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INTERNATIONAL COURT OF JUSTICE

**CASE CONCERNING
OBLIGATIONS OF ISRAEL IN RELATION TO THE PRESENCE AND ACTIVITIES
OF THE UNITED NATIONS, OTHER INTERNATIONAL ORGANIZATIONS
AND THIRD STATES IN AND IN RELATION TO
THE OCCUPIED PALESTINIAN TERRITORY
(REQUEST FOR ADVISORY OPINION)**

**WRITTEN STATEMENT OF THE
ORGANISATION OF ISLAMIC COOPERATION**

February 2025

[Translation by the Registry]

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INTRODUCTION

1. By a letter dated 3 February 2025 to the Secretary-General of the Organisation of Islamic Cooperation, the [Acting] President of the International Court of Justice authorized this Organisation to file a written statement in the proceedings relating to the request for an advisory opinion submitted to the International Court of Justice by the General Assembly of the United Nations on 19 December 2024, concerning the *Obligations of Israel in relation to the Presence and Activities of the United Nations, Other International Organizations and Third States in and in relation to the Occupied Palestinian Territory*.

2. The request made by the General Assembly concerns the following question:

“What are the obligations of Israel, as an occupying Power and as a member of the United Nations, in relation to the presence and activities of the United Nations, including its agencies and bodies, other international organizations and third States, in and in relation to the Occupied Palestinian Territory, including to ensure and facilitate the unhindered provision of urgently needed supplies essential to the survival of the Palestinian civilian population as well as of basic services and humanitarian and development assistance, for the benefit of the Palestinian civilian population, and in support of the Palestinian people’s right to self-determination?”¹

3. By way of introduction, and to make clear the spirit in which it is submitting its observations, the Organisation of Islamic Cooperation would recall that it is currently composed of 57 member States, bound by a Charter dating from 4 March 1972². Palestine, which is recognized as a State by all members of the Organisation, is itself a full member. Over and above the general aim of strengthening solidarity and co-operation between member States, the Charter specifically includes among its objectives:

“to support the struggle of the Palestinian people, who are presently under foreign occupation, and to empower them to attain their inalienable rights, including the right to self-determination, and to establish their sovereign state with Al-Quds Al-Sharif as its capital, while safeguarding its historic and Islamic character, and the holy places therein”³.

4. It follows from these aims attributed to the Organisation of Islamic Cooperation that the latter is particularly mindful of the conditions being imposed on the Palestinian people. Its concern has been growing since October 2023, in view of the heightened threats to the conditions of life imposed on that people, putting its very existence at issue. Struggling day after day for survival, the Palestinian people are seeing the opportunity to realize their aspirations for self-determination slipping further away.

5. However tragic the current events may be, they cannot obscure the fact that the situation imposed on the Palestinian people has been a cause for concern since the creation of Israel in 1948, due to the claim of Zionist extremists to the whole territory of Palestine, together with the corollary

¹ United Nations General Assembly, resolution 79/232 of 19 December 2024, A/RES/79/232. (The documents cited here that are included in the documentation submitted to the International Court of Justice by the Secretariat are not provided in the annexes.)

² All information about the Organisation can be found on its website: <http://www.oic-oci.org>.

³ Charter of the Islamic Conference, adopted on 4 March 1972 and amended in 2008, Art. 1, para. 8 (**Ann. 1**).

of that claim, the intention of expelling the Palestinians. That intention began to manifest itself through violence as from the 1948-49 war, and the present war is simply its ultimate outcome. The situation of the Palestinians deteriorated steadily following the forcible occupation of the entire Palestinian territory, including East Jerusalem, in 1967. Now it has become a tragedy with Israel's all-out military response in Gaza to the Hamas attacks of 7 October 2023.

6. Already weakened by years of blockade imposed by Israel, then caught up in the merciless war unleashed by that country in October 2023, forcibly and permanently displaced, deprived of housing, education and health care through indiscriminate bombing, the Palestinian people of Gaza now rely chiefly on the relief work of the United Nations Agency established specifically for the purpose of providing that people with assistance and showing basic human solidarity with it⁴.

7. Since its creation in December 1949, the United Nations Relief and Works Agency for Palestine Refugees in the Near East (hereinafter "UNRWA" or the "Agency") has provided all the basic services in Palestinian refugee camps in the Occupied Palestinian Territories, i.e. the West Bank, including East Jerusalem, and Gaza, as well as in the refugee camps in Lebanon, Jordan and Syria. These services cover education, health care, relief, camp infrastructure and improvement, community support, microfinance and emergency response, including in times of armed conflict. UNRWA also handles the identification of Palestine refugees, thereby confirming that these are people whose place of habitual residence was Palestine between June 1946 and May 1948, but who lost their homes and livelihoods following the 1948 Arab-Israeli conflict. UNRWA's services are available to all those living in its area of operation who meet this definition, are registered with the Agency and are in need of assistance. Descendants of the original Palestine refugees are also eligible for registration.

8. Despite immeasurable difficulties, UNRWA has performed a truly vital function for the people of Gaza since Israel's total war on the territory as from 7 October 2023. And yet this United Nations body has come under relentless attack⁵.

9. The immunity of its staff (3[1],000 people) and the inviolability of its premises have not been respected. Many of its staff members have been killed. Premises belonging to it, including schools and health centres, have been destroyed. Its staff and in particular its convoys have come under attack during their movements. Serious allegations of breaches of neutrality have been made against its staff, who were accused of participating in terrorist actions. Stringent internal control measures have allowed a number of cases to be detected (far fewer than alleged) in connection with those accusations, and these were immediately sanctioned. However, the accusations persist without any evidence being offered.

10. Finally, using this alleged collusion with terrorist movements as a pretext, Israel, the occupying Power, passed two laws in the Knesset on 28 October 2024 terminating UNRWA's activities and more specifically its activities in the State of Israel. These laws refer to the UNRWA offices in East Jerusalem, a territory illegally annexed by Israel. The Commissioner-General of UNRWA was informed that this measure would come into effect three months after the date of the laws. By a letter of 3 November 2024 to the President of the General Assembly, the Director-General

⁴ United Nations General Assembly, resolution 302 (IV) of 8 December 1949, "Establishes the United Nations Relief and Works Agency for Palestine Refugees in the Near East".

⁵ Reports of these violations can be found in particular in the Report of the Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East, 1 Jan.-31 Dec. 2023, General Assembly, 79th Session, Supplement No. 13, A/79/13.

of the Ministry of Foreign Affairs of Israel announced to the United Nations the decision of the State of Israel to withdraw from the Exchange of Letters Constituting a Provisional Agreement between UNRWA and Israel concerning Assistance to Palestine Refugees, dated 14 June 1967⁶. On 24 January 2025, the Permanent Representative of Israel to the United Nations informed the Secretary-General of the United Nations that UNRWA must cease its activities in Jerusalem and vacate its premises there by 30 January at the latest. Despite the illegality of this decision, the Agency's staff were forced to leave, their visas having been cut short.

11. Considering not only that the fundamental rights of the Palestinian people are currently being seriously violated, but also that the very survival of this people is jeopardized by the measures thus taken, the Organisation of Islamic Cooperation shares the deep concern expressed by the United Nations General Assembly at Israel's decision to put an end to UNRWA's ability to take action.

12. It trusts that in the forthcoming advisory opinion, the Court will recall Israel's obligations in this regard and clarify the situation, so that the United Nations can take measures whereby the international community, in opposition to Israel's illegal acts, will assist in protecting the Palestinian people, currently under serious threat.

13. The following points are addressed in the observations submitted here to the Court by the Organisation of Islamic Cooperation with regard to the question posed:

- the Court's jurisdiction to render the opinion requested in this case and the admissibility of the request for an opinion (I);
- the law to be applied in responding to the question put to the Court (II);
- Israel's lack of valid title under international law over the Occupied Palestinian Territory (III);
- the illegality of the measures taken by Israel against UNRWA, Israel's obligation to revoke them, and the rights of intergovernmental organizations and third States (IV);
- the increased risk of genocide if the measures taken by Israel are maintained (V).

I. Jurisdiction of the Court and admissibility of the request for an opinion

14. This matter has been brought before the Court under Article 96 of the United Nations Charter, paragraph 1 of which provides: "The General Assembly or the Security Council may request the International Court of Justice to give an advisory opinion on any legal question." It is nevertheless necessary to ensure that the General Assembly has not exceeded the competence conferred on it by the Charter in putting a question to the Court. It should therefore be noted that, under Article 10 of the Charter, the General Assembly may discuss any questions or matters within the scope of the Charter and, under Article 11, any questions relating to the maintenance of international peace and security.

15. From the beginning of Israel's military occupation in 1967, the Palestinian territory has been the scene of violent repression of the population. With Israel's retaliation against the Gaza Strip

⁶ Exchange of Letters of 14 June 1967, United Nations, *Treaty Series*, Vol. 620, p. 183.

in response to the attacks of 7 October, the violence has become that of an all-out war. The situation therefore unquestionably constitutes a breach of the peace, a situation over which the General Assembly has repeatedly voiced its concern⁷.

16. It is therefore the duty of the General Assembly, as part of its responsibilities, to take all necessary measures in this respect. The request for an advisory opinion transmitted to the Court on 19 December 2024 regarding Israel's obligations concerns services that are essential to the survival of the Palestinian civilian population, in support of the Palestinian people's right to self-determination. It thus falls within the remit of the General Assembly, tasked with maintaining peace and applying the fundamental norms of international law.

17. However, the distribution of competences between the Security Council and the General Assembly, as provided for in Article 12, paragraph 1, must be complied with:

“While the Security Council is exercising in respect of any dispute or situation the functions assigned to it in the present Charter, the General Assembly shall not make any recommendation with regard to that dispute or situation unless the Security Council so requests.”

18. The Court examined this point in detail in its 2004 Opinion. It construed Article 12 in keeping with the contemporary interpretation, whereby: first, the General Assembly may examine questions that remain on the agenda of the Security Council when the Security Council is no longer adopting resolutions on the matter; and second, both organs may deal with the same question at the same time, since each does so from a different angle. The Court thus held that “the accepted practice of the General Assembly, as it has evolved, is consistent with Article 12, paragraph 1, of the Charter” and that “by submitting that request the General Assembly did not exceed its competence”⁸. That finding applies in exactly the same way to the present request for an opinion.

19. It is also necessary to ensure that the advisory proceedings do in fact concern a legal question. In this instance, the question put to the Court concerns the “obligations of Israel, as an occupying Power and as a member of the United Nations”. It therefore refers to what this State, in its particular legal situation, has the right to do or not to do. The question calls for an assessment of these obligations and compliance with them

“to ensure and facilitate the unhindered provision of urgently needed supplies essential to the survival of the Palestinian civilian population as well as of basic services and *humanitarian and development assistance, for the benefit of the Palestinian civilian population, and in support of the Palestinian people's right to self-determination*” (emphasis added).

