

INTERNATIONAL COURT OF JUSTICE

**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 STATE OF QATAR

28 FEBRUARY 2025

Table of Contents

I.	INTRODUCTION.....	1
II.	ISRAEL’S OBLIGATIONS IN RELATION TO THE PRIVILEGES AND IMMUNITIES OF THE UNITED NATIONS.....	10
A.	The Applicable Legal Framework.....	10
B.	Israel’s Obligations in and in Relation to the OPT	13
1.	The Obligation to Allow the UN and Other International Organizations to Operate in Israel and in the OPT.....	14
2.	The Obligation not to Attack and to Ensure the Safety and Security of the Premises and Staff of the UN and of Other International Organizations ..	19
3.	The Obligation to Respect the Immunity from Legal Process of Officials of the UN and of Other International Organizations, and of UN Experts on Mission.....	24
4.	The Obligation to Allow Entry of Officials of the UN and of Other International Organizations, and Experts on Mission, into Israel and the OPT	30
III.	ISRAEL’S OBLIGATIONS UNDER INTERNATIONAL HUMANITARIAN LAW AS AN OCCUPYING POWER	34
A.	The Applicability of International Humanitarian Law.....	34
B.	Israel’s Relevant Obligations Under International Humanitarian Law	36
1.	The Obligation to Allow and Facilitate Relief Schemes and Distribution of Aid.....	36
2.	The Obligation to Respect and Protect Humanitarian Relief Personnel and Objects of International Organizations and Third States.....	44
3.	The Obligation to Respect and Protect Medical Facilities, Staff, and Transport of International Organizations and Third States.....	45
4.	The Obligation to Ensure Proper Working of Institutions of Care and Education of Children Operated by International Organizations and Third States	47
IV.	ISRAEL’S OBLIGATIONS RELATING TO SELF-DETERMINATION AND OTHER HUMAN RIGHTS	49
A.	Obligations Arising from the Right to Self-Determination.....	49
B.	Obligations Under Other Norms of International Human Rights Law	51
V.	JURISDICTION AND DISCRETION.....	54
VI.	CONCLUSIONS.....	58

I. INTRODUCTION

1. Pursuant to the Order of the Court dated 23 December 2024, the State of Qatar (“**Qatar**”) hereby submits this written statement on the questions presented in the United Nations General Assembly’s request for an advisory opinion 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 (the “**Request**”).

* * *

2. As the Court is now well aware, after 7 October 2023, Israel launched a full-scale military invasion of the Gaza Strip by land, air, and sea. The armed attack has resulted in massive Palestinian civilian casualties, with a disproportionate effect on women and children.¹ Israel’s constant bombardments, refusal to permit the entry of humanitarian aid, and mass displacements of civilian population into improvised and overcrowded refugee camps have created apocalyptic humanitarian conditions, with Gazans facing “catastrophic levels of food insecurity.”² Rather than implementing the Court’s binding orders to prevent its military from carrying out acts of genocide,³ Israel has intensified its efforts to destroy or displace the civilians in Gaza, systematically besieging and levelling nearly all hospitals,⁴ and rendering large swathes of Gaza incompatible

¹ According to the United Nations Office for the Coordination of Humanitarian Affairs (“**OCHA**”), to date, over 48,291 Palestinians have been killed in Gaza as a result of the war, mostly due to Israel’s bombings. *See* OCHA, “Reported impact snapshot | Gaza Strip (18 February 2025),” <https://tinyurl.com/2vdmwspp>. Seventy percent of the fatalities verified by OCHA in November 2024 were women and children. M. Moench, “Nearly 70% of Gaza war dead verified by UN are women and children,” *BBC* (8 Nov. 2024), <https://tinyurl.com/3c6kxrt6>. A recent peer-reviewed study found that the number of Palestinian casualties is undercounted by 41%. “Deaths from Israeli attacks in Gaza undercounted by 41 percent, study finds,” *Al Jazeera* (10 Jan. 2025), <https://tinyurl.com/mvbwbox>.

² *See* OCHA, “Reported impact snapshot | Gaza Strip (18 February 2025),” <https://tinyurl.com/2vdmwspp>.

³ *See Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)* (“**South Africa v. Israel**”), Order of 26 January 2024, Order of 28 March 2024, Order of 24 May 2024.

⁴ *See* Office of the United Nations High Commissioner for Human Rights (“**OHCHR**”), *Thematic Report: Attacks on hospitals during the escalation of hostilities in Gaza (7 October 2023 – 30 June 2024)* (31 Dec. 2024), <https://tinyurl.com/yvmakd9u>, paras. 19, 35 (noting that Israel systematically targeted hospitals); Al-Haq, *The Systematic Destruction of Gaza’s Healthcare System: A Pattern of Genocide* (2025), <https://tinyurl.com/ya5rmd8p>.

with human life.⁵ In parallel, Israel has also intensified its efforts to maintain its illegal occupation of the West Bank⁶ through force,⁷ killing at least 883 Palestinians there since 7 October 2023.⁸

