

INTERNATIONAL COURT OF JUSTICE

The Republic of the Sudan v. the United Arab Emirates

REQUEST FOR THE INDICATION OF PROVISIONAL MEASURES

A. INTRODUCTION

1. The present request relates to the dispute between the Republic of the Sudan and the United Arab Emirates before the Court concerning the genocide against the Masalit group in the Republic of the Sudan since at least 2023. This request for provisional measures should be read in conjunction with the Republic of the Sudan's application instituting proceedings.
2. Pursuant to Article 41 of the Statute and Articles 73 to 75 of the Rules of Court, the Republic of the Sudan respectfully makes this urgent request for the indication of provisional measures in order to preserve the rights of the members of the Masalit group in the Republic of the Sudan — members of a protected group under the Genocide Convention — from the genocidal acts prohibited under the Convention. The Republic of the Sudan is also asking the Court to protect the right of the Republic of the Sudan to safeguard compliance with the Genocide Convention. At this stage of the proceedings, the Court need not establish definitively the existence of such rights. It is sufficient, for the indication of provisional measures, that such rights are plausible: in other words, "grounded in a possible interpretation of the Convention".¹

B. JURISDICTION OF THE COURT

¹ *Questions relating to the Obligation to Prosecute or Extradite (Belgium v. Senegal)*, Provisional Measures, Order of 28 May 2009, I.C.J. Reports 2009, p. 152, para. 60.

3. The Court may indicate provisional measures if the provisions relied on by the applicant appear, *prima facie*, to afford a basis on which its jurisdiction could be founded. It need not satisfy itself in a definitive manner that it has jurisdiction as regards the merits of the case.² Both the Republic of the Sudan and the United Arab Emirates are States parties to the Genocide Convention. The Republic of the Sudan acceded to the Convention on 13 October 2003; the United Arab Emirates acceded on 11 November 2003.
4. When it acceded to the Genocide Convention, the United Arab Emirates purported to formulate a reservation to the effect that it:

“formally declares its accession to the Convention and makes a reservation with respect to article 9 thereof concerning the submission of disputes arising between the Contracting Parties relating to the interpretation, application or fulfilment of this Convention, to the International Court of Justice, at the request of any of the parties to the dispute.”

5. As the International Court of Justice observed in *Reservations to the Genocide Convention*, it is:

“a generally recognized principle that a multilateral convention is the result of an agreement freely concluded upon its clauses and that consequently none of the contracting parties is entitled to frustrate or impair, by means of unilateral decisions ..., the purpose and *raison d'être* of the convention.”³

6. The Court continued to state that the Genocide Convention:

“was manifestly adopted for a purely humanitarian and civilizing purpose. It is indeed difficult to imagine a convention that might have this dual character to a greater degree, since its object on the one hand is to safeguard the very existence of certain human groups and on the other to confirm and endorse the most elementary principles of morality. In such a convention the contracting States do not have any interests of their own; they merely have, one and all, a common interest, namely,

² *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. 9, para. 16; *Allegations of Genocide under the Convention on the Prevention and Punishment of the Crime of Genocide (Ukraine v. Russian Federation), Provisional Measures Order of 16 March 2022, I.C.J. Reports*, pp. 217–218, para. 24.

³ *Reservations to the Convention on Genocide, Advisory Opinion, I.C.J. Reports 1951*, p. 21.

the accomplishment of those high purposes which are the *raison d'être* of the convention.”⁴

7. As was observed during the submissions to the Court in *Reservations to the Genocide Convention*, “the obligation to submit disputes concerning the interpretation or execution of the Convention to the International Court of Justice was regarded as one of the prime guarantees of the due *fulfilment* of the basic obligation to prevent and punish genocide.”⁵ The possibility of submission by one of the parties of a dispute to the Court plays a pivotal role in the system of “interpretation”, “application”, and (unusually for a compromissory clause in a general convention) the “*fulfilment*” of the Genocide Convention to which Article IX makes reference. The fact that Article IX specifically mentions “fulfilment” is a clear indication of the importance of the role played by the dispute settlement before the Court in the system of the Convention.

8. The reservation the United Arab Emirates purported to formulate to the Genocide Convention upon accession is “incompatible with the object and purpose of the treaty”.⁶ The provisions relied on by the applicant appear therefore, on a *prima facie* basis, to afford a basis on which the Court’s jurisdiction could be founded in the present proceedings.⁷

C. THE FACTS

9. Since 2023 a genocide has been unfolding in the Republic of the Sudan. The organization that goes by the name the Rapid Support Forces (“RSF”) and militias allied with it have been committing genocide against the Masalit group most notably in West Darfur. The members of the Masalit group, a people mostly resident in the West Darfur region of the Republic of the Sudan, are

⁴ *Ibid.*, p. 23.

⁵ Sir Hartley Shawcross, counsel for the United Kingdom, Reservations to the Convention on Prevention and Punishment of the Crime of Genocide, Advisory Opinion of May 28th, 1951, *Pleadings, Oral Arguments, Documents*, Part II, Oral Statements, p. 380 (emphasis added).