20. It is made clear that the role of United Nations agencies, other organizations or third States is directed towards a specific objective, as defined in law, namely that of providing humanitarian assistance in support of the Palestinian people's right to self-determination. This right derives from a fundamental norm of international law falling within the category of general peremptory law

⁷ United Nations General Assembly, resolution 10/26 of 11 December 2024 (emergency special session), “Demand for ceasefire in Gaza”.

⁸ *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, I.C.J. Reports 2004 (I)*, p. 1[50], para. 2[8].

(*jus cogens*). It is therefore apparent from the very terms of the question posed that it is indeed a legal question, and that the reply must be based on law.

21. Israel will doubtless contend that the situation has political aspects. The Court's position on that point should be recalled:

“Whatever its political aspects, the Court cannot refuse to admit the legal character of a question which invites it to discharge an essentially judicial task, namely, an assessment of the legality of the possible conduct of States with regard to the obligations imposed upon them by international law.”⁹

22. The legal nature of the question posed in this request for an opinion is borne out by the fact that the measures giving rise to the situation at issue have serious consequences for the fundamental rights of a people to existence, to self-determination and to respect for all the provisions of international law that concern it, including human rights and international humanitarian law. The legality of the measures taken and their consequences must therefore be assessed in light of the international obligations incumbent upon the State responsible for that situation.

23. One further point remains to be examined as regards the Court's competence to entertain the request for an opinion submitted to it. Is this a dispute in which the advisory function is being diverted from its purpose and wrongly used as a substitute for a contentious function that cannot be exercised in the absence of consent by the parties concerned? The Court has clarified this question on a number of previous occasions: “Differences of views among States on legal issues have existed in practically every advisory proceeding; if all were agreed, the need to resort to the Court for advice would not arise.”¹⁰

24. There is undoubtedly a dispute here, but it is not a dispute between States. The disagreement is between a State, Israel, and an international organization, the United Nations. It is thus not possible to draw an analogy with contentious proceedings, for which advisory proceedings would be an improper substitute. As will be seen below, in this instance, the reference texts for dealing with the issues raised point expressly to advisory proceedings before the Court as the recommended means of settling the outstanding questions.

25. Hence, the approach taken here results from the need for the General Assembly of the United Nations, charged with ensuring international peace and security, to obtain legal clarifications that may be of use to it when taking a position on a question within its competence in that field. There can be no doubt that the United Nations General Assembly, faced with the situation created by Israel's decisions concerning UNRWA's activities in the Occupied Palestinian Territory, might find it necessary to seek clarification regarding the legal aspects of that situation.

26. The purpose of the advisory function is to offer legal advice to the organs and institutions requesting the opinion. And it is indeed advice of this nature that the General Assembly is seeking from the Court in its resolution of 19 December 2024. Armed with the Court's replies, it will be in a better position to consider how to help bring an end to the tragic situation imposed on the Palestinian

⁹ *Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion, I.C.J. Reports 1996 (I)*, p. 234, para. 13.

¹⁰ *Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970), Advisory Opinion, I.C.J. Reports 1971*, p. 24, para. 34.

people by Israel's measures, a situation that poses a serious threat to worldwide public order and the maintenance of peace.

27. We would add, as further confirmation that there is nothing to prevent the Court from entertaining the request for an opinion submitted to it, that advisory proceedings are not dependent on whether or not a State has accepted the Court's jurisdiction:

“The jurisdiction of the Court under Article 96 of the Charter and Article 65 of the Statute, to give advisory opinions on legal questions, enables United Nations entities to seek guidance from the Court in order to conduct their activities in accordance with law . . . As the opinions are intended for the guidance of the United Nations, the consent of States is not a condition precedent to the competence of the Court to give them.”¹¹

28. And also:

“[N]o State, whether a Member of the United Nations or not, can prevent the giving of an Advisory Opinion which the United Nations considers to be desirable in order to obtain enlightenment as to the course of action it should take. The Court's Opinion is given not to the States, but to the organ which is entitled to request it; the reply of the Court, itself an ‘organ of the United Nations’, represents its participation in the activities of the Organization, and, in principle, should not be refused.”¹²

29. We are confident that the Court will find that the texts governing its competence to render advisory opinions allow it to respond to the present request. This is a reflection of its position within the United Nations system, where it is under a duty to contribute in this way to the smooth functioning of the Organization as a whole. There would have to be compelling reasons to induce it to decline. In contrast, there are a great many positive reasons why the Court should enlighten the General Assembly, together with all the Member States and other intergovernmental organizations, as to the legal aspects of a situation which is giving particular cause for concern.

II. The law to be applied in responding to the question put to the Court

30. The decision taken by the Israeli Government to terminate UNRWA's activities, embodied in the two Knesset laws of 28 October 2024, is what prompted this request for an advisory opinion¹³.

31. A few weeks later, in a letter to the President of the General Assembly and the President of the Security Council, the Permanent Representative of Israel to the United Nations justified this decision by an alleged lack of impartiality and neutrality on the part of UNRWA in its actions in the Occupied Palestinian Territory¹⁴. Further to the decision, Israel's Ambassador to the United Nations informed the United Nations Secretary-General on 24 January 2025 that UNRWA had to cease all its operations in Jerusalem and vacate all the premises in which it was operating in the city by 30 January 2025 at the latest.

¹¹ *Applicability of Article VI, Section 22, of the Convention on the Privileges and Immunities of the United Nations, Advisory Opinion, I.C.J. Reports 1989*, p. 188, para. 31.

¹² *Interpretation of Peace Treaties with Bulgaria, Hungary and Romania, First Phase, Advisory Opinion, I.C.J. Reports 1950*, p. 71.

¹³ See para. 10 above for details of the measures taken.

¹⁴ United Nations General Assembly, 31 Dec. 2024, A/72/710-S/2024/940.

32. None of these decisions has any basis in law. They were preceded, and had been for months, by flagrant breaches of Israel's obligations towards UNRWA, hostile measures towards its staff, even including attempts on their lives, and attacks on the Agency's premises and archives. The decisions in question were thus taken in breach of the norms of international law in this regard. They also reflect Israel's reneging on its undertakings to the United Nations, as reference to the relevant texts demonstrates.

33. Consequently, if UNRWA were to cease or significantly reduce its activities in support of Palestinian refugees, the Palestinian population would find itself deprived of the humanitarian assistance to which it is entitled and for which the occupying Power should be responsible, were it not for its serious shortcomings in this respect. Indeed, it is the primary duty of any occupying Power to ensure the safety of the occupied populations¹⁵.

1. The norms in force

34. As a member of the United Nations, Israel is required to comply with the obligations arising from the provisions of the Charter, international conventions to which it is a party and customary norms of international law. The texts that are binding on Israel in the present case are as follows:

(a) *The United Nations Charter*

35. — Article 2, paragraph 5, which provides that “[a]ll Members shall give the United Nations every assistance in any action it takes in accordance with the present Charter”.

— Article 105, under which “[t]he Organization shall enjoy in the territory of each of its Members such privileges and immunities as are necessary for the fulfilment of its purposes” and “officials of the Organization shall similarly enjoy such privileges and immunities as are necessary for the independent exercise of their functions in connexion with the Organization”.

— Article 22, according to which “[t]he General Assembly may establish such subsidiary organs as it deems necessary for the performance of its functions”. Pursuant to this article, the General Assembly established UNRWA by means of resolution 302 (IV) of 8 December 1949 as a subsidiary organ and an integral part of the United Nations.

(b) *The Convention on the Privileges and Immunities of the United Nations, approved by the General Assembly on 13 February 1946, and in particular:*

36. — Article V, section 18, listing the privileges and immunities enjoyed by officials of the United Nations.

— Article VI, section 22, which extends those privileges and immunities to experts performing missions for the United Nations.

— Article II, sections 2 to 8, protecting the property of the organs of the United Nations and declaring their premises and archives to be inviolable.

¹⁵ Art. 3 of the Fourth Geneva Convention of 12 August 1946.

- Article VII, section 24, providing that the laissez-passer issued by the United Nations to its officials are to be recognized and accepted by the Member States.

(c) *The so-called Comay-Micheltmore Exchange of Letters*

37. Concluded in Jerusalem on 14 June 1967 between Israel and UNRWA, this Exchange of Letters constitutes an undertaking by Israel to ensure the protection and security of UNRWA staff and to allow UNRWA vehicles freedom of movement in the areas concerned. It was this Exchange of Letters that Israel unilaterally terminated on 3 November 2024.

(d) *Humanitarian law in the event of armed conflict, comprising the 1907 Hague Regulations, the Geneva Conventions of 12 August 1949 and the principles of international humanitarian law*

38. The main provisions of this body of law provide for comprehensive protection of protected persons, i.e. civilians present in a war zone. The question of whether this humanitarian law, and more specifically the Fourth Geneva Convention of 12 August 1949, is applicable in the Occupied Palestinian Territory was settled by the Court in its 2004 Opinion:

“In view of the foregoing, the Court considers that the Fourth Geneva Convention is applicable in any occupied territory in the event of an armed conflict arising between two or more High Contracting Parties. Israel and Jordan were parties to that Convention when the 1967 armed conflict broke out. The Court accordingly finds that that Convention is applicable in the Palestinian territories which before the conflict lay to the east of the Green Line and which, during that conflict, were occupied by Israel, there being no need for any enquiry into the precise prior status of those territories.”¹⁶

2. A renewed undertaking on the part of Israel to respect United Nations law

39. Israel is bound by a consolidated undertaking to respect the Charter and the law deriving from it because of the particular circumstances surrounding its admission to the United Nations. The plan to divide Palestine into a Jewish State and an Arab State, adopted by the United Nations General Assembly on 29 November 1947, was deemed unjust and not accepted by the Palestinians and the Arab States of the region. This led to the outbreak of the first Arab-Israeli war of 1948-49, allowing Israel to conquer around half of the territory which the United Nations had intended to become an Arab State.

40. That was the context, as created by the balance of power, in which Israel applied for admission to the United Nations on 29 November 1948, one year after the vote on the partition resolution. The Security Council initially rejected the application, since Member States were concerned that Israel did not appear ready to comply with its obligations under the Charter and subsequent resolutions.

41. After Israel had given an assurance during the debates that it would respect the United Nations resolutions¹⁷, it was admitted to membership on 11 May 1949, specific reference

¹⁶ *Legal Consequences of the construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion of 9 July 2004, ICJ Reports 2004*, p. 177, para. 101.