3. Humanitarian international organizations on the ground are a lifeline to civilians in Gaza, providing lifesaving supplies, shelter, and health care. Among them, the United Nations Relief and Works Agency for Palestine Refugees in the Near East (“**UNRWA**”), plays a critical role. UNRWA was established by the General Assembly in Resolution 302 in 1949 to provide humanitarian assistance to Palestine refugees forcibly displaced to make way for the establishment of the State of Israel in 1948.⁹ It began operating in 1950, and has provided assistance to Palestinian refugees in the West Bank, including East Jerusalem, and Gaza (together, the “**Occupied Palestinian Territory**” or “**OPT**”) ever since.¹⁰ In particular, under normal conditions, UNRWA operates schools, health clinics, refugee camps, and provides food, shelter, and other social services to about 5.9 million Palestinian refugees in the OPT.¹¹ Since the launch of Israel’s military offensive in Gaza in October 2023, UNRWA has played an even more vital role: not only does it provide shelter, food assistance, health care, and other basic services to the 1.9 million Palestinians

⁵ “Gaza Strip in maps: How a year of war has drastically changed life in the territory,” *BBC* (16 Jan. 2025), <https://tinyurl.com/yx3te39f> (“Gaza [...] is now in large parts uninhabitable.”).

⁶ *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*, Advisory Opinion of 19 July 2024 (“**Occupied Palestinian Territory Advisory Opinion**”), para. 261.

⁷ See A. Nierenberg, “Recent Israeli Raids in the West Bank: A Timeline,” *New York Times* (28 Aug. 2024, updated 5 Sept. 2024), <https://tinyurl.com/mrnpd5wd>; “Three Palestinian militants killed in West Bank as Israeli operations intensify,” *Reuters* (7 Jan. 2025), <https://tinyurl.com/4hvw79ub>; “West Bank violence undermining Gaza ceasefire: UNRWA,” *UN News* (3 Feb. 2025), <https://tinyurl.com/mryb28ha>; “UN rights office condemns continuing Israeli military operation in West Bank,” *UN News* (14 Feb. 2025), <https://tinyurl.com/5zybs9xc>; Report of the Commissioner-General of UNRWA, 1 January-31 December 2023, UN Doc. A/79/13 (14 Aug. 2024), p. 11, paras. 15-16.

⁸ See OCHA, “Data on casualties,” <https://tinyurl.com/kduxw6vm> (last accessed on 20 Feb. 2024).

⁹ See UN General Assembly (“**UNGA**”), Resolution 302, UN Doc. A/RES/302 (IV) (8 Dec. 1949); UNRWA, “Who we are,” <https://tinyurl.com/2szck3t2> (last accessed on 19 Feb. 2025).

¹⁰ Letter dated 28 October 2024 from the Secretary-General addressed to the President of the General Assembly, UN Doc. A/79/558 (29 Oct. 2024), p. 3.

¹¹ See UNRWA, “Who we are,” <https://tinyurl.com/2szck3t2> (last accessed on 19 Feb. 2025).

displaced by the armed conflict, but it also acts as the coordinator of all humanitarian relief, enabling other UN agencies and other international organizations to provide lifesaving aid.¹²

4. Since the beginning of the conflict, UNRWA and other agencies and international organizations have faced colossal obstacles in delivering humanitarian aid to Palestinians in Gaza. Israel has repeatedly blocked shipments of aid and humanitarian crossings.¹³ It has attacked UN aid convoys, personnel, and premises.¹⁴ Israeli forces have destroyed over two thirds of UNRWA's property in Gaza, and 273 UNRWA staff members have been killed.¹⁵ These are not isolated incidents; they follow Israel's longstanding pattern of targeting UN property and personnel throughout its occupation of the OPT.¹⁶ This includes extensive attacks on UNRWA facilities during its previous armed assaults on Gaza.¹⁷

5. On 15 January 2025, Israel and Hamas reached a ceasefire deal,¹⁸ the first stage of which started on 19 January 2025.¹⁹ As part of the agreement, Israel notably undertook to withdraw its forces from populated areas, to allow displaced Palestinians to return to their neighborhoods,

¹² See UNRWA, "Statement of Philippe Lazzarini, Commissioner-General of UNRWA, at the UN Security Council" (9 Oct. 2024), <https://tinyurl.com/5yb27a52>. See also Report of the Commissioner-General of UNRWA, 1 January-31 December 2023, UN Doc. A/79/13 (14 Aug. 2024), pp. 8-9, paras. 5, 8.

¹³ See *infra* Section II.B.1.

¹⁴ See *infra* Section II.B.2.

¹⁵ UNRWA, "UNRWA Situation Report #159 on the Humanitarian Crisis in the Gaza Strip and the West Bank, including East Jerusalem" (13 Feb. 2025), <https://tinyurl.com/33z7xmxu>.

¹⁶ See J. Burke, "Documents reveal alleged pattern of Israeli harassment of Unrwa workers on West Bank," *The Guardian* (19 Mar. 2024), <https://tinyurl.com/5daw9hjb>.

