the Appeals Chamber of the ICTR on multiple occasions. For example, in *Nahimana et al. v. Prosecutor*, the Appeals Chamber recalled that:

“the crime of incitement requires direct and public incitement to commit genocide as a material element and *the intent to incite others to commit genocide (itself implying a genocidal intent) as a mental element*”.¹⁴²

77. The mental element is not the intent to commit genocide. However, where there is the intent to incite others to commit genocide, there will necessarily also be an intent for genocide to be committed. In the words of the Appeals Chamber in *Nahimana*, the relevant intent can be “impl[ied]”.¹⁴³

78. *Third*, regarding the meaning of “*public incitement to commit genocide*”, Article III(c) covers public incitement in distinction to private incitement. As explained by the International Law Commission, public incitement is a call “to a number of individuals in a public place or to members of the general public at large”.¹⁴⁴

¹⁴¹ *Nahimana et al. v. Prosecutor* (Case No. ICTR-99-52-A), 28 November 2007, para. 678. See also e.g. *Nyiramasuhuko et al. v. Prosecutor* (Case No. ICTR-98-42-A), 14 December 2015, para. 3345 (“As an inchoate crime, direct and public incitement to commit genocide is completed as soon as the discourse in question is uttered or published, even though the effects of incitement may extend in time, and is punishable even if no act of genocide has resulted therefrom”).

¹⁴² *Nahimana et al. v. Prosecutor* (Case No. ICTR-99-52-A), 28 November 2007, para. 1034 (emphasis added). See also e.g. para 677 (“A person may be found guilty of the crime specified in Article 2(3)(c) of the Statute if he or she directly and publicly incited the commission of genocide (the material element or *actus reus*) and had the intent directly and publicly to incite others to commit genocide (the intentional element or *mens rea*). Such intent in itself presuppose a genocidal intent”); *Kalimanzira v. Prosecutor* (Case No. ICTR-05-88-A), 20 October 2010, para. 155 (“The Appeals Chamber recalls that a person may be found guilty of direct and public incitement to commit genocide, pursuant to Article 2(3)(c) of the Statute, if he or she directly and publicly incited the commission of genocide (*actus reus*) and had the intent to directly and publicly incite others to commit genocide (*mens rea*)”); *Nzabonimana v. Prosecutor* (Case No. ICTR-98-48D-A), 29 September 2014, paras. 121, 231.

¹⁴³ *Nahimana et al. v. Prosecutor* (Case No. ICTR-99-52-A), 28 November 2007, para. 1034.

¹⁴⁴ International Law Commission, Draft Code of Crimes against the Peace and Security of Mankind with commentaries, *Yearbook of the International Law Commission, 1996*, vol. II, Part Two, p. 17, commentary to Article 2, para. 16.

79. It encompasses statements made in public speeches, public announcements and through forms of mass communication. Indeed, the *travaux préparatoires* of the Genocide Convention indicate that:

“Incitement is public in form when made *in public speeches or in the press, through the radio, the cinema or other ways of reaching the public*. It is private when it is conducted through conversations, private meetings or messages.”¹⁴⁵

80. Likewise, as explained by the Appeals Chamber in *Kalimanzira v. Prosecutor*:

“A review of the *travaux préparatoires* of the Genocide Convention confirms that public incitement to genocide *pertains to mass communications*. The *travaux préparatoires* indicate that the Sixth Committee chose to specifically revise the definition of genocide in order to remove private incitement, understood as more subtle forms of communication such as conversations, private meetings, or messages, from its ambit. Instead, the crime was limited to ‘direct and public incitement to commit genocide,’ understood as incitement ‘in public speeches or in the press, through the radio, the cinema or other ways of reaching the public.’”¹⁴⁶

81. Today, forms of mass communication would include social media, including X (previously Twitter) and Facebook.

82. Communications to public officials, such as the military, including instructions or orders given with a view to genocide being committed, can also constitute incitement. This is particularly so when statements made to the military are broadcast or disseminated by means of mass communication.¹⁴⁷ As explained by the representative of the Netherlands in the Sixth Committee during the drafting of the Genocide Convention, “the giving of orders or the assignment of tasks aimed at the commission of genocide” is “doubtless included, by implication, in the concept of *incitement* or *conspiracy*”.¹⁴⁸

¹⁴⁵ Ad Hoc Committee on Genocide, Commentary on the Articles adopted by the Committee (continuation), UN Doc. E/AC.25/W.1/Add.1, 27 April 1948, in H Abtahi and P Webb, *The Genocide Convention: The Travaux Préparatoires* (2008), vol 1, p. 986 (emphasis added).