⁶ Vienna Convention on the Law of Treaties, 22 May 1969, 1155 UNTS 331, Art. 19(c).

⁷ Cf. *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. 9, para. 16; *Allegations of Genocide under the Convention on the Prevention and Punishment of the Crime of Genocide (Ukraine v. Russian Federation)*, Provisional Measures Order of 16 March 2022, *I.C.J. Reports*, pp. 217–218, para. 24.

Black African persons who speak in addition to the Arabic language dialects of the Masalit language. Thousands of Masalit persons from the Republic of the Sudan as a whole, and especially in West Darfur, have as part of this genocide been killed at the hands of the rebel RSF militia. The intent of the rebel RSF militia has been to destroy the Masalit group in whole or in part.

10. The area Dar Masalit is 2,000 kilometres from Khartoum. In 2023, when rebellion broke out in the Republic of the Sudan and reached Dar Masalit, a week after it had erupted in Khartoum, persons among the Masalit were systematically targeted, on the basis of their ethnic identity and the colour of their skin. All the entry points into the most important city of the area, El Geneina, were closed as the rebel RSF militia laid complete siege to the city for 58 days. People were burned alive. The rebel RSF militia engaged in extrajudicial killing, ethnic cleansing, forced displacement of civilians, rape, and burning of villages. The rebel RSF militia and allied militias have systematically murdered men and boys — including infants — on an ethnic basis. They have deliberately targeted women and girls from certain ethnic groups for rape and other forms of brutal sexual violence. They have targeted fleeing civilians, murdered innocent persons who were escaping conflict, and prevented remaining civilians from accessing lifesaving supplies. Upon breaking into the city of Al Hilaliya, a city in Gezira State in the Republic of the Sudan, the rebel RSF militia opened fire and killed 357 civilians, including 212 women, girls and children. The RSF militia has also poisoned drinking water and prevented access to medicines.

11. On 6 June 2024 Ms. Alice Wairimu Nderitu, United Nations Special Advisor on the Prevention of Genocide raised “the alarm at reports of the horrific attacks in Sudan, particularly those carried out by the Sudanese paramilitary Rapid Support Forces (RSF) on a village in Gezira State on 5 June, resulting in the tragic loss of at least 100 lives, as reported by local activists and the media. This

attack increases the risk factors and indicators for genocide and related crimes (war crimes and crimes against humanity) in Sudan.”⁸

12. The United Arab Emirates fuels the war and supports the militia that has committed the crime of genocide in West Darfur. The government of United Arab Emirates has sent its own agents to the Republic of the Sudan in order to lead the rebel RSF militia forces in carrying out the genocide. Much of the rebel RSF militia political communications and operations are managed in the United Arab Emirates. It has provided the rebel RSF militia forces with extensive financial support. It has recruited and instructed mercenaries in the thousands — from the Sahel, neighbouring countries, and as far away as from Colombia — whom it has sent to the Republic of the Sudan in in order to assist the rebel RSF militia in perpetrating the genocide. It has sent and continues to send large shipments of arms, munitions, and military equipment, including fighter drones, to the rebel RSF militia forces which are carrying out its genocide. Experts of the Government of the United Arab Emirates have been training militia members to operate fighter drones.

13. The United Arab Emirates is complicit in the genocide on the Masalit through its direction of and provision of extensive financial, political, and military support for the rebel RSF militia. The relationship of the rebel RSF militia to the United Arab Emirates Government is so much one of dependence and control that it would be right, for legal purposes, to equate the rebel RSF militia with an organ of the United Arab Emirates Government, or as acting on behalf of that Government. The rebel RSF militia is, for the purposes of international responsibility, to be equated with State organs of the Government of the United Arab Emirates. The fact that the United Arab Emirates has chosen to act through the instrumentality of the rebel RSF militia cannot allow the United Arab Emirates to escape its international responsibility under the Genocide Convention.

⁸ United Nations Press Release, Statement by Ms. Alice Wairimu Nderitu, United Nations Special Advisor on the Prevention of Genocide, on the situation in Sudan, 6 June 2024, available [here](#).

14. As a result of the direct support provided by the United Arab Emirates, including extensive military logistical support, there has been continued destruction of life in the Republic of the Sudan, through the destruction of universities, schools, hospitals, markets, libraries, and religious institutions, in addition to leading to a lack of basic necessities and the daily psychological suffering endured by Sudanese civilians. To lift the suffering, the United Arab Emirates must cease supporting the rebel RSF militia.

15. In addition to the above, the random bombing and forcible displacement carried out against the Sudanese civilians, amongst other acts of genocide, and the continued commissioning of these acts, makes it necessary for the venerable Court to indicate provisional measures to prohibit these violations.