¹⁷ See, e.g., Letter dated 4 May 2009 from the Secretary-General addressed to the President of the Security Council, Summary by the Secretary-General of the report of the United Nations Headquarters Board of Inquiry into certain incidents in the Gaza Strip between 27 December 2008 and 19 January 2009, UN Doc. A/63/855-S/2009/250 (15 May 2009) ("**Summary of 2009 Board of Inquiry Report**"), paras. 16, 26, 65 (summarizing that the Board of Inquiry concluded that the IDF had carried direct and intentional strikes on multiple UN premises); UNGA, Resolution 69/88, UN Doc. A/RES/69/88 (16 Dec. 2014), p. 2 ("Deploing also attacks affecting United Nations installations, including [UNRWA] schools sheltering displaced civilians, and all other breaches of the inviolability of United Nations premises during the conflict in the Gaza Strip in July and August 2014.").

¹⁸ The State of Qatar hosted the talks and acted as a mediator between Israel and Hamas.

¹⁹ "Gaza ceasefire begins after delay as Hamas names hostages to be released Sunday," *NPR* (19 Jan. 2025), <https://tinyurl.com/3cweep6z>; R. Berg, "What we know about the Gaza ceasefire deal," *BBC* (2 Feb. 2025), <https://tinyurl.com/mt2ypftw>.

and to allow an increased number of aid trucks to enter Gaza every day.²⁰ So far, the ceasefire agreement has allowed hundreds of thousands of Palestinians to return to northern Gaza.²¹ It has also boosted humanitarian aid distribution in Gaza.²²

6. While the ceasefire has largely been a positive development for civilians, Israel's recent ban of UNRWA could jeopardize the progress made. On 28 October 2024, following Israel's (unsubstantiated)²³ accusations that a tiny minority of UNRWA employees acted in collusion with Hamas, the Israeli Knesset passed two bills into law purporting to ban UNRWA in Israel and East Jerusalem, and to thwart its activities in the OPT—despite the UN Secretary-General's formal protest.²⁴ The legislation came into effect on 30 January 2025. On 24 January 2025, with only six days' notice, Israel required UNRWA to “cease its operations in Jerusalem, and evacuate all premises in which it operates in the city.”²⁵

7. The legislation does not envisage a replacement mechanism to deliver humanitarian assistance to Palestinian refugees in the OPT—because there is none.²⁶ As Philippe Lazzarini, the Commissioner-General of UNRWA has underlined, without UNRWA, “the entire humanitarian response in Gaza—which rests on UNRWA's infrastructure—may disintegrate.”²⁷ Since the

²⁰ “Aid surge into Gaza continues, UN teams prioritize immediate needs,” *UN News* (13 Feb. 2025), <https://tinyurl.com/2s4hyevu>; R. Berg, “What we know about the Gaza ceasefire deal,” *BBC* (2 Feb. 2025), <https://tinyurl.com/mt2ypftw>.

²¹ E. Graham-Harrison, “Hundreds of thousands of Palestinians return to north Gaza as Israel opens checkpoints,” *The Guardian* (27 Jan. 2025), <https://tinyurl.com/4kbz4hap>.

²² See “Aid surge into Gaza continues, UN teams prioritize immediate needs,” *UN News* (13 Feb. 2025), <https://tinyurl.com/2s4hyevu>; “Aid efforts in Gaza escalate, as risk from deadly unexploded ordnance grows,” *UN News* (29 Jan. 2025), <https://tinyurl.com/2s3s9t29>; “Aid surging into Gaza ‘at scale’ but massive needs remain: OCHA, WHO,” *UN News* (21 Jan. 2025), <https://tinyurl.com/mry8hf6v>.

²³ See *infra* para. 58.

²⁴ Letter dated 28 October 2024 from the Secretary-General addressed to the President of the General Assembly, UN Doc. A/79/558 (29 Oct. 2024), p. 1.

²⁵ Letter from the Permanent Representative of Israel to the UN to the UN Secretary-General (24 Jan. 2025) (Dossier No. N307) (Dossier notation refers to Materials Compiled Pursuant to art. 65, para. 2 of the Court's Statute), p. 2.

²⁶ See Letter from the UN Secretary-General to the Permanent Representative of Israel to the UN (27 Jan. 2025) (Dossier No. N308), p. 1 (“[T]here is no organization that can replace or substitute [UNRWA]’s capacity and mandate to provide the services and assistance required.”).

²⁷ UNRWA, “Statement of Philippe Lazzarini, Commissioner-General of UNRWA, at the UN Security Council” (9 Oct. 2024), <https://tinyurl.com/5yb27a52>.

ceasefire came into effect, UNRWA has been responsible for bringing 60% of supplies into Gaza and has distributed the “vast majority” of aid,²⁸ reaching 1.5 million Palestinians.²⁹ Paralyzing UNRWA’s activities can only worsen an already “catastrophic” humanitarian crisis in Gaza.³⁰

8. And beyond Gaza, it is the entire population of the OPT that will suffer: without UNRWA, 350,000 Palestinian children will be out of school,³¹ and over 2 million Palestinians could lose access to health care.³² Further, dismantling UNRWA, a major source of employment for Palestinians, would lead to at least 30,000 people losing their jobs,³³ with potentially disastrous repercussions on an already crippled economy.³⁴

9. This situation must be seen through the prism of the Court’s findings in its latest advisory opinion on the *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*. This notably includes the Court’s finding that Israel’s continued presence in the OPT is unlawful,³⁵ and that Israel has an obligation to bring it to an end “as rapidly as possible”³⁶ (no later than September 2025, according to the General Assembly).³⁷ The Court also found that Israel’s policies and practices in the OPT, including its settlement policy and discriminatory measures, are in violation of its obligations

²⁸ “UNRWA delivers bulk of aid in Gaza, as destruction mounts in West Bank,” *UN News* (4 Feb. 2025), <https://tinyurl.com/yyjj79me>.