¹⁷ “Declaration accepting obligations under the Charter”, Official declaration from the Minister for Foreign Affairs of Israel to the United Nations Secretary-General, 29 November 1948, United Nations, Security Council, S/1093 (**Ann. 2**).

being made to the undertaking given by that State to honour its obligations under the Charter unreservedly:

“Noting furthermore the declaration by the State of Israel that it ‘unreservedly accepts the obligations of the United Nations Charter and undertakes to honour them from the day when it becomes a Member of the United Nations’,

Recalling its resolutions of 29 November 1947 and 11 December 1948 and taking note of the declarations and explanations made by the representative of the Government of Israel before the *ad hoc* Political Committee in respect of the implementation of the said resolutions.”¹⁸

42. Despite giving its word, Israel immediately applied its legislation to the territories occupied in 1948, thereby formally confirming their annexation by force. The same was the case for West Jerusalem, which was declared the capital of Israel in January 1950. The military occupation of the entire Palestinian territory in 1967 ushered in another series of violations of the norms embodied in the Charter. For Israel, there has never been anything temporary about those measures, despite the lack of any international settlement of the situation. And Israel has shown its disregard for its international undertakings on numerous occasions.

43. However, the fact that ever more breaches of the law were committed in no way validates those breaches. Since what is at stake here is the fate and the very survival of a people, Israel must be reminded that on joining the United Nations, it gave specific undertakings which indeed it has solemnly and publicly reiterated. Israel is therefore called upon to cease the repeated and widespread violations of these undertakings that it has been committing over the last 58 years.

3. Specific provisions of the law in force give added weight to the opinion requested of the Court

44. In asking the International Court of Justice to give an advisory opinion on the question raised, the General Assembly is merely exercising a possibility open to it under Article 96 of the Charter of the United Nations. However, the Court will observe that the approach taken by the General Assembly is supported by the terms of the 1946 Convention on the Privileges and Immunities of the United Nations (hereinafter the “1946 Convention”). Article VIII, section 30, of that Convention stipulates:

“All differences arising out of the interpretation or application of the present convention shall be referred to the International Court of Justice, unless in any case it is agreed by the parties to have recourse to another mode of settlement. *If a difference arises between the United Nations on the one hand and a Member on the other hand, a request shall be made for an advisory opinion on any legal question involved in accordance with Article 96 of the Charter and Article 65 of the Statute of the Court. The opinion given by the Court shall be accepted as decisive by the parties*” (emphasis added).

45. Of particular note is the provision that States parties to the Convention shall accept the Court’s opinion as “decisive”. This uncommon wording ensures that its effect is fully understood. According to the dictionary *Le Robert*, the term “decisive” [*décisif* in French] means “resolving an issue, settling a debate”.

¹⁸ United Nations General Assembly, resolution 273 (III) of 11 May 1949 (**Ann. 3**).

46. Consequently, despite the fact that these are advisory proceedings, Israel is obliged under the terms of this provision to respect the conclusions of the opinion that is to be rendered, since the debate will thus have been “settled”. That is what follows from the undertaking given by Israel when it acceded to this Convention.

47. Out of the same concern for scrupulous compliance with the provisions of the Convention by the States parties, the drafters added a section 34 to the final provisions, stating: “It is understood that, when an instrument of accession is deposited on behalf of any Member, the Member will be in a position under its own law to give effect to the terms of this convention.” In violating the provisions of this Convention as it has done on numerous occasions, and even more blatantly with the recent laws terminating UNRWA’s activities, Israel is reneging not only on its principal commitments under the Convention, but also on its assurance that it would give effect to the provisions under its own law.

4. The impossibility of terminating an undertaking without prior negotiation

48. As the Secretary-General of the United Nations recalled in his letter of 27 January 2025 to the Permanent Representative of Israel to the United Nations, no modification or termination of UNWRA’s activities in the Occupied Palestinian Territory, including East Jerusalem, can be effected unilaterally. The principle of *pacta sunt servanda* is the cornerstone of international society¹⁹. Hence, a State may not withdraw from a treaty in force unless it complies with the conditions laid down for such withdrawal. Those conditions are set forth in Article 54 of the Convention on the Law of Treaties of 23 May 1969, which provides:

“The termination of a treaty or the withdrawal of a party may take place:

- (a) in conformity with the provisions of the treaty; or
- (b) at any time by consent of all the parties after consultation with the other contracting States.”

Withdrawal can thus only take place by consent of all the parties and after consultation with all the other States parties.

49. Compliance with this provision was invoked by the Secretary-General of the United Nations in his letter of 27 January 2025 to the Permanent Representative of Israel to the United Nations. Withdrawal from an international undertaking cannot take place without prior consultation and negotiation, in this case between Israel and UNRWA, with the necessary endorsement of the United Nations General Assembly.

50. The Court had occasion to pronounce on a case that was comparable in some respects in its 1980 Advisory Opinion. It stressed at that time the need for negotiations to be conducted in good faith, and for reasonable periods of time to be determined:

“Moreover, the paramount consideration both for the Organization and the host State in every case must be their clear obligation to co-operate in good faith to promote the objectives and purposes of the Organization as expressed in its Constitution; and this too means that they must in consultation determine a reasonable period of time to

¹⁹ Art. 26 of the Vienna Convention on the Law of Treaties of 23 May 1969, “‘*Pacta sunt servanda*’ Every treaty in force is binding upon the parties to it and must be performed by them in good faith.”

enable them to achieve an orderly transfer of the Office from the territory of the host State.”²⁰

51. In the present case, Israel’s unilateral approach and the short period of time accorded to UNRWA for its implementation contravene the requirements laid down by the Court in a similar case and are in breach of the relevant provisions of the law of treaties.

III. Israel’s lack of valid title under international law over the Occupied Palestinian Territory

52. It follows from all the norms that constitute international law and the conclusions drawn from them by the International Court of Justice that Israel has no valid title over the Palestinian territory, including East Jerusalem. It must withdraw from that territory. Nonetheless, inasmuch as Israel continues to occupy the territory, it remains subject to the obligations arising from the application of humanitarian law in the event of armed conflict, and may not hinder the activities of United Nations bodies, other intergovernmental organizations and third States in that territory. It is the Palestinian Liberation Organization (hereinafter the “PLO”), operating in the Palestinian territory through the Palestinian Authority which, as representative of the people holding the right to self-determination, should have the freedom to decide on that matter, but is impeded in doing so by Israel’s illegal occupation.

1. Israel has no sovereignty over any part of the Palestinian territory

53. The State of Israel was created recently (in 1948), following immigration mainly from Europe to an area of land, Palestine, which had been occupied for centuries by another people. The great confusion and bouts of terrible violence that marked the period of the British Mandate culminated, on the responsibility of the United Nations General Assembly, in the partition resolution of 29 November 1947. This resolution, issued by an organ that had no authority over the distribution of territories between peoples and States, did not in itself create any rights for the Jews who had come to Palestine.

54. Their rights to a portion of Mandatory Palestine gained validity under international law only when the PLO gave force in its 1988 Declaration of Independence to what was merely a non-binding recommendation of the General Assembly:

“Despite the historical injustice done to the Palestinian Arab people in its displacement and in being deprived of the right to self-determination following the adoption of General Assembly resolution 181 (II) of 1947, which partitioned Palestine into an Arab and a Jewish State, that resolution nevertheless continues to attach conditions to international legitimacy that guarantee the Palestinian Arab people the right to sovereignty and national independence.”²¹

55. Indeed, Israel could only hold title to a portion of Palestine with the consent of the native people. That is the fundamental principle of the right of peoples to self-determination. Consent was

²⁰ *Interpretation of the Agreement of 25 March 1951 between the WHO and Egypt, Advisory Opinion, I.C.J. Reports 1980, p. 96, para. 49.*

²¹ Declaration of Independence of Palestine, 15 November 1988, 19th extraordinary session of the Palestine National Council, in Letter dated 1[8] November 1988 from the Permanent Representative of Jordan to the United Nations addressed to the Secretary-General, United Nations General Assembly, A/43/827 S/20278, 18 Nov. 1998.

given, very reluctantly it must be said, but it was given, initially in 1988 and then confirmed in 1993, when the Interim Agreement signed on that date led to mutual recognition between Israel and Palestine²². However, that agreement was concluded on the basis of a dividing line referred to as the Green Line, i.e. the line established by the Armistice Agreements signed in 1949 after the first Arab-Israeli war.

56. Beyond this line lies the territory upon which the Palestinian people are called upon to build their State. But in 1967, that territory was forcibly occupied by Israel, which has not withdrawn from it since. This military occupation in no way equates to the exercise of sovereignty over any part of the Palestinian territory, be it East Jerusalem, which was nonetheless annexed by Israel in 1980, the West Bank or Gaza. That was in fact the finding of the International Court of Justice in its Advisory Opinion of 19 July 2024: “The Court considers that Israel is not entitled to sovereignty over or to exercise sovereign powers in any part of the Occupied Palestinian Territory on account of its occupation.”²³

57. Without sovereignty, Israel has no legitimacy to make decisions concerning actions delegated to international organizations or third States in this territory.

2. Israel’s military occupation of the Occupied Palestinian Territory, including East Jerusalem, is unlawful

58. Under international law, military occupation is a factual situation which results from armed operations and in no circumstances gives legal title to the State that has invaded a foreign territory with its army. This notion, applied in all conflicts, is necessary to ensure that the occupying Power complies with all the obligations incumbent upon it under humanitarian law in the event of armed conflict, the main texts in this respect being the 1907 Hague Regulations and the 1949 Geneva Conventions.

59. The question of the lawfulness of the occupation arises in the first place if the occupation is the result of illegal use of force, and secondly if, having been prolonged indefinitely and where there is no prospect of withdrawal, that occupation masks a plan for annexation. These two conditions of unlawfulness are met in the case of Israel.

60. On the basis of this fact, Israel’s military presence in the Palestinian territory, including East Jerusalem, was recently analysed and characterized by the Court in its Advisory Opinion of 19 July 2024. It noted that:

“Israel’s policies and practices, including the maintenance and expansion of settlements, the construction of associated infrastructure, including the wall, the exploitation of natural resources, the proclamation of Jerusalem as Israel’s capital, the comprehensive application of Israeli domestic law in East Jerusalem and its extensive application in the West Bank, entrench Israel’s control of the Occupied Palestinian Territory, notably of East Jerusalem and of Area C of the West Bank. These policies and practices are designed to remain in place indefinitely and to create irreversible effects on the ground.

²² Oslo Accord, Declaration of Principles on Interim Self-Government Arrangements, 13 September 1993, in Report of the Secretary-General on the Work of the Organization, United Nations General Assembly and Security Council, 11 Oct. 1993, A/48/486-S/26560 (**Ann. 4**).

²³ *Legal Consequences Arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, Including East Jerusalem*, Advisory Opinion, 19 July 2024, p. 71, para. 254.