D. THE RIGHTS THAT SUDAN IS SEEKING TO PROTECT

16. As the Court has recalled, its power:

“to indicate provisional measures under Article 41 of the Statute has as its object the preservation of the respective rights claimed by the parties in a case, pending its decision on the merits thereof. It follows that the Court must be concerned to preserve by such measures the rights which may subsequently be adjudged by it to belong to either party. Therefore, the Court may exercise this power only if it is satisfied that the rights asserted by the party requesting such measures are at least plausible.”⁹

17. The facts and circumstances mentioned above are sufficient to conclude that at least some of the rights claimed by the Republic of the Sudan and for which it is seeking protection are plausible. This is the case with respect of the right of the Masalit in the Republic of the Sudan to be protected from acts of genocide and related prohibited acts identified in the Genocide Convention, and the rights of the Republic of the Sudan to seek the United Arab Emirates’ compliance with the latter’s obligations under the Convention.

⁹ *Allegations of Genocide under the Convention on the Prevention and Punishment of the Crime of Genocide (Ukraine v. Russian Federation), Provisional Measures, Order of 16 March 2022, I.C.J. Reports 2022 (I)*, p. 223, para. 50; *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 26 January 2024*, para. 35.

E. URGENCY AND THE RISK OF IRREPARABLE PREJUDICE

18. The Court has the power to indicate provisional measures when irreparable prejudice could be caused to rights which are the subject of judicial proceedings or when the alleged disregard of such rights may entail irreparable consequences.¹⁰ The power to indicate provisional measures will be exercised only if there is urgency, in the sense that there is a real and imminent risk that irreparable prejudice will be caused to the rights claimed before the Court gives its final decision. The condition of urgency is met when the acts susceptible of causing irreparable prejudice can “occur at any moment” before the Court makes its final decision on the case.¹¹

19. In the present case, the genocide against the Masalit group in the Republic of the Sudan is still ongoing. As the Secretary of State of the United States determined on 7 January 2025, the systematic genocidal acts against the Masalit group are continuing:

“The RSF and RSF-aligned militias have continued to direct attacks against civilians. The RSF and allied militias have systematically murdered men and boys — even infants — on an ethnic basis, and deliberately targeted women and girls from certain ethnic groups for rape and other forms of brutal sexual violence. Those same militias have targeted fleeing civilians, murdering innocent people escaping conflict, and prevented remaining civilians from accessing lifesaving supplies. Based on this information, I have now concluded that members of the RSF and allied militias have committed genocide in Sudan.”¹²

20. The determination by the United States Secretary of State that “members of the Rapid Support Force (RSF) and allied militias have committed genocide in

¹⁰ *Allegations of Genocide under the Convention on the Prevention and Punishment of the Crime of Genocide (Ukraine v. Russian Federation), Provisional Measures, Order of 16 March 2022, I.C.J. Reports 2022 (I)*, p. 226, para. 65.

¹¹ *Allegations of Genocide under the Convention on the Prevention and Punishment of the Crime of Genocide (Ukraine v. Russian Federation), Provisional Measures, Order of 16 March 2022, I.C.J. Reports 2022 (I)*, p. 2267 para. 66.

¹² Genocide Determination in Sudan and Imposing Accountability Measures, Press Statement, Antony J. Blinken, Secretary of State, 7 January 2025, available [here](#).

Sudan” was made “after careful review of the facts and a comprehensive legal analysis”.¹³

21. There can be no doubt that irreparable prejudice could be caused to the rights which are the subject of judicial proceedings or that the alleged disregard of such rights may entail irreparable consequences. There is a real and imminent risk that irreparable prejudice will be caused to the rights claimed before the Court gives its final decision on the merits.

F. THE ORDER REQUESTED

22. In view of the above, the Republic of the Sudan requests that, pending final judgment in the case, the Court indicate:

(1) The United Arab Emirates shall, in accordance with its obligations under the Convention on the Prevention and Punishment of the Crime of Genocide, in relation to the Masalit in the Republic of the Sudan, take all measures within its power to prevent the commission of all acts within the scope of Article II of this Convention, in particular:

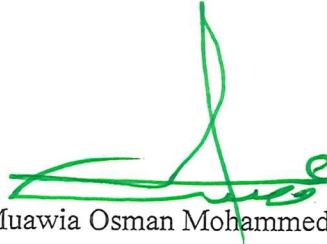
- (a) killing members of the group;
- (b) causing serious bodily or mental harm to members of the group;
- (c) deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; and
- (d) imposing measures intended to prevent births within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

(2) The United Arab Emirates shall, in relation to the members of the Masalit group, ensure that any irregular armed units which may be directed or supported by it and any organizations and persons which may be subject to its control, direction or influence, do not commit any acts described in point (1) above, or of conspiracy to commit genocide, of

¹³ United States Mission to the United Nations, Statement by Ambassador Linda Thomas-Greenfield on the Determination of Genocide in Sudan, available [here](#).

direct and public incitement to commit genocide, of attempts to commit genocide, or of complicity in genocide.

23. The Republic of the Sudan reserves the right to amend this Request and the measures requested above.

A handwritten signature in green ink, appearing to be 'Dr. Muawia Osman Mohammed Khair', written over a horizontal line.

(Signed) Dr. Muawia Osman Mohammed Khair
Minister of Justice and Agent of the Republic of Sudan

The Hague, 05 March 2025