²⁹ “Aid surge into Gaza continues, UN teams prioritize immediate needs,” *UN News* (13 Feb. 2025), <https://tinyurl.com/2s4hyevu>.

³⁰ See “Israel UNRWA ban will undermine Gaza ceasefire, Security Council hears,” *UN News* (28 Jan. 2025), <https://tinyurl.com/4e2cd8za>.

³¹ Letter dated 28 October 2024 from the Secretary-General addressed to the President of the General Assembly, UN Doc. A/79/558 (29 Oct. 2024), p. 3.

³² See UNRWA, “Health in the Gaza Strip,” <https://tinyurl.com/2487y5s2> (last accessed on 19 Feb. 2025); UNRWA, “Health in the West Bank,” <https://tinyurl.com/3ebccs9s> (last accessed on 19 Feb. 2025).

³³ UNRWA, “Working at UNRWA,” <https://tinyurl.com/u7m7st3e> (last accessed on 19 Feb. 2025).

³⁴ See generally UNGA & Economic and Social Council (“ECOSOC”), *Economic and social repercussions of the Israeli occupation on the living conditions of the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem, and of the Arab population in the occupied Syrian Golan*, UN Doc. A/78/127-E/2023/95 (30 June 2023).

³⁵ *Occupied Palestinian Territory Advisory Opinion*, para. 261.

³⁶ *Id.*, para. 267.

³⁷ UNGA, Resolution ES-10/24, UN Doc. A/RES/ES-10/24 (19 Sept. 2024), p. 5, para. 2.

under international humanitarian law, the prohibition of the acquisition of territory by force, the Palestinian people’s right to self-determination, the prohibition of racial segregation and apartheid, and other human rights.³⁸

10. In its previous opinion, the Court did not specifically address Israel’s obligations in relation to the presence and activities of the UN, other international organizations, and third States. The Court also did not opine in detail on Israel’s obligations in relation to humanitarian aid. And, crucially, the Court did not analyze any “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.”³⁹

11. It is with this factual and legal context in mind that the General Assembly on 19 December 2024 put the following question to the Court:

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?⁴⁰

12. In Qatar’s view, this Request does not ask the Court to merely repeat the findings in its latest advisory opinion. Its scope is more precise, and, as explained, focuses on facts and legal obligations that the Court *did not* consider in its previous opinion.

13. *First*, the question’s scope is limited to Israel’s obligations “*in relation to the presence and activities of the United Nations, including its agencies and bodies, other international organizations and third States.*” It does not request the Court to identify all of Israel’s

³⁸ See *Occupied Palestinian Territory* Advisory Opinion, paras. 155, 173, 179, 223, 229, 238-243.

³⁹ *Id.*, para. 81.

⁴⁰ UNGA, Resolution 79/232, UN Doc. A/RES/79/232 (19 Dec. 2024), para. 10.

obligations as an occupying power or as member of the UN generally, but only those that may be relevant to the presence and activities of the UN and of other international organizations and States.

14. *Second*, the question is limited to the presence and activities of these organizations and States “*in and in relation to the Occupied Palestinian Territory*.” This includes their presence and activities *in* the OPT, but also outside the OPT, so long as their presence and activities are “*in relation to*” the OPT. By contrast, the presence and activities of these organizations and States that are *not* in relation to the OPT are excluded from the scope of the question.

15. *Third*, as to its substantive scope, the question focuses on identifying obligations “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.” However, the question is *not* limited to these obligations, which merely constitute an illustrative list.

16. *Fourth*, as formulated, the Request asks the Court to identify relevant “obligations” applicable to Israel. In this regard, this Request does not arise in a vacuum, but in a specific factual context, namely: (i) Israel’s military invasion of Gaza since October 2023, (ii) the ensuing pervasive humanitarian crisis in the Gaza strip, (iii) Israel’s repeated attacks against the UN, (iv) its systematic thwarting of humanitarian aid efforts, and (v) its legislative ban of UNRWA. This is reflected in the text of the resolution containing the Request, which mentions “developments which could prevent [UNRWA] from continuing its essential work in the Occupied Palestinian Territory,”⁴¹ and “the cessation or restriction on the activities of [UNRWA].”⁴² Moreover, the

⁴¹ *Id.*, preamble, p. 1.