Consequently, the Court considers that these policies and practices amount to annexation of large parts of the Occupied Palestinian Territory.”²⁴

61. Recalling the prohibition of the acquisition of territory by force, the Court went on to find that Israel’s policies and practices manifested an intention to create a permanent and irreversible Israeli presence in the Occupied Palestinian Territory, that this amounted to the annexation of large parts of the Palestinian territory and that it impeded the exercise by the Palestinian people of its right to self-determination. It concluded on that basis that there was a violation of the fundamental principles of international law, rendering Israel’s presence in the Occupied Palestinian Territory since 1967 unlawful, and that this illegality related to the entirety of that territory²⁵.

62. Hence, given that Israel has no title of sovereignty over the Occupied Palestinian Territory and that this occupation, having been prolonged indefinitely and manifesting an intention of annexation, has been declared unlawful, it must be concluded that this State has no legal competence to decide on the presence or actions of international organizations or third States in the Occupied Palestinian Territory. It does, however, have an obligation to protect the population.

63. This obligation arises from the fact of occupation, whether legal or illegal. Yet Israel continues to consider that the Gaza Strip is no longer an occupied territory, arguing that it withdrew its settlements in 2005. The alleged withdrawal from Gaza in a highly publicized operation conducted by Ariel Sharon has not prevented Israel from maintaining complete control over the Gaza Strip, which has led the International Court of Justice to find that Gaza remains an occupied territory²⁶.

64. Through a one-sided interpretation of the terms of the Advisory Opinion rendered by the Court on 19 July 2024, the Representative of Israel to the United Nations professed to find support for Israel’s position in the following words of the Court:

“Thus, the Court is of the view that the policies and practices contemplated by the request of the General Assembly do not include conduct by Israel in the Gaza Strip in response to the attack carried out against it by Hamas and other armed groups on 7 October 2023.”²⁷

65. A reading of the full paragraph in the Opinion sheds light on the meaning of this sentence. Since the request for an advisory opinion was dated 30 December 2022, the Court stated that the events subsequent to 7 October 2023 were not covered by the request. The Court was merely noting its jurisdiction *ratione temporis* in this sentence.

66. In the same Advisory Opinion, the Court subsequently addressed the question of the legal status of the Gaza Strip and concluded:

“Based on the information before it, the Court considers that Israel remained capable of exercising, and continued to exercise, certain key elements of authority over the Gaza Strip, including control of the land, sea and air borders, restrictions on

²⁴ *Ibid.*, p. 51, para. 173.

²⁵ *Ibid.*, p. 72, para. 262.

²⁶ *Ibid.*, pp. 28-31, paras. 86-94.

²⁷ *Ibid.*, p. 27, para. 81.

movement of people and goods, collection of import and export taxes, and military control over the buffer zone, despite the withdrawal of its military presence in 2005. This is even more so since 7 October 2023.

In light of the above, the Court is of the view that Israel's withdrawal from the Gaza Strip has not entirely released it of its obligations under the law of occupation. Israel's obligations have remained commensurate with the degree of its effective control over the Gaza Strip."²⁸

As the Secretary-General of the United Nations noted in a letter of 8 January 2025, Israel's claim that it is not bound by humanitarian law in the Gaza Strip because it is not the occupying Power therefore conflicts with the conclusions of the International Court of Justice²⁹.

3. The illegality of Israel's occupation of the Palestinian territory does not exempt it from the obligation to apply all the relevant norms of international law in that territory

67. Israel is an occupier without title, but not without duties in the Palestinian territory. Indeed, the characterization of the occupation as lawful or unlawful does not affect the obligations incumbent upon the occupying Power. These obligations arise from the fact of occupation itself. That is the conclusion reached by the International Court of Justice:

"The Court emphasizes that the conclusion that Israel's continued presence in the Occupied Palestinian Territory is illegal does not release it from its obligations and responsibilities under international law, particularly the law of occupation, towards the Palestinian population and towards other States in respect of the exercise of its powers in relation to the territory until such time as its presence is brought to an end"³⁰.

68. Israel's obligations in this respect arise from the entire body of international law. They include obligations both towards United Nations staff operating in the occupied territory and towards the occupied population.

Obligations towards United Nations staff

69. Being bound by the provisions of international conventions and the agreement concluded with UNRWA, Israel has a duty to afford protection to UNRWA staff, officials and experts, as well as to staff of other United Nations bodies and intergovernmental organizations of the United Nations system (UNESCO, WHO). Those persons enjoy such privileges and immunities as are necessary for the exercise of their functions. That includes the possibility for such staff to obtain visas (under Article VII, sections 24 to 28, of the 1946 Convention), to enter and exit at checkpoints, to benefit from facilities in respect of communications (under Article III, sections 9 and 10, of the Convention) and from immunity from legal process (under Article V, section 18 (a), and Article VI, section 22 (b), of the Convention).

²⁸ *Ibid.*, pp. 30-31, paras. 93-94.

²⁹ Identical letters dated 8 January 2025 from the Secretary-General addressed to the President of the General Assembly and the President of the Security Council, United Nations General Assembly, A/79/716-S/2025/18.

³⁰ *Legal Consequences Arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, Including East Jerusalem, Advisory Opinion*, 19 July 2024, p. 72, para. 264.

70. The protection of the premises of the organizations concerned is another undertaking on the part of Israel under the terms of Article II, section 3, of the above-mentioned Convention.

71. The archives of the organizations in question and all the documents belonging to or held by them also benefit from the protection provided for in the texts (Article II, section 4, of the Convention).

72. The legal régime granted to United Nations bodies also covers exemption from taxes (under Article II, Section 7 (b), of the 1946 Convention). Under this provision, the occupying Power undertakes to exempt from all customs duties and prohibitions and restrictions on imports or exports any products imported or exported by the United Nations into or from the Occupied Palestinian Territory.

Obligations towards the occupied population

73. It follows from general international law that the occupying Power must respect, vis-à-vis the occupied population, all the rights set out in the International Bill of Human Rights, whether they are civil and political rights or economic, social and cultural rights. Respect for these rights already entails, in itself, onerous obligations for the occupying Power, which must ensure all freedoms and guarantee rights for the entire population.

74. However, because this is a case of military occupation, the duties of the occupying Power in the case of armed conflict are defined more precisely in humanitarian law, and particularly in the Fourth Geneva Convention of 12 August 1949. Israel accordingly has a duty to protect the Palestinian people under occupation in a number of ways, the most important of which are as follows:

- the general obligation to protect persons who are in the hands of an occupying Power of which they are not nationals;
- the obligation to shelter wounded and civilian persons from war;
- the obligation to protect hospitals from war at all times;
- the protection of hospital staff;
- the protection of convoys transporting the wounded and sick;
- the free passage of consignments of medical stores;
- the prohibition on causing physical suffering to civilian persons;
- the prohibition on forcible transfers or deportations;
- the obligation to ensure that removals, where necessary, are effected in satisfactory conditions of hygiene, health, safety and nutrition, and that members of the same family are not separated;
- the obligation to ensure the care and education of children;
- the prohibition on destroying real or personal property belonging to protected persons;
- the obligation to ensure the food and medical supplies of the population;

- the obligation, if the population of an occupied territory is inadequately supplied, to agree to relief schemes on behalf of that population;
- the prohibition in occupied territory on the collection of any charges, taxes or customs duties on relief consignments.

75. The military occupation of a foreign territory by a State is therefore strictly regulated so as to ensure the best possible protection for civilian populations, who are generally seriously affected by the situation.

4. The Palestinian Authority has concluded its own agreements with intergovernmental organizations

76. When the Oslo Accords, and in particular the 199[5] Interim Agreement, established a Palestinian Authority in the West Bank, the Authority's powers did not extend to foreign relations. However, Article IX, paragraph 5, of that agreement acknowledged that the Council of the Palestinian Authority could conclude certain agreements, including with international organizations, for development or cultural actions:

“5.

.....

- b. ... [T]he PLO may conduct negotiations and sign agreements with states or international organizations for the benefit of the Council in the following cases only:
 - (1) economic agreements, as specifically provided in Annex V of this Agreement;
 - (2) agreements with donor countries for the purpose of implementing arrangements for the provision of assistance to the Council;
 - (3) agreements for the purpose of implementing the regional development plans detailed in Annex IV of the DOP or in agreements entered into in the framework of the multilateral negotiations, and
 - (4) cultural, scientific and educational agreements.
- c. Dealings between the Council and representatives of foreign states and international organizations, as well as the establishment in the West Bank and the Gaza Strip of representative offices other than those described in subparagraph 5.a above, for the purpose of implementing the agreements referred to in subparagraph 5.b above, shall not be considered foreign relations.”³¹

77. It is worth recalling that the Oslo II Accord provided that permanent status negotiations would begin no later than 4 May 1996³². This was a promising development. It was during this period that the Palestinian Authority, applying the possibilities afforded by the above text, concluded on 24 June 1994 an Exchange of Letters with the Commissioner-General of UNRWA, according to

³¹ Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip, Oslo II Accord, 28 September 1995, in Report of the Secretary-General on the Work of the Organization, United Nations General Assembly and Security Council, 5 May 1997, A/51/889-S/1997/357 (**Ann. 5**).

³² *Ibid.*, Art. XXXI, para. 5.

which UNRWA would continue, at the PLO's request, to provide assistance to the Palestinian people in the regions over which the Authority had jurisdiction. On similar lines, an agreement was signed on 5 July 1996 in Ramallah between UNRWA and the PLO concerning the location of UNRWA's headquarters in Palestinian territory. This agreement incorporated all the provisions of the 1946 Convention (to which the PLO was not a party).

78. In the same spirit, an agreement was concluded between UNESCO and the PLO on 24 May 1997 providing for the establishment of a UNESCO Liaison Office in the Palestinian territory. A letter of intent was also signed in 2014, and renewed in 2018, between the Food and Agriculture Organization and the PLO.

79. A strange situation thus arose, in which the same organization (UNRWA) had managed to conclude two agreements with two different entities (the State of Israel and the PLO) concerning its activities in the same territory. It is true that over time, with the deterioration of the situation in Palestine, the considerable weakening of the Palestinian Authority and Israel's growing resolve to increase its control over the Occupied Palestinian Territory, the international organizations' relationship with Israel took precedence over that with the Palestinian representatives.

80. We would observe here that Israel, as the illegal military occupier of the Occupied Palestinian Territory, has taken advantage of a situation of its own making and substituted itself for the Palestinian institutions in relations with international organizations. However, the significant deterioration of relations between Israel and UNRWA in particular means that the vital function performed by that Agency, and by extension the function of assistance and protection of the population, are now in jeopardy.