¹⁴⁶ *Kalimanzira v. Prosecutor* (Case No. ICTR-05-88-A), 20 October 2010, para. 158 (emphasis added).

¹⁴⁷ *Nzabonimana v. Prosecutor* (Case No. ICTR-98-48D-A), 29 September 2014, para. 387.

¹⁴⁸ UN General Assembly Sixth Committee, Minutes of the Eighty-Sixth Meeting, UN Doc. A/C.6/SR.86, 28 October 1948, in H Abtahi and P Webb, *The Genocide Convention: The Travaux Préparatoires* (2008), vol 2, p. 1554 (emphasis added). See also p. 1562 (“Moreover, the rejection of the USSR amendment

83. *Fourth*, regarding the meaning of “*direct ... incitement to commit genocide*” in Article III(c), this means a “direct appeal” to commit any of the acts referred to in Article II, in distinction to a “mere vague or indirect suggestion”.¹⁴⁹ It is not necessary that the appeal be explicit or unambiguous. As explained by the Appeals Chamber in *Nahimana et al. v. Prosecutor*:

“The Appeals Chamber is not persuaded that ... only discourse explicitly calling for extermination, or discourse that is entirely unambiguous for all types of audiences, can justify a conviction for direct and public incitement to commit genocide. ...

The Appeals Chamber therefore concludes that it was open to the Trial Chamber to hold that a speech *containing no explicit appeal to commit genocide, or which appeared ambiguous*, still constituted direct incitement to commit genocide in a particular context.¹⁵⁰

4. Article VI

84. Article VI provides as follows:

“Persons charged with genocide or any of the other acts enumerated in article III shall be tried by a competent tribunal of the State in the territory of which the act was committed, or by such international penal tribunal as may have jurisdiction with respect to those Contracting Parties which shall have accepted its jurisdiction.”

85. The “State in the territory of which the act was committed” must be, in the present case, either Israel or Palestine, depending on where the relevant conduct took place.

5. Article IX

86. Article IX provides as follows:

“Disputes between the Contracting Parties relating to the interpretation, application or fulfilment of the present Convention, including those relating

would not prevent the punishment of preparatory acts [including issuing instructions or orders and distributing tasks with a view to committing genocide] in the most serious cases, under the headings of complicity, attempt, *incitement* and, above all, conspiracy” (Iran) (emphasis added).

¹⁴⁹ See e.g. *Nahimana et al. v. Prosecutor* (Case No. ICTR-99-52-A), 28 November 2007, para. 692 (“Direct incitement to commit genocide assumes that the speech is a direct appeal to commit an act referred to in Article 2(2) of the Statute [of the ICTR]; it has to be more than a mere vague or indirect suggestion”).

¹⁵⁰ *Nahimana et al. v. Prosecutor* (Case No. ICTR-99-52-A), 28 November 2007, paras. 702-703 (emphasis added).

to the responsibility of a State for genocide or for any of the other acts enumerated in article III, shall be submitted to the International Court of Justice at the request of any of the parties to the dispute.”

87. Belize makes four points regarding the construction of this Article.
88. *First*, regarding the word “dispute” in Article IX, this means “a disagreement on a point of law or fact, a conflict of legal views or of interests” between parties.¹⁵¹ It requires the claim of one party to be “positively opposed” by the other, which will be the case if the parties “hold clearly opposite views concerning the question of the performance or non-performance of certain international obligations” under the Genocide Convention.¹⁵² “Dispute” means a dispute in substance, not in form or as a matter of procedure.¹⁵³ There will be such a dispute if the respondent was aware, or could not have been unaware, that its views were positively opposed by the applicant.¹⁵⁴ There is no requirement of direct, bilateral engagement between the parties. In determining whether a dispute exists, the Court will examine the facts, in particular any statements or documents exchanged between the parties, as well as any exchanges made in multilateral settings, and pay special attention to the author of the statements or documents, the intended or actual addressees, and their content.¹⁵⁵ Article IX, in contrast to other treaties, does not require that a dispute referred to the Court be one that “is not settled by negotiation”.
89. *Second*, regarding the phrase “[d]isputes ... relating to the interpretation, application or fulfilment of the [Genocide] Convention”, this requires the acts or omissions of the respondent complained of by the applicant to “fall within” the scope of the Genocide

¹⁵¹ See, e.g., *Gambia v. Myanmar*, Preliminary Objections, p. 502, para. 63; *Allegations of Genocide under the Convention on the Prevention and Punishment of the Crime of Genocide (Ukraine v. Russian Federation)*, Preliminary Objections, Judgment of 2 February 2024 (***Ukraine v. Russia, Preliminary Objections***), para. 44; *South Africa v. Israel*, First Provisional Measures Order, para. 19.