⁴² *Id.*, preamble, p. 3. The Resolution also expresses “grave concern about plans and measures, including legislation adopted, by Israel to interfere with or obstruct the presence and operations of the United Nations and United Nations entities and organizations, including [UNRWA].” *Id.*, p. 2. *See also id.*, p. 3 (expressing “deep concern at measures taken by Israel that impede assistance to the Palestinian people, including through measures that affect the presence, activities and immunities of the United Nations, its agencies and bodies, and those of other international organizations, and the representation of third States in the Occupied Palestinian Territory, including East Jerusalem, aimed at providing, in accordance with international law, basic services and humanitarian assistance in the Occupied Palestinian Territory”).

resolution was adopted following the Secretary-General's request for "guidance and support" from the General Assembly "at this critical juncture in the history of [UNRWA]."⁴³

17. Here, given the specific context that spurred the General Assembly's Request, Qatar respectfully submits that the Court should view this question as not merely requiring the identification of the legal framework applicable to Israel *in abstracto* but rather the identification of Israel's specific legal obligations *in concreto* as they apply to the situation at issue.⁴⁴

18. *Finally*, the General Assembly asked the Court to answer this Request:

[C]onsidering the rules and principles of international law, as regards in particular the Charter of the United Nations, international humanitarian law, international human rights law, privileges and immunities applicable under international law for international organizations and States, relevant resolutions of the Security Council, the General Assembly and the Human Rights Council, the advisory opinion of the Court of 9 July 2004, and the advisory opinion of the Court of 19 July 2024 [...].⁴⁵

It thus identified the fields of international law that the Court should consider when answering the Request, notably: (i) the law on privileges and immunities of the UN and other international organizations, (ii) international humanitarian law, and (iii) international human rights law.

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19. In light of the above, Qatar's Written Statement seeks to assist the Court by identifying the specific obligations of Israel in relation to the presence and activities of the UN, other international organizations, and States, in and in relation to the OPT. These sections are divided thematically according to the field of law under which the obligations arise: **Section II** will identify Israel's obligations arising out of the privileges and immunities of the United Nations and of other international organizations; **Section III** will identify Israel's obligations arising under

⁴³ *Id.*, preamble, p. 1.

⁴⁴ As explained below, it is well established that the Court has the prerogative to clarify and reformulate questions put to it in an advisory opinion request. *See infra* para. 116.

⁴⁵ UNGA Resolution 79/232, para. 10.

international humanitarian law; and **Section IV** will identify Israel's obligations arising out of the right to self-determination and other norms of international human rights law. In addition, **Section V** will briefly address the jurisdiction and discretion of the Court. Finally, **Section VI** will conclude by presenting the different findings that Qatar respectfully requests the Court to adopt when answering the question posed by the General Assembly.

II. ISRAEL'S OBLIGATIONS IN RELATION TO THE PRIVILEGES AND IMMUNITIES OF THE UNITED NATIONS AND OTHER INTERNATIONAL ORGANIZATIONS

20. This section will first identify the legal framework of privileges and immunities applicable to Israel (**Section II.A**) and second, Israel's specific obligations arising under this framework (**Section II.B**).

A. The Applicable Legal Framework

21. The fountainhead of the UN's privileges and immunities is the UN Charter itself, of which Article 105 provides as follows:

1. The Organization shall enjoy in the territory of each of its Members such privileges and immunities as are necessary for the fulfilment of its purposes.

2. Representatives of the Members of the United Nations and officials of the Organization shall similarly enjoy such privileges and immunities as are necessary for the independent exercise of their functions in connection with the Organization.

3. The General Assembly may make recommendations with a view to determining the details of the application of paragraphs 1 and 2 of this Article or may propose conventions to the Members of the United Nations for this purpose.

22. It follows that all UN Member States must afford the Organization the privileges and immunities that are necessary for the fulfilment of its purposes. Article 105(3) left the elaboration of the exact content and functioning of these privileges and immunities for a separate convention. Accordingly, in 1946, the General Assembly adopted the Convention on the Privileges

and Immunities of the United Nations (the “**General Convention**”).⁴⁶ Israel, along with 161 other States, is party to the General Convention, and must remain a party so long as it is a UN Member.⁴⁷

23. The General Convention sets forth detailed privileges and immunities for the UN itself and its property, funds, and assets, including by providing for the inviolability of its premises (Article II), the privileges and immunities of representatives of Member States (Article IV), UN Officials (Article V); and experts on missions (Article VI). The Convention applies to the UN itself, but also to its bodies, agencies, funds, and programs, including notably, UNRWA.⁴⁸

24. As to UNRWA specifically, an Exchange of Letters Constituting a Provisional Agreement between UNRWA and Israel signed in 1967 (“**Exchange of Letters**”) is also applicable.⁴⁹ In the Exchange of Letters, Israel agreed that “UNRWA would continue its assistance to the Palestine refugees, with the full co-operation of the Israel authorities [*sic*], in the West Bank and Gaza Strip areas.”⁵⁰ In addition to the privileges and immunities already afforded in the General Convention,⁵¹ the Exchange of Letters provides more specific protections to UNRWA.⁵²

25. On 28 October 2024, Israel passed legislation providing that the Exchange of Letters would “expire” as of 7 October 2024, thereby purporting to unilaterally withdraw from this

⁴⁶ See General Convention, preamble; *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 (“**Mazilu Advisory Opinion**”), p. 192, para. 42.

⁴⁷ General Convention, Section 35 (“This convention shall continue in force as between the United Nations and every Member which has deposited an instrument of accession for so long as that Member remains a Member of the United Nations, or until a revised general convention has been approved by the General Assembly and that Member has become a party to this revised convention.”).