IV. The illegality of the measures taken by Israel against UNRWA, Israel's obligation to revoke them, and the rights of intergovernmental organizations and third States

81. The measures taken by Israel against UNRWA are blatantly and highly illegal, both vis-à-vis United Nations officials and experts and vis-à-vis the Palestinian population. All these unlawful acts are coupled with a further, overarching illegality, which consists of impeding the right of the Palestinian people to self-determination. The argument behind which Israel is hiding in order to justify the measures taken is irrelevant. Consequently, Israel must revoke these measures. All organizations and third States are entitled to continue their activities in the Occupied Palestinian Territory, subject to the consent of the representatives of the Palestinian people.

1. Israel's flagrant and widespread violations of the norms in force

82. Israel's serious breaches of its undertakings towards the United Nations are in themselves flagrant violations of international law, but their consequences also have the effect of exacerbating Israel's breaches of all the obligations incumbent on an occupying Power under international law in respect of the occupied population.

Violations of Israel's obligations towards United Nations staff

83. Israel's practices in the Occupied Palestinian Territory constitute attacks on persons and property.

84. **Regarding persons**, as of 14 August 2024, more than 200 UNRWA staff were reported to have been killed in the conflict, in violation of the texts on human rights and on the protection that all States parties must afford United Nations staff under the 1946 Convention on Privileges and Immunities³³. On 13 November, that number had risen to 243, i.e. a further 43 people were killed in three months according to information provided on that date by the UNRWA Commissioner-General³⁴. UNRWA has hitherto reported 274 fatalities among its staff. There have also been reports of UNRWA staff being detained by Israeli security forces, with cases of torture and ill-treatment.

85. In December 2023, a convoy of seven vehicles visibly identifiable as United Nations vehicles was stopped by the Israeli security forces, who fired warning shots, preventing the convoy from continuing on its route. The person in charge of the convoy then contacted the Israeli Coordination and Liaison Administration. Despite confirmation from this administration that the convoy was authorized to follow the route in question, the firing continued and one of the vehicles was hit. This incident prompted the UNRWA Commissioner-General to send a protest to the Chief Coordinator of Israeli Government Activities in the Territories³⁵.

86. From the start of the military operations carried out by Israel after 7 October, the majority of UNRWA staff were displaced, together with their families³⁶. On at least four occasions, UNRWA missions of vital importance have been targeted by Israeli forces, injuring staff members and damaging property and supplies³⁷.

87. Breaching its obligation under Article VII of the 1946 Convention to grant travel facilities to United Nations officials and experts, Israel has imposed unprecedented obstacles on UNRWA's operations in Gaza, including movement and access restrictions that made it impossible for UNRWA staff to carry out their duties. The closure of crossing points into Gaza has resulted in the detention of five UNRWA staff members and numerous other access-related incidents. From 7 October, staff recruited at regional level were no longer granted permits to enter Jerusalem or Israel³⁸. In the other direction, access for UNRWA staff from Israel to Gaza, which had been denied in 33 per cent of cases before 7 October, was officially suspended from that date following the closure of the Erez crossing. Access was denied even to UNRWA humanitarian missions in 25 per cent of cases. Where visas were issued to UNRWA staff, they were for two months rather than one year, as had previously been the case.

88. The Israeli law of 28 October 2024 on the cessation of UNRWA activities contains a provision that directly threatens Agency staff with criminal proceedings:

“3. The provisions of this law shall not negate any criminal proceedings against UNRWA employees, including proceedings related to the events of 7 October 2023, or the Iron Swords War, or any other criminal proceedings under the provisions of the

³³ Letter dated 14 August 2024 from the Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East addressed to the President of the General Assembly, UN Dossier, II(A)(9), No. N32, p. 5024.

³⁴ UN News, 13 Nov. 2024, <https://news.un.org/en/story/2024/11/1156941>.

³⁵ Letter dated 31 December 2023 from the Commissioner-General of UNRWA addressed to the Coordinator of Government Activities in the Territories of the Ministry of Defense of Israel, UN Dossier, II(E), No. N295, pp. 1-3.

³⁶ Report of the Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East, United Nations General Assembly, 79th Session, Supplement No. 13, A/79/13, para. 4.

³⁷ *Ibid.*, para. 69.

³⁸ *Ibid.*, para. 64.

Counter-Terrorism Law, 2016, or the exercise of powers against them in such proceedings”³⁹.

89. This text violates the provisions of the 1946 Convention (Article V, section 18 (a), and Article VI, section 22 (b)). In a Note Verbale of 8 January 2025, the United Nations Office of Legal Affairs recalled the obligation of Israel as the occupying Power to comply with the provisions of the Convention to which it is a party and which shield United Nations staff from such proceedings, these being illegal⁴⁰.

90. The West Bank has not been spared. The Israeli security forces have used tear gas and other chemical irritants on numerous occasions (the UNRWA representative refers to 1,054 [canisters fired] between 7 October and 13 November 2023), targeting UNRWA schools in the Shu’fat camp and even a health centre there. Between 19 and 20 October 2023, these attacks caused a fire to break out in one of the camp’s schools, and because the checkpoint for the camp had been closed, the fire brigade was prevented from accessing the site of the fire⁴¹.

91. **Regarding property**, by 14 August 2024, the Israeli security forces had damaged 190 UNRWA premises⁴², most of them beyond repair. Schools have been damaged by Israeli air strikes. Deprived of access to the premises concerned, UNRWA is not even in a position to know exactly what damage has been done to its facilities, even though these premises are protected under the 1946 Convention (Article II, section 3).

92. In the West Bank and East Jerusalem, UNRWA premises, including schools, were hit or damaged on at least 50 occasions in 2023 by tear gas canisters, stun grenades, plastic-coated metal bullets or live ammunition fired by the Israeli security forces. A health centre was destroyed⁴³. In May 2024, the Israeli security forces entered the UNRWA health centre in Jenin. They remained there for around 24 hours and caused severe damage, destroying medical equipment and administrative documents, among other things⁴⁴.

93. In Jerusalem, Israel continues to consider itself the holder of sovereignty over this part of the Occupied Palestinian Territory and maintains its intention of terminating the 1967 Exchange of Letters between Israel and UNRWA. To that end, it instructed UNRWA to evacuate two properties in the city, one in the Maalot Dafna neighbourhood and the other in Kfar Aqueb. Finally, Israel

³⁹ Law for the Cessation of UNRWA Activities, in Letter dated 28 October 2024 from the Secretary-General addressed to the President of the General Assembly, United Nations General Assembly, 79th Session, 29 Oct. 2024, A/79/558, UN Dossier, II(A)(9) (n), No. N65.

⁴⁰ Note Verbale dated 8 January 2025 from the Office of Legal Affairs of the Secretariat of the United Nations addressed to the Ministry of Foreign Affairs of Israel, UN Dossier, [II(F), No. N306].

⁴¹ Letter dated 29 January 2024 from the Director of UNRWA Affairs in the West Bank of UNRWA addressed to the Director of the Department of UN Political Affairs of the Ministry of Foreign Affairs of Israel, [UN Dossier, II(F), No. N296].

⁴² Report of the Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East, United Nations General Assembly, 79th Session, Supplement No. 13, A/79/13, para. 6.

⁴³ *Ibid.*, paras. 89 and 90.

⁴⁴ Letter dated 28 August 2024 from the Director of UNRWA Affairs in the West Bank of UNRWA addressed to the Director of the Department of UN Political Affairs of the Ministry of Foreign Affairs of Israel, [UN Dossier, II(F), No. N298].

ordered UNRWA to vacate its premises in occupied East Jerusalem, including its headquarters in Shikh Jarrah, and to cease all its activities by 30 January 2025⁴⁵.

94. This decision was challenged by the Secretary-General of the United Nations. He noted on that occasion that Israel had no sovereignty over any part of the Occupied Palestinian Territory and therefore could not exercise any sovereign rights there. He explained that while Israel was an illegal occupier, it nevertheless remained bound by its international undertakings, and in particular by the provisions of the 1946 Convention rendering UNRWA property inviolable⁴⁶.

95. Despite its desire to continue its relief efforts towards the Palestinian population, UNRWA has had to resign itself to leaving its premises in Jerusalem, as the duration of staff visas has been cut short. Without visas, the international staff have had no choice but to leave the territory⁴⁷.

96. Contrary to Israel's undertakings under the 1946 Convention (Article II, section 7), the Israeli authorities are imposing severe restrictions on UNRWA's imports of the goods essential for its missions, particularly at the Eretz crossing in the north of the Gaza Strip. This is forcing the Agency to use the Kerem Shalom crossing near the Egyptian border to bring in food, construction materials, medicines and medical devices, resulting in increased transportation costs⁴⁸. In addition, UNRWA is obliged to pay transit fees, seen as a direct tax in breach of the provisions of the 1946 Convention.

97. In relation to all its activities in the Occupied Palestinian Territory, UNRWA has claimed a refund from the Israeli tax authority for amounts wrongly levied totalling US\$2,997,000. The Agency is calling for the application of the relevant provisions of the 1946 Convention (Article II, sections 7 and 8), whereby it is to be exempted from these taxes⁴⁹.

98. Putting into immediate effect Israel's decision to terminate UNRWA's activities in the territory of the State of Israel, the Jerusalem Customs Office refused on 6 November 2024 to grant UNRWA exemption from import taxes in respect of a shipment containing computers and laptops with their accessories for the Agency's offices, clinics and schools. This measure was the subject of a protest dated 18 November 2024 from the United Nations Office of Legal Affairs. The Office recalled that this measure contravenes the 1946 Convention (Article II, section 7 (*b*)), as well as paragraph (*f*) (i) of the Exchange of Letters of 14 June 1967 governing relations between UNRWA and Israel and granting UNRWA exemption from customs duties, taxes and charges on importations of supplies, goods and equipment — an agreement which, on the date of the action taken by the United Nations Office of Legal Affairs, was still in force⁵⁰.

⁴⁵ Letter dated 24 January 2025 from the Permanent Representative of Israel to the United Nations addressed to the Secretary-General, UN Dossier, II(F), No. N307.

⁴⁶ Letter dated 27 January 2025 from the Secretary-General addressed to the Permanent Representative of Israel to the United Nations, Section II(F), No. N308.

⁴⁷ UN News, 30 Jan. 2025, <https://news.un.org/fr/story/2025/01/1152656>.

⁴⁸ Report of the Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East, United Nations General Assembly, 79th Session, Supplement No. 13, A/79/13, para. 79.

⁴⁹ Letter dated 11 September 2024 from the Acting Director of UNRWA Affairs in the West Bank of UNRWA addressed to the Director of the Department of UN Political Affairs of the Ministry of Foreign Affairs of Israel, [UN Dossier, II(F), No. N299].

⁵⁰ Note Verbale dated 18 November 2024 from the Office of Legal Affairs of the Secretariat of the United Nations addressed to the Ministry of Foreign Affairs of Israel, UN Dossier, II(F), No. N303.

99. On 20 November 2024, the Israeli authorities again refused to grant UNRWA tax exemption for a shipment of pharmaceutical products. The United Nations Office of Legal Affairs protested in a Note Verbale of 4 December 2024⁵¹.

