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UN human rights experts welcome start of ICJ genocide hearings in The Hague, reiterate call for ceasefire

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GENEVA (11 January 2024) – UN human rights experts* today welcomed the start of hearings before the International Court of Justice ("ICJ") of a case brought by South Africa concerning allegations that Israel is committing acts of genocide against the Palestinian people. The experts emphasized that any decision the Court reaches on provisional measures must be respected and implemented by the parties to the dispute, as required by the ICJ Statute.

South Africa on 29 December 2023 asked the ICJ to urgently issue provisional measures ordering Israel to immediately suspend its military operations in and against Gaza and to protect residents from acts of genocide, alleging breaches by Israel of the 1948 Convention on the Prevention and Punishment of the Crime of Genocide (the "Genocide Convention"). The Genocide Convention defines genocide as "acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group". The hearings concerning the request for provisional measures will be held on 11 and 12 January at The Hague, in The Netherlands. South Africa's filing also alleges that Israel is inciting genocide and has failed to prevent genocide.

"ICJ decisions are final, binding, and not subject to appeal. Adherence to any order the Court may make by the parties involved is imperative for protecting the rights of Palestinians and reinforcing the primacy of international law," the experts said.

"We commend South Africa for bringing this case to the ICJ at a time when the rights of Palestinians in Gaza are being violated with impunity. We call on all States to cooperate with the Court as it interprets the Genocide Convention and to respect the role of the ICJ as an independent court of law."

The experts also welcomed the statements of support by many States for South Africa's action in bringing the case to the Court, as well as the principled stand taken by individuals and organizations worldwide that have expressed support for the submission of the case by South Africa.

The experts noted that this is not the first such case. In 2019, for example, The Gambia brought a case against Myanmar under the Genocide Convention to the ICJ, and asked for the Court to issue provisional measures calling for a halt to atrocities against the Rohingya people. The Court issued provisional measures in that case, which is still pending determination before the ICJ.

Both South Africa and Israel have ratified the 1948 Convention on the Prevention and Punishment of the Crime of Genocide, as have 151 other States.

“South Africa’s case has broader implications for all States – not only those that have ratified the Convention – as all are obligated both to refrain from committing genocide, and to prevent and punish it wherever it occurs. All States must act together to prevent, halt, and punish genocide,” the experts said.

“The ICJ has in the past made clear that obligations under the Genocide Convention are of an *erga omnes* nature, meaning that any and all countries have a stake in preventing genocide wherever it is at risk of occurring. This plainly means that uninvolved countries have standing to bring a case like South Africa’s to the ICJ,” the experts explained.

In its application to the Court, South Africa cited numerous statements by UN Special Procedures mandate holders, including the experts’ repeated calls for international action to prevent genocide in Gaza. The mandate holders’ statements reference evidence of genocidal incitement by Israeli Government officials, including a stated intent to “destroy the Palestinian people under occupation”, and calls for a “second Nakba” in Gaza and the rest of the occupied Palestinian territory. These comments by Israeli officials have been made amidst the extensive use by Israel of powerful, often unguided weaponry in Gaza with inherently indiscriminate impacts, severe restrictions on the entry of lifesaving humanitarian aid, and attacks on health care services, all of which have resulted in a devastating death toll, including large numbers of women and children, the forcible transfer of more than half of Gaza’s population, and extensive destruction of life-sustaining infrastructure.

Recalling the alarming magnitude and intensity of the bombardments, the experts also reiterated their demand, issued in December 2023 along with other Special Procedure mandate holders, for an immediate ceasefire and a halt to displacement, domicide, and attacks on health infrastructure. The experts further called for immediate action to ensure the unimpeded delivery of desperately needed humanitarian aid to people in Gaza, especially for the sick or injured, persons with disabilities, older persons, pregnant women, and children.

***The experts: Ms. Margaret Satterthwaite, Special Rapporteur on the independence of judges and lawyers, Ms. Francesca Albanese, Special Rapporteur on the situation of human rights in the Palestinian Territory occupied since 1967, Ms. Siobhán Mullally, Special Rapporteur on trafficking in persons, especially women and children, Tomoya Obokata, Special Rapporteur on contemporary forms of slavery, including its causes and consequences, Mr. Livingstone Sewanyana, Independent Expert on the promotion of a democratic and equitable international order, Mr. Ben Saul, Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Ms. Farida Shaheed, Special Rapporteur on the right to education, Mr. Balakrishnan Rajagopal, Special Rapporteur on the right to adequate housing, Ms Mary Lawlor, Special Rapporteur on the situation of human rights defenders, Ms Tlaleng Mofokeng, Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Ms Cecilia M. Bailliet, Independent Expert on human rights and international solidarity, Mr. Javaid Rehman, Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, Mr. Pedro Arrojo-Agudo, Special Rapporteur on the human rights to safe drinking water and sanitation, Ms Irene Khan, Special Rapporteur on the protection and promotion of freedom of opinion and expression, Mr. Jose Francisco Calí Tzay, Special Rapporteur on the rights of Indigenous Peoples., Mr. Surya Deva, Special Rapporteur on the Right to Development, Ms. Dorothy Estrada Tanck** (Chair), **Ms. Claudia Flores, Ms. Ivana Krstić, Ms. Haina Lu**, and **Ms. Laura Nyirinkindi, Working Group on discrimination against women and girls, Mr. Carlos Salazar Couto (Chair-Rapporteur), Ms. Sorcha MacLeod, Ms. Jovana Jezdimirovic Ranito, Mr.**

Chris M. A. Kwaja, Mr. Ravindran Daniel, Working Group on the use of mercenaries, Mr. Michael Fakhri, Special Rapporteur on the right to food, Ms Ashwini K.P. Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Ms. Paula Gaviria Betancur, Special Rapporteur on the human rights of internally displaced persons, Mr. Clément Nyaletsossi Voule, Special Rapporteur on the rights of freedom of peaceful assembly and of association, Ms. Reem Alsalem, Special Rapporteur on violence against women and girls, Ms. Claudia Mahler, Independent Expert on the enjoyment of all human rights by older persons,
Mr. David Boyd, Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment;
Ms. Mama Fatima Singhateh, Special Rapporteur on the sale, sexual exploitation and sexual abuse of children.

The Experts are part of what is known as the **Special Procedures** of the Human Rights Council. Special Procedures, the largest body of independent experts in the UN Human Rights system, is the general name of the Council's independent fact-finding and monitoring mechanisms that address either specific country situations or thematic issues in all parts of the world. Special Procedures experts work on a voluntary basis; they are not UN staff and do not receive a salary for their work. They are independent of any government or organisation and serve in their individual capacity.

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