⁴⁸ See L. Bartholomeusz, “The Legal Framework for Protection of United Nations Humanitarian Premises during Armed Conflict,” *Max Planck Yearbook of United Nations Law Online* (Vol. 18, No. 1, 2014), p. 72.

⁴⁹ Exchange of letters constituting a provisional agreement between the United Nations Relief and Works Agency for Palestine Refugees in the Near East and Israel concerning assistance to Palestine refugees (14 June 1967) (Dossier No. N283) (“**Exchange of Letters**”).

⁵⁰ *Id.*

⁵¹ In the agreement, Israel formally recognizes that the General Convention “govern[s] the relations between [Israel] and UNRWA.” *Id.*, para. (g). However, since Israel is a party to the General Convention, it applies to its relations with UNRWA regardless of that formal recognition.

⁵² See *id.*, paras. (a)-(f).

agreement.⁵³ However, the Exchange of Letters is a valid treaty in force between Israel and the UN.⁵⁴ This purported withdrawal is therefore without effect under international law (given that there is nothing in the Exchange of Letters that expressly allows for withdrawal, or reasonably allows an inference thereof).⁵⁵ Even if it were valid, this would not affect the applicability of the General Convention, to which Israel is party.

26. Finally, similar privileges and immunities are granted to other international organizations under their constituent agreements,⁵⁶ applicable host agreements and other bilateral agreements,⁵⁷ and custom.⁵⁸ While this Statement focuses on the General Convention, the

⁵³ See Letter dated 28 October 2024 from the Secretary-General addressed to the President of the General Assembly, UN Doc. A/79/558 (29 Oct. 2024), p. 2.

⁵⁴ Exchanges of letters can constitute a treaty under international law. See Vienna Convention on the Law of Treaties between States and International Organizations or between International Organizations (1986) (“**1986 VCLT**”), Article 2(1)(a). While the 1986 VCLT has not yet entered into force and would in any event postdate the Exchange of Letters, its provisions that are identical to the 1969 Vienna Convention on the Laws of Treaties, including Article 2, are deemed to reflect customary international law. See P. Gautier, “1986 Vienna Convention: Article 2 Use of Terms,” in *The Vienna Conventions on the Law of Treaties: A Commentary* (O. Corten & P. Klein (eds.), OUP 2011), p. 60, para. 6.

⁵⁵ See 1986 VCLT, Articles 54, 56(1)-(2). Even if withdrawal was allowed, it could only come into effect at least 12 months after the notice of withdrawal. *Id.*, Article 56(2).

⁵⁶ For example, the Constitution of the World Health Organization, of which Israel is a Member, provides that “(a) The Organization shall enjoy in the territory of each Member such privileges and immunities as may be necessary for the fulfilment of its objective and for the exercise of its functions. (b) Representatives of Members, persons designated to serve on the Board and technical and administrative personnel of the Organization shall similarly enjoy such privileges and immunities as are necessary for the independent exercise of their functions in connection with the Organization.” Constitution of the World Health Organization (1946), Article 67.

⁵⁷ For instance, under a letter from the Ministry of Foreign Affairs of Israel to UNESCO, Israel undertook to “extend the terms of [the General] Convention [...] to the new UNESCO office, its foreign staff and related property and funds.” Letter dated 3 February 1998 from the Director General of the Ministry of Foreign Affairs of Israel addressed to the Director-General of the United Nations Educational, Scientific and Cultural Organization (3 Feb. 1998) (Dossier No. N294).

⁵⁸ See, e.g., R. Higgins, *Problems and Process: International Law and How We Use It* (OUP 1995) p. 91 (“The issue is [...] whether international law requires that a different type of international person, an international organization, be accorded functional immunities. The basis for an affirmative answer—which I believe to be correct—lies in good faith (that is, provision of what is necessary for an organization to perform its functions).”); G. Gaja, “Jurisdictional immunity of international organizations,” in Report of the Commission to the General Assembly on the work of its fifty-eighth session, Annex II, *Yearbook of the International Law Commission 2006*, p. 202; J. Crawford, *Brownlie’s Principles of Public International Law* (9th ed.) (2019 OUP), pp. 162-163; J.-F. Lalive, “L’immunité de juridiction des États et des organisations internationales,” in *Recueil des cours de l’Académie de La Haye* (Vol. 84, 1953), pp. 304-306 (“[O]n constate l’existence d’une pratique suffisamment générale et uniforme pour qu’il soit possible d’admettre d’ores et déjà l’existence d’une véritable *coutume internationale* régissant [les privilèges et immunités des

substantive analysis of its provisions applies *mutatis mutandis* to the privileges and immunities of other international organizations.⁵⁹

B. Israel's Obligations in and in Relation to the OPT

27. The privileges and immunities of international organizations, in particular of the UN, entail numerous specific obligations for UN Member States. For the purposes of this Written Statement, Qatar will focus on obligations that Israel has breached, is currently breaching, or is threatening to breach in relation to the presence and activities of the UN and of other international organizations in and in relation to the OPT, namely: (1) its obligation to allow the UN and other international organizations to operate in Israel and in the OPT; (2) its obligation not to target or attack but rather to actively protect the property and staff of the UN and other international organizations; (3) its obligation to respect the immunity from legal process of officials of the UN and of other international organizations, as well as of UN experts on missions; (4) and its obligation to ensure the freedom of movement of officials of the UN and other international organizations, as well as of UN experts on missions.