100. In the West Bank, during the attack by the Israeli security forces on the UNRWA health centre in Jenin in May 2024, sensitive administrative documents were destroyed, in breach of the confidentiality and integrity of UNRWA's archives and in spite of the fact that these archives are afforded specific protection under the 1946 Convention (Article II, section 4)⁵².

Violations of Israel's obligations towards the Palestinian population and obstruction of UNRWA operations

101. The direct threats to UNRWA staff in the Occupied Palestinian Territory are severely hindering the Agency's work and in themselves constitute serious illegalities under international law. But they have a further unlawful effect in that they constitute an existential threat to the Palestinian people, given the role this Agency plays in ensuring the survival of a people in extremely difficult circumstances. The measures taken by Israel highlight that State's breaching of its obligations as an occupying Power, in particular its obligation under Article 27 of the Fourth Geneva Convention of 12 August 1949 to respect protected persons in all circumstances and to treat them humanely.

102. Under normal conditions in the Occupied Palestinian Territory, UNRWA operates almost 400 schools providing education to more than 350,000 children, over 65 primary health clinics carrying out more than 5 million medical consultations, and one hospital. The Agency also provides polio vaccination services, social services and emergency relief, benefiting more than 1.2 million people. In Gaza, UNRWA is the main provider of basic and essential services. These facts led the Secretary-General of the United Nations to note on 28 October 2024 that:

“UNRWA is the principal means by which essential assistance is supplied to Palestine refugees in the Occupied Palestinian Territory. There is currently no realistic alternative to UNRWA which could adequately provide the services and assistance required, whether it be other United Nations entities, other international organizations or any other entity. The cessation of or restrictions on its activities would leave Palestine refugees without the essential assistance that they require.”⁵³

103. The population of Gaza was dependent on UNRWA's services well before 7 October because of the blockade imposed by Israel on the territory. Since 7 October, however, it has become even more reliant on these services, with UNRWA's vital humanitarian aid operations playing a crucial role in the merciless war being waged by the occupying Power against the inhabitants of the Gaza Strip. Forced to flee, this population owes its relative survival to UNRWA's continued action.

104. However, the conditions created by the war have substantially reduced UNRWA's ability to provide any form of aid. This is mainly due to the access restrictions imposed by the Israeli

⁵¹ Note Verbale dated 4 December 2024 from the Office of Legal Affairs of the Secretariat of the United Nations addressed to the Ministry of Foreign Affairs of Israel, UN Dossier, II(F), No. N304.

⁵² Letter dated 28 August 2024 from the Director of UNRWA Affairs in the West Bank of UNRWA addressed to the Director of the Department of UN Political Affairs of the Ministry of Foreign Affairs of Israel, [UN Dossier, II(F), No. N298].

⁵³ United Nations General Assembly, Letter dated 28 October 2024 from the Secretary-General addressed to the President of the General Assembly, A/79/558.

authorities, which are considerably limiting the opportunities for UNRWA to distribute supplies. In October 2024, for example, only some 30 humanitarian trucks were entering Gaza each day, which represents 6 per cent of the amount of commercial and humanitarian supplies authorized before the war. In addition, according to the United Nations Office for Humanitarian Affairs, almost half the population lacks the minimum 15 litres of water per person per day for drinking, cooking and hygiene⁵⁴.

105. UNRWA has had to convert its premises into shelters providing protection, food and medical care to 1.37 million people⁵⁵. However, in defiance of the provisions of the 1946 Convention, which declares United Nations premises to be inviolable (Article II, section 3), these premises have been targeted by the Israeli security forces, killing 560 people who had taken refuge there. The protection that the occupying Power owes to protected persons has thus tragically been turned into slaughter, in breach of Article 51, paragraph 5, of the Additional Protocol to the Fourth Geneva Convention.

106. By the end of 2023, i.e. following three months of intensive bombing of the Gaza Strip, UNRWA was providing food aid to 1.2 million Gazans, distributing 15.1 million litres of water and conducting an average of 24,000 medical consultations per day. In spite of UNRWA's efforts, the measures taken by Israel to limit the amount of humanitarian supplies entering Gaza meant that after three months of war, around 22 per cent of the population of Gaza was facing acute food insecurity and 42 per cent emergency food insecurity, making famine imminent⁵⁶. Yet Article 54, paragraph 1, of the Protocol Additional to the Fourth Geneva Convention, codifying a principle of customary law, states that "[s]tarvation of civilians as a method of warfare is prohibited".

107. In response to the deterioration of the situation since 8 October 2023, UNRWA has set up 93 mobile health centres providing 12,110 consultations per day, and a further eight health centres in the middle area between Khan Younès and Rafah, carrying out 12,557 consultations per day on average⁵⁷.

108. What is most tragic, however, is of course the bombing of Palestinian hospitals in Gaza, in violation of Article 18, paragraph 1, of the Fourth Geneva Convention, according to which: "[c]ivilian hospitals organized to give care to the wounded and sick, the infirm and maternity cases, may in no circumstances be the object of attack, but shall at all times be respected and protected by the Parties to the conflict".

109. In a joint statement issued on 2 January 2025, independent experts from the United Nations called for an end to the blatant disregard of the right to health in Gaza, following the raid on Kamal Adwan Hospital and the arbitrary arrest and detention of its director, Dr Hussam Abu Safiya. That hospital was the last remaining of the 22 hospitals that have now been destroyed. More than 1,057 Palestinian health and medical professionals have been killed so far and many have been

⁵⁴ UN News, 6 Nov. 2024, <https://news.un.org/en/story/2024/11/1156606>.

⁵⁵ Report of the Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East, United Nations General Assembly, 79th Session, Supplement No. 13, A/79/13, para. 4.

⁵⁶ *Ibid.*, para. 12.

⁵⁷ *Ibid.*, para. 45.

arbitrarily arrested. Twelve thousand people in Gaza still require medical evacuation. Evacuations face considerable delays because of the approval requirements introduced by Israel⁵⁸.

110. Education in Gaza, which was largely provided by UNRWA (more than half a million children were in school), has been profoundly affected by the war, since schools have been turned into shelters for displaced persons and many educational establishments have been damaged by the fighting.

111. The population of the West Bank is also suffering from Israel's obstruction of UNRWA operations in that part of the Occupied Palestinian Territory. In 2023, 1,145 operations carried out by the Israeli security forces around refugee camps involved air strikes and caused massive destruction. In addition, increased food insecurity and the need for temporary accommodation affected 984 households in the West Bank in 2023, with UNRWA providing assistance to 80 per cent of those families⁵⁹.

112. These facts show the extent to which UNRWA's activities in the Occupied Palestinian Territory are irreplaceable. While it is true that other United Nations agencies and numerous non-governmental organizations are providing Palestinians with assistance in various areas, none of them has the experience acquired by UNRWA over its 70 years of activity in Palestine. That long experience and its knowledge of Palestinian society enable UNRWA to provide the inhabitants with customized aid.

113. It can be concluded from this overview of the acts committed by Israel in the Occupied Palestinian Territory that they constitute war crimes, perpetrated in breach of the norms of humanitarian law in the event of armed conflict. That is the conclusion reached by the International Criminal Court, which has issued arrest warrants for Benjamin Netanyahu and Yoav Gallant. The Court found that both these individuals had intentionally and knowingly deprived the civilian population in Gaza of objects indispensable to their survival, and that their conduct had led to the disruption of the ability of humanitarian organizations to provide food and other essential goods to the population in need in Gaza⁶⁰.

2. Violation of the fundamental norm of the right of peoples to self-determination

114. The war crimes committed by Israel against the Palestinian population and all those providing it with relief are of such gravity and such cruelty that they occupy all the media's attention. But they have a secondary effect which needs to be exposed, namely that they are masking a broader and more existential offence against the Palestinian people, that of denying them the fundamental right to self-determination. Although this right is peremptorily enshrined in international law, the Palestinians' need to fight for their survival because of the conditions imposed on them by Israel is making their goal of freedom ever more remote.

⁵⁸ UN News, 2 Jan. 2025, <https://news.un.org/en/story/2025/01/1158686>.

⁵⁹ Report of the Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East, United Nations General Assembly, 79th Session, Supplement No. 13, A/79/13, para. 39.

⁶⁰ International Criminal Court, Situation in the State of Palestine, Pre-Trial Chamber I, 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, Press Release, 21 Nov. 2024 (the decision to issue the arrest warrants is not public and the warrants are classified as "secret").

The right of peoples to self-determination, a paramount norm of general peremptory law

115. The Palestinian people holds the right to self-determination under two separate and mutually reinforcing sources of law. It benefits from the first specific articulation of that right in international law in the League of Nations Covenant. And it likewise benefits from the enhanced and generalized articulation of that same right under the auspices of the United Nations.

116. The A Mandates established by the Covenant of the League of Nations for a number of peoples that had belonged to the Ottoman Empire were conceived as transitional régimes intended to enable the peoples concerned to move to independence. This followed from Article 22 of the Covenant:

“Certain communities formerly belonging to the Turkish Empire have reached a stage of development where their existence as independent nations can be provisionally recognized, subject to the rendering of administrative advice and assistance by a Mandatory until such time as they are able to stand alone. The wishes of these communities must be a principal consideration in the selection of the Mandatory.”

117. This category of Mandates was thus created as a step on the way to decolonization. That was indeed the interpretation given by the Court in 2024, in its Advisory Opinion on the wall built by Israel in the Occupied Palestinian Territory:

“The Court would recall that in 1971 it emphasized that current developments in ‘international law in regard to non-self-governing territories, as enshrined in the Charter of the United Nations, made the principle of self-determination applicable to all [such territories]’. The Court went on to state that ‘These developments leave little doubt that the ultimate objective of the sacred trust’ referred to in Article 22, paragraph 1, of the Covenant of the League of Nations ‘was the self-determination . . . of the peoples concerned’ (*Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970)*, *Advisory Opinion*, *I.C.J. Reports 1971*, p. 31, paras. 52-53).”⁶¹

118. What was not yet a general norm under the League of Nations system became one under the United Nations. The right of peoples to self-determination is now a central norm of international law. Enshrined in Article 1, paragraph 2, and Article 55 of the Charter of the United Nations, much more demanding substance was given to this right when colonization was condemned in 1960, with the adoption by the United Nations General Assembly of the Declaration on the granting of independence to colonial countries and peoples⁶². This presents the right to decolonization as an absolute principle binding upon all States and covering all colonized territories, irrespective of the legal status given to them by the colonizer.

119. The right of peoples to self-determination was then strengthened and acquired treaty force when it was included in the two United Nations Covenants, both adopted on 16 December 1966, the Covenant on Civil and Political Rights and the Covenant on Economic, Social and Cultural Rights:

⁶¹ *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, *Advisory Opinion*, *I.C.J. Reports 2004 (I)*, p. 172, para. 88.