¹⁵² See, e.g., *Gambia v. Myanmar*, Preliminary Objections, p. 502, para. 63; *Ukraine v. Russia*, Preliminary Objections, para. 44; *South Africa v. Israel*, First Provisional Measures Order, para. 19.

¹⁵³ See, e.g., *Gambia v. Myanmar*, Preliminary Objections, p. 502, para. 64; *Ukraine v. Russia*, Preliminary Objections, para. 45; *South Africa v. Israel*, First Provisional Measures Order, para. 25.

¹⁵⁴ See, e.g., *Ukraine v. Russia*, Preliminary Objections, para. 45.

¹⁵⁵ *Obligations concerning Negotiations relating to Cessation of the Nuclear Arms Race and to Nuclear Disarmament (Marshall Islands v. India)*, *Jurisdiction and Admissibility, Judgment*, I.C.J. Reports 2016 (I) (***Marshall Islands v. India***), p. 270, para. 36.

Convention, meaning that the facts at issue (if they were established) must be “capable of constituting violations of obligations under the treaty”.¹⁵⁶

90. *Third*, a dispute can be one “relating to the interpretation, application or fulfilment of the [Genocide] Convention” even if it requires the Court, or if it would be useful for the Court, to determine as an incidental matter whether other rules of international law have been violated, including rules of international humanitarian law and international human rights law.¹⁵⁷
91. *Fourth*, as noted above, the obligations of State parties to the Genocide Convention are obligations *erga omnes partes*.¹⁵⁸ Regarding the phrase “[d]isputes ... shall be submitted to the International Court of Justice at the request of any of the parties to the dispute”, this means that any State party “without distinction” may submit a dispute to the Court, invoking the responsibility of another State party for an alleged breach of its obligations *erga omnes partes* under the Genocide Convention.¹⁵⁹ The State need not itself be an “injured” State.

¹⁵⁶ See, e.g., *Ukraine v. Russia*, Preliminary Objections, para. 136.

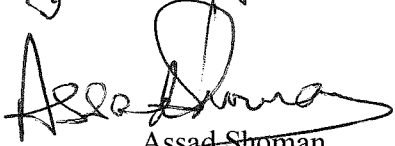
¹⁵⁷ See, e.g., *Croatia v. Serbia*, pp. 45-46, para. 85, p. 68, para. 153.

¹⁵⁸ See footnote 70 above.

¹⁵⁹ See, e.g., *Gambia v. Myanmar*, Preliminary Objections, pp. 516-517, paras. 108-112; *South Africa v. Israel*, First Provisional Measures Order, para. 33.

CONCLUSION

92. For the foregoing reasons, Belize respectfully requests the Court to:
- (a) decide that Belize is permitted to intervene as a non-party in these proceedings pursuant to Article 62 of the Statute; and
 - (b) decide that Belize's Declaration under Article 63 of the Statute is admissible.
93. Belize reserves the right to amend or supplement this Application and Declaration in the course of written and oral observations.

30 January 2025

Assad Shoman
Agent of Belize

APPENDIX: LIST OF DOCUMENTS IN SUPPORT

Annex No.	Document
1.	Depository Notification regarding the accession by Belize to the Genocide Convention, 28 April 1998
2.	Statement in the Senate on the Situation in Gaza by the Hon. Eamon Courtenay, Minister of Foreign Affairs, Foreign Trade and Immigration, 26 October 2023
3.	Joint Press Release, Former Belize Prime Ministers Call for Immediate Ceasefire in Gaza, 30 October 2023
4.	Joint Press Release: Former Foreign Ministers' Statement on Situation in Palestine, 31 October 2023
5.	Note Verbale from the Ministry of Foreign Affairs, Foreign Trade and Immigration of Belize to the Israeli Embassy in Mexico City, 8 November 2023
6.	Statement by Former Prime Ministers and Foreign Ministers, 16 November 2023
7.	Former Prime Ministers' and Foreign Ministers' Statement on Israel's Genocide in Palestine, 29 January 2024
8.	Letter from the Registrar of the International Court of Justice to Belize, 6 February 2024