organisations internationales]. [...] Il sera possible de démontrer l'existence d'une coutume ou en tout cas d'un commencement de coutume, à l'aide des éléments suivants : le caractère uniforme des dispositions relatives au statut et immunités des organisations internationales ; la répétition dans un sens unilinéaire, laquelle se manifeste par une pratique concordante des Etats. Il est intéressant de constater qu'en général, même dans les pays où la question n'est pas régie par un texte [...], la pratique est générale, malgré une ou deux exceptions regrettables. [...] [I]l suffira de constater ici [...] que certaines immunités (et notamment l'immunité de juridiction) sont indispensables, dans les conditions actuelles, au fonctionnement efficace et indépendant des organisations. [...] Ce point est généralement admis par les Etats de sorte que nous trouvons ici une forte présomption de l'existence de ce célèbre élément psychologique [*opinio juris*] [...].” (emphasis in the original); C. Dominicé, “L’immunité de juridiction et d’exécution des organisations internationales,” in *Recueil des cours de l’Académie de La Haye* (Vol. 187, 1984), p. 220.

⁵⁹ This is consistent with the practice of the UN and of commentators. *See, e.g.*, Note to the Under-Secretary-General of the Department of Peacekeeping Operations, United Nations, 2003 U.N. Jurid. Y.B., p. 523, para. 19 (“The relevant provisions of the Convention on the Privileges and Immunities of the Specialized Agencies [...] are identical, *mutatis mutandis*, to those of the General Convention. The above conclusions therefore apply equally to vehicles belonging to the specialized agencies.”); A. J. Miller, “The Privileges and Immunities of the United Nations,” *International Organizations Law Review* 6 (2009), p. 8; *The Conventions on the Privileges and Immunities of the United Nations and its Specialized Agencies: A Commentary* (A. Reinisch (ed.), OUP 2016) (“**Reinisch Commentary**”), p. 141.

1. The Obligation to Allow the UN and Other International Organizations to Operate in Israel and in the OPT

28. Section 3 of the General Convention provides in relevant part that “[t]he property and assets of the United Nations, wherever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation and any other form of interference, whether by executive, administrative, judicial or legislative action.” This immunity applies to all property occupied in whole or in part by the UN, whether rented or owned by the UN.⁶⁰

29. This provision has been interpreted as creating an obligation to “allow the United Nations to perform its allotted functions without improper interference or interruption which, whilst not in itself an immediate violation of United Nations premises, may nevertheless achieve an effect within those premises.”⁶¹ Section 3 of the General Convention prohibits not only conduct that directly impedes UN functions, but also “burdensome administrative procedures that might hinder UN operations” even indirectly, such as undue delays and denials of entry.⁶² This interpretation accords with Article 105 of the Charter, which specifies that the privileges and immunities of the UN are those “necessary for the fulfilment of its purposes.”⁶³ As the Secretary-General has noted, this also accords with Israel’s obligation under Article 2(5) of the UN Charter to “give the [UN] every assistance in any action it takes in accordance with the present Charter.”⁶⁴

30. Moreover, as concerns UNRWA specifically, Israel is obligated under the Exchange of Letters to “permit the free movement of UNRWA vehicles into, within and out of

⁶⁰ A. J. Miller, “The Privileges and Immunities of the United Nations,” *International Organizations Law Review* 6 (2009), p. 45; Reinisch Commentary, p. 127.

⁶¹ The practice of the United Nations, the specialized agencies and the International Atomic Energy Agency concerning their status, privileges and immunities: study prepared by the Secretariat (1967), UN Doc. A/CN.4/L.118 and Add.1 and 2 (“**1967 UN Secretariat Study**”), p. 228, para. 96.

⁶² Reinisch Commentary, p. 135; A. J. Miller, “The Privileges and Immunities of the United Nations,” *International Organizations Law Review* 6 (2009), p. 48. For example, the UN has considered unusually burdensome documentation requirements for customs, and impounding a UN Plane at an airport by refusing to clear take off as violations of Section 3 of the General Convention. 1967 UN Secretariat Study, p. 235, para. 125. *See also* Report of the Commissioner-General of UNRWA, 1 January-31 December 2023, UN Doc. A/79/13 (14 Aug. 2024), p. 22, para. 68.

⁶³ Charter of the United Nations (1945) (“**UN Charter**”), Article 105(1) (emphasis added).

⁶⁴ *See* Letter from the UN Secretary-General to the Permanent Representative of Israel to the UN (27 Jan. 2025) (Dossier No. N308), p. 2.