⁶² United Nations General Assembly, resolution 1514 of 14 December 1960.

“Article 1.1. All peoples have the right of self-determination”. And this norm was cited as an example of a rule of *jus cogens* by the International Law Commission in its report on the law of treaties⁶³.

120. Such is the importance of the right to self-determination that the United Nations General Assembly has reaffirmed the legitimacy of national liberation struggles conducted by all means necessary. This emerges from resolution 3070 of 30 November 1973, which affirms “the legitimacy of the peoples’ struggle for liberation from colonial and foreign domination and alien subjugation by all available means, including armed struggle”⁶⁴.

121. Violation of the right of peoples to self-determination constitutes an international crime, as was recognized in United Nations General Assembly resolution 2621 in 1970, in which the General Assembly declared:

“the further continuation of colonialism in all its forms and manifestations a crime which constitutes a violation of the Charter of the United Nations and the Declaration on the Granting of Independence to Colonial Countries and Peoples and the principles of international law”⁶⁵.

122. The International Court of Justice has consistently reaffirmed in a series of judgments and advisory opinions that the right of peoples to self-determination is a norm of positive law, and has on occasion described it as having *erga omnes* legal force:

“[T]he Court has already observed (paragraph 88 above) that in the *East Timor* case, it described as ‘irreproachable’ the assertion that ‘the right of peoples to self-determination, as it evolved from the Charter and from United Nations practice, has an *erga omnes* character’ (*I.C.J. Reports 1995*, p. 102, para. 29). The Court would also recall that under the terms of General Assembly resolution 2625 (XXV), already mentioned above (see paragraph 88),

‘Every State has the duty to promote, through joint and separate action, realization of the principle of equal rights and self-determination of peoples, in accordance with the provisions of the Charter, and to render assistance to the United Nations in carrying out the responsibilities entrusted to it by the Charter regarding the implementation of the principle . . .’⁶⁶

123. Lastly, in the recent Opinion rendered in 2019 on the *Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965*, the Court emphasized the defining moment represented by the adoption of United Nations General Assembly resolution 1514:

“The Court considers that, although resolution 1514 (XV) is formally a recommendation, it has a declaratory character with regard to the right to self-determination as a customary norm, in view of its content and the conditions of its adoption. The resolution was adopted by 89 votes with 9 abstentions. None of the States

⁶³ *Yearbook of the International Law Commission, 1966*, Vol. II, p. 248.

⁶⁴ United Nations General Assembly, resolution 3070 of 30 November 1973.

⁶⁵ United Nations General Assembly, resolution 2621 of 12 October 1970.

⁶⁶ *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, I.C.J. Reports 2004 (I)*, p. 199, para. 156.

participating in the vote contested the existence of the right of peoples to self-determination. Certain States justified their abstention on the basis of the time required for the implementation of such a right.

The wording used in resolution 1514 (XV) has a normative character, in so far as it affirms that '[a]ll peoples have the right to self-determination'. Its preamble proclaims 'the necessity of bringing to a speedy and unconditional end colonialism in all its forms and manifestations' and its first paragraph states that '[t]he subjection of peoples to alien subjugation, domination and exploitation constitutes a denial of fundamental human rights [and] is contrary to the Charter of the United Nations'.

This resolution further provides that '[i]mmediate steps shall be taken, in Trust and Non-Self-Governing Territories or all other territories which have not yet attained independence, to transfer all powers to the peoples of those territories, without any conditions or reservations, in accordance with their freely expressed will and desire'.⁶⁷

124. This right of peoples to self-determination is a collective right which applies to the whole of the community concerned. That is why it has as its corollary the right of return for expelled populations. This means that in addition to the individual human right whereby anyone who has left their country is entitled to return to it, the right of return may be exercised collectively by a people which has suffered forcible removals, that being a precondition for realization of the right to self-determination. The United Nations has made this a key element of its regular expressions of opinion on the inalienable rights of the Palestinian people⁶⁸.

125. The right to self-determination must be exercisable over the entirety of the territory concerned. No solution that entails division would be valid under international law. The International Court of Justice made this clear in its Advisory Opinion of 25 February 2019 on the *Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965*⁶⁹. No detachment of any part of a territory is therefore authorized in the law of decolonization.

The incompatibility of the struggle for survival with the political struggle to realize the right of peoples to self-determination

126. The fundamental right to self-determination through the creation of a Palestinian State has been the object of the Palestinians' struggle for 75 years. Yet this struggle has constantly come up against the policies and practices of Israel, whose ultimate goal is clearly to stand in the way of that right. Having seized the land allocated to the Palestinians under the 1947 United Nations partition resolution, first by illegal conquest in the 1948-49 war and subsequently by an occupation that was itself unlawful and which laid the ground for systematic colonization, Israel is also endeavouring to empty this land of its inhabitants.

127. The war waged in Gaza since 7 October 2023 is no more than the deliberate scaling up of the plan to annihilate the Palestinian people, set in motion through previous wars and the blockade imposed on that people. The attacks on the Palestinian towns in the West Bank, which have taken on tragic proportions in recent months, bear witness to Israel's determination to do away with the

⁶⁷ *Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965, Advisory Opinion, I.C.J. Reports 2019 (I)*, pp. 132-133, paras. 152 and 153.

⁶⁸ See United Nations General Assembly, resolution 2535 B (XIV) of 10 December 1969.

⁶⁹ *Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965, Advisory Opinion, I.C.J. Reports 2019 (I)*, p. 134, para. 160.

“Palestinian question”. The measures taken recently against UNRWA, which are the subject of this request for an advisory opinion from the Court, are the culmination of Israel’s policy. Seizing all land belonging to the Palestinians, attacking or forcibly expelling them, depriving them of relief — these are the savage means employed for a criminal purpose: to deprive the Palestinians of their political project, i.e. the right to exist as a political community accepted among nations on an equal footing with other recognized political communities.

128. The population of Gaza is suffering intense physical distress, extreme destitution, the loss of loved ones in bombings (estimated at 48,291 people at least, excluding bodies still lying under uncleared rubble) and widespread casualties (116,650 people) involving debilitating injuries in many cases. Since 7 October, the population of the West Bank has also experienced a resurgence of violence, both from illegal settlers and from the Israeli army, which is conducting large-scale military operations against the towns of Jenin and Tulkarem in particular⁷⁰.

129. Day-to-day survival is therefore the primary concern of the Palestinians, while the relief agencies are pointing to the economic and social rights that are being criminally infringed and must be safeguarded as a matter of urgency. Israel is thus hoping to eliminate the legitimate claim for political rights, those rights having been omitted from the Balfour Declaration mentioning only civil and religious rights⁷¹, but which Palestinians have nonetheless continued to demand ever since.

130. Helping the Palestinians at this dramatic moment in their history to keep alive their legitimate claim to the right to self-determination — that is what the Court will undoubtedly be contributing to by vigorously denouncing Israel’s perpetration of war crimes as a means of preventing the fulfilment of what is a central norm of international law.

3. The irrelevance of the argument put forward by Israel to justify its measures

131. Following the Hamas attacks of 7 October 2023, the Government of Israel stepped up its allegations that 19 of UNRWA’s 33,000 staff members were involved in the attacks. The United Nations Secretariat and UNRWA immediately took steps to verify these allegations and take appropriate action. The Office of Internal Oversight Services launched an independent investigation revealing that nine staff members (and not 19) may have been involved in the attacks. The Commissioner-General of UNRWA stated in a letter to the President of the General Assembly that this was “intolerable and [must be] condemned in the strongest possible terms”⁷².

132. On 5 February 2024, the Secretary-General of the Organization appointed a group to carry out an independent study on the neutrality of UNRWA. Its final report was published on 20 April

⁷⁰ UN News, 22 Jan. 2025, <https://news.un.org/fr/story/2025/01/1152341>.

⁷¹ Balfour Declaration (integrated into the text of the Mandate granted by the League of Nations to the British Government over Palestine):

“His Majesty’s Government view with favour the establishment in Palestine of a national home for the Jewish people, and will use their best endeavours to facilitate the achievement of the object, it being clearly understood that nothing shall be done which may prejudice the civil and religious rights of existing non-Jewish communities in Palestine, or the rights and political status enjoyed by Jews in any other country”.

⁷² Letter dated 14 August 2024 from the Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East addressed to the President of the General Assembly, UN Dossier, II(A)(9), No. N32.

2024⁷³. It concluded that UNRWA's systems for ensuring neutrality were more sophisticated than those of other similar bodies. It did, however, make a number of recommendations to further strengthen the monitoring of the Agency's neutrality. These were approved by the General Assembly⁷⁴.

133. However, since the allegations of breaches of neutrality by UNRWA staff persisted, UNRWA wrote to the Government of Israel on several occasions requesting that it be provided with any evidence or information in this regard so that it could initiate the disciplinary procedures provided for in its regulations. But the Israeli Government did not respond to these requests⁷⁵.

134. Despite the measures taken by UNRWA and the light shed on Israel's accusations, the Agency and its staff continue to stand accused of terrorism. They are the target of a persistent media campaign aimed at tarnishing the reputation and hampering the activities of this United Nations body.

135. The suspicion cast over the Agency's neutrality has caused it considerable harm. Sixteen Member States initially suspended their funding before reinstating it, with one exception.

136. This campaign was given fresh impetus with the promulgation of the Knesset laws terminating UNRWA's activities. The reasons for this were set out by the Representative of Israel to the United Nations in a letter to the President of the General Assembly and the President of the Security Council on 18 December 2024⁷⁶. Basing himself on media reports, the Representative of Israel accused a significant share of UNRWA staff in Gaza of being members of Palestinian terrorist organizations. According to him, 119 rather than 19 senior UNRWA school administrators had been involved in terrorist activities. He reported horrific crimes and claimed that UNRWA facilities had housed permanent terrorist infrastructure, supplied electricity to terror tunnels and served as launching pads for rockets fired at Israel.

137. Notwithstanding the arguments advanced in response by the Secretary-General of the United Nations, the Israeli representative persisted in repeating that UNRWA was infiltrated by terrorist movements⁷⁷.

138. These accusations, made without any evidence being produced, are serving to build a case for violation of the principle of neutrality that must govern the actions of international organizations. They are coupled with denigration of the investigative work carried out by the Agency in responding to these accusations and examining whether they had any basis. Israel's representative refers in this respect to "the acute national security risks posed by the widespread infiltration of

⁷³ Final Report for the United Nations Secretary-General, Independent Review of Mechanisms and Procedures to Ensure Adherence by UNRWA to the Humanitarian Principle of Neutrality, 20 Apr. 2024, UN Dossier, II(F), No. N297.

⁷⁴ United Nations General Assembly, resolution ES-10/25 of 11 December 2024 (emergency special session).

⁷⁵ Identical letters dated 8 January 2025 from the Secretary-General addressed to the President of the General Assembly and the President of the Security Council, United Nations General Assembly, Security Council, A/79/716-S/2025/18.

⁷⁶ Identical letters dated 18 December 2024 from the Permanent Representative of Israel to the United Nations addressed to the President of the General Assembly and the President of the Security Council, United Nations General Assembly, Security Council, A/79/710-S/2024/940.

⁷⁷ Letter dated 24 January 2025 from the Permanent Representative of Israel to the United Nations addressed to the Secretary-General, UN Dossier, II(F), No. N307.

UNRWA's ranks by Hamas . . . and the Agency's persistent refusal to . . . remedy this intolerable situation"⁷⁸.

139. The fact that these accusations continue to be made without offering the evidence needed for UNRWA to investigate the persons in question casts doubt over the grievances expressed and fails to provide a valid exemption for Israel's serious and widespread violations of international law through the measures it has taken against UNRWA.

4. Israel's obligations and the rights of international organizations and third States

140. Israel's obligations towards UNRWA remain those arising largely from the 1946 Convention and from its more specific undertaking towards this United Nations body in 1967. This State cannot free itself from its binding obligations merely by a unilateral act based on unproven allegations. Israel's termination of UNRWA's activities at its own initiative is therefore unfounded, and it must put an end to all the acts perpetrated against that Agency's staff and property.

141. Moreover, since Israel is not entitled to take any measures whatever in relation to the Occupied Palestinian Territory, where its presence is illegal, it cannot obstruct the activities of anyone in that territory. It follows that, with the consent of the Palestinian authorities, UNRWA is entitled to pursue its activities there, as are all the bodies within the United Nations system, non-governmental organizations and third States.

142. It is worth recalling here that all the actors working in the Occupied Palestinian Territory to provide relief to the Palestinian population are doing so to make up for Israel's failings in respect of this population.

V. The increased risk of genocide if the measures taken by Israel are maintained

143. The situation in the Gaza Strip is so serious that genocide proceedings against Israel have been brought before the International Court of Justice by South Africa and 12 other States. Relying on the Convention on the Prevention and Punishment of the Crime of Genocide, to which Israel is a party, South Africa refers in its Application initiating proceedings, accompanied by a request for provisional measures, to acts "deliberately inflicting on [the Palestinian people in Gaza] conditions of life calculated to bring about their physical destruction as a group". It requests the Court to order the State of Israel, in relation to Palestinians, to:

"desist from, and take all measures within its power including the rescinding of relevant orders, of restrictions and/or of prohibitions to prevent:

(a) the expulsion and forced displacement from their homes;

(b) the deprivation of:

(i) access to adequate food and water;

⁷⁸ *Ibid.*

- (ii) access to humanitarian assistance, including access to adequate fuel, shelter, clothes, hygiene and sanitation;
- (iii) medical supplies and assistance; and
- (c) the destruction of Palestinian life in Gaza.”⁷⁹

144. In its Order of 26 January 2024, the Court observed “that the catastrophic humanitarian situation in the Gaza Strip is at serious risk of deteriorating further before the Court renders its final judgment”⁸⁰ and “that there is a real and imminent risk that irreparable prejudice will be caused to the rights found by the Court to be plausible, before it gives its final decision”⁸¹.

145. It therefore indicated provisional measures in that Order, ruling, *inter alia*, that:

“with regard to the situation described above, Israel must, in accordance with its obligations under the Genocide Convention, in relation to Palestinians in Gaza, 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. The Court recalls that these acts fall within the scope of Article II of the Convention when they are committed with the intent to destroy in whole or in part a group as such (see paragraph 44 above). The Court further considers that Israel must ensure with immediate effect that its military forces do not commit any of the above-described acts.”⁸²

146. On 12 February 2024, in view of the worsening situation, South Africa submitted a further request for provisional measures to the Court. It filed yet another request on 6 March 2024, stating that:

“Palestinian children are starving to death as a direct result of the deliberate acts and omissions of Israel — in violation of the Genocide Convention and of the Court’s Order. This includes Israel’s deliberate attempts to cripple the United Nations Relief and Works Agency (‘UNRWA’), on whom the vast majority of besieged, displaced and starving Palestinian men, women, children and babies depend for their survival”⁸³ (emphasis added).

And the Applicant added:

⁷⁹ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)*, Application instituting proceedings, p. 192, para. 144.

⁸⁰ *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, p. 22, para. 72.

⁸¹ *Ibid.*, p. 22, para. 74.

⁸² *Ibid.*, p. 23, para. 78.

⁸³ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)*, Urgent request and application for the indication of additional provisional measures and the modification of the Court’s prior provisional measures decisions pursuant to Article 41 of the Statute of the International Court of Justice and Articles 75 and 76 of the Rules of Court of the International Court of Justice, 6 March 2024, para. 8; emphasis added.

“Israel is now massacring desperate, starving Palestinians seeking to obtain food for their slowly-dying children. The so-called ‘flour massacre’ of 29 February 2024 — in which 118 Palestinians were killed and a further 760 injured — was the largest such massacre to date. However, it forms part of an escalating pattern of fatal attacks by Israel on the Palestinian people it is deliberately starving, as they seek to access aid. This has led a group of United Nations human rights experts to issue a stark warning that ‘Israel is not respecting its international legal obligations, is not complying with the provisional measures of the International Court of Justice, and is committing atrocity crimes.’”⁸⁴

147. In its subsequent Order, issued on 28 March 2024, the Court observed the reality of the famine suffered by the Palestinians:

“Palestinians in Gaza are no longer facing only a risk of famine, as noted in the Order of 26 January 2024, but that famine is setting in, with at least 31 people, including 27 children, having already died of malnutrition and dehydration according to the United Nations Office for the Coordination of Humanitarian Affairs (OCHA) (OCHA, “Hostilities in the Gaza Strip and Israel — reported impact, Day 169”, 25 March 2024).”⁸⁵

And it concluded:

“In light of the considerations set out above, and taking account of the provisional measures indicated on 26 January 2024, the Court finds that the current situation before it entails a further risk of irreparable prejudice to the plausible rights claimed by South Africa and that there is urgency, in the sense that there exists a real and imminent risk that such prejudice will be caused before the Court gives its final decision in the case.”⁸⁶

148. In view of this heightened risk, it ruled that:

“In conformity with its obligations under the Genocide Convention, and in view of the worsening conditions of life faced by Palestinians in Gaza, in particular the spread of famine and starvation, Israel shall: (a) take all necessary and effective measures to ensure, without delay, *in full co-operation with the United Nations*, the unhindered provision at scale by all concerned of urgently needed basic services and humanitarian assistance, including food, water, electricity, fuel, shelter, clothing, hygiene and sanitation requirements, as well as medical supplies and medical care to Palestinians throughout Gaza, including by increasing the capacity and number of land crossing points and maintaining them open for as long as necessary; and (b) ensure with immediate effect that its military does not commit acts which constitute a violation of any of the rights of the Palestinians in Gaza as a protected group under the Genocide Convention, including by preventing, through any action, the delivery of urgently needed humanitarian assistance.”⁸⁷

149. In response to this measure ordered by the Court on 28 March 2024, Israel terminated its co-operation agreement with UNRWA and ordered the Agency to leave its premises in Jerusalem.

⁸⁴ *Ibid.*, para. 11.

⁸⁵ *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 28 March 2024, p. 7, para. 21.

⁸⁶ *Ibid.*, p. 10, para. 40.

⁸⁷ *Ibid.*, p. 11, para. 45; emphasis added.

Israel thus showed its contempt for the decisions of the highest international court and its intention of continuing to pursue the various elements of genocide, in particular that of “[d]eliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part”.

150. It will doubtless be apparent to the Court that by ignoring measures ordered by the Court in proceedings intended to put an end to the risk of genocide, and in taking the measures against UNWRA, Israel is openly putting itself in a position to increase the risk of genocide against the Palestinian population.

151. Having been guilty of war crimes in the Occupied Palestinian Territory since 1948, Israel is thus pushing ahead with its plan to destroy the Palestinian people and taking further steps towards the most serious crime of all: genocide. It is up to all States, all peoples of the world and the United Nations to do everything in their power to prevent this tragedy from playing out.

SUBMISSIONS

152. The Organisation of Islamic Cooperation respectfully makes the following submissions to the Court:

- The Court has jurisdiction to give the advisory opinion requested by the General Assembly in its resolution A/RES/77/247 of 19 December 2024 and there is no compelling reason such as to induce it to decline to do so.
- The measures taken by Israel in the Occupied Palestinian Territory obliging UNRWA to cease its activities are illegal, violating as they do the provisions of the 1946 Convention, the mandate conferred on UNRWA under United Nations General Assembly resolution 302 and the Provisional Agreement between Israel and UNRWA concerning Assistance to Palestine Refugees of 14 June 1967.
- By impeding the work of this United Nations body and preventing it from providing the Palestinians with vital humanitarian assistance in view of the situation imposed on them by Israel’s operations in the Gaza Strip and in the West Bank, Israel is drastically worsening the conditions of life of this population and threatening its collective existence.
- Israel must therefore immediately:
 - annul the laws by which it terminated UNWRA’s mandate in the Occupied Palestinian Territory;
 - restore the Agency’s ability to operate in the Gaza Strip, the West Bank and Jerusalem by affording full protection to its staff, granting it unhindered access and guaranteeing the inviolability of its premises;
 - cease all military operations and attacks against any part of the Occupied Palestinian Territory;
 - completely withdraw its armed forces and all its settlers from that territory, over which it has no sovereignty and where its occupation is illegal;
 - recognize as soon as possible the right of the Palestinian people to self-determination.

- All States, the United Nations and other bodies are entitled to intervene in the Occupied Palestinian Territory in order to provide humanitarian assistance to the Palestinian people, with the consent of the Palestinian authorities.

ANNEXES

Annex 1: Charter of the Islamic Conference, adopted on 4 March 1972 and amended in 2008.

Annex 2: “Declaration accepting obligations under the Charter”, Official declaration from the Minister for Foreign Affairs of Israel to the United Nations Secretary-General, 29 November 1948, United Nations, Security Council, S/1093.

Annex 3: United Nations General Assembly, resolution 273 (III) of 11 May 1949.

Annex 4: Oslo Accord, Declaration of Principles on Interim Self-Government Arrangements, 13 September 1993, in Report of the Secretary-General on the Work of the Organization, United Nations General Assembly and Security Council, 11 October 1993, A/48/486-S/26560.

Annex 5: Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip, Oslo II Accord, 28 September 1995, in Report of the Secretary-General on the Work of the Organization, United Nations General Assembly and Security Council, 5 May 1997, A/51/889-S/1997/357.