Israel and the areas in question,” as well as to permit UNRWA staff to move in and out of and within Israel and the OPT.⁶⁵

31. Israel has taken several measures that are incompatible with the above obligations, including (a) passing and enforcing legislation banning UNRWA, and (b) imposing other measures on UNRWA and other international organizations that have hindered their work in the OPT.

a. The 28 October 2024 Israeli Legislation is Incompatible with Israel’s International Obligations

32. As noted above, on 28 October 2024, Israel passed legislation which, *inter alia*, prohibits all contacts between Israeli authorities and UNRWA,⁶⁶ and prohibits UNRWA from “operat[ing] any representation, provid[ing] any services, or carry[ing] out any activities, directly or indirectly, within the sovereign territory of the State of Israel.”⁶⁷ The law was to come into effect within 90 days.⁶⁸ And indeed, on 24 January 2025, the Permanent Representative of Israel to the UN sent a letter to the UN Secretary-General in which he stated that UNRWA was required to “cease its operations in Jerusalem, and evacuate all premises in which it operates in the city, no later than 30 January 2025,” *i.e.* with less than a week’s notice.⁶⁹

33. The legislation violates Section 3 of the General Convention in at least the following ways: *First*, by prohibiting UNRWA from operating any offices in Israel, the legislation amounts to “confiscation, expropriation and any other form of interference” with UNRWA’s property. Crucially, since Israel (unlawfully) considers East Jerusalem, where UNRWA has

⁶⁵ Exchange of Letters, paras. (b)-(d).

⁶⁶ Letter dated 28 October 2024 from the Secretary-General addressed to the President of the General Assembly, UN Doc. A/79/558 (29 Oct. 2024), p. 2 (“No State authority, including bodies and individuals performing public duties according to law, shall have any contact with UNRWA or any of its representatives.”).

⁶⁷ *Id.*, p. 2.

⁶⁸ *Id.*

⁶⁹ Letter from the Permanent Representative of Israel to the UN to the UN Secretary-General (24 Jan. 2025) (Dossier No. N307), p. 2.

offices,⁷⁰ to be part of the territory of the State of Israel,⁷¹ the law affected UNRWA facilities in East Jerusalem. This led to the evacuation of international staff from UNRWA's East Jerusalem offices to Jordan, while local staff were encouraged to stay home for their safety in light of arson attacks and violent protests.⁷² UNRWA was also forced to remove office equipment, vehicles, and archives from the property.⁷³ As noted by the Secretary-General, this violation is even more egregious because it is an unlawful exercise of Israel's sovereign powers in East Jerusalem, an integral part of the OPT, over which Israel has no sovereignty.⁷⁴ It is also worth noting that the Israel Land Authority has stated its intention to seize UNRWA's facilities in East Jerusalem and

⁷⁰ See UNRWA, "Contact Us," <https://tinyurl.com/bdh3h32u> (last accessed on 19 Feb. 2025).

⁷¹ See *Occupied Palestinian Territory* Advisory Opinion, paras. 138, 163-165. As the Court found in its previous advisory opinion, Israel has unlawfully annexed East Jerusalem, in violation of the prohibition of the acquisition of territory by force. *Id.*, paras. 173, 179. This unlawful annexation may not be recognized under international law, and does not affect the status of East Jerusalem as forming part of the OPT. See *id.*, para. 279.

⁷² "Israel's new laws banning UNRWA already taking effect," *United Nations Palestine* (30 Jan. 2025), <https://tinyurl.com/ytb754bd>.

⁷³ *Id.*

⁷⁴ See Letter from the UN Secretary-General to the Permanent Representative of Israel to the UN (27 Jan. 2025) (Dossier No. N308), p. 2 (citing *Occupied Palestinian Territory* Advisory Opinion, paras. 254, 285). In its letter, Israel stated that, independently of the legislation, the Israel Land Authority had already issued notices to UNRWA in early 2024 about these properties, stating they were operated without authorization and demanding "their evacuation, the demolition of all immovables constructed without authorization, and payment for past use." Letter from the Permanent Representative of Israel to the UN to the UN Secretary-General (24 Jan. 2025) (Dossier No. N307), p. 2. Israel claimed that UNRWA built a hazardous gas station in its headquarters without proper authorization. As to the Kafr 'Aqab property, Israel claims UNRWA has walled off a large plot of land, of which a significant portion is left unused, without the landowner's consent, preventing the Municipality of Jerusalem from establishing "an educational compound for the Arab population residing in the neighborhood." *Id.* According to Israel, this conduct "reflects a clear abuse of UNRWA's immunities and disregard for local laws and regulations, contrary to its obligations under Article 21" of the General Convention. *Id.*, p. 3. This is incorrect for at least two reasons: first, Section 21 of the General Convention applies only to the immunities of UN officials, not to the inviolability of UN property; second, as explained, since Israel is not entitled to exercise any sovereign powers over East Jerusalem, the UN is under no obligation to comply with Israeli law with regard to property located in East Jerusalem. See *Occupied Palestinian Territories* Advisory Opinion, para. 141 (holding that Israel's extension of domestic law to East Jerusalem was inconsistent with international law).

turn them into an apartment complex for Israeli settlers⁷⁵ (i.e., as the Court held in 2004 and reaffirmed in 2024, an illegal settlement⁷⁶).

34. *Second*, by prohibiting any UNRWA activities in Israel, the law breaches the obligation to allow the UN to perform its functions without improper interference or interruption derived from Section 3 of the Convention and Article 105 of the UN Charter.

35. *Third*, even if the law does not technically apply to the OPT (besides East Jerusalem), the law substantially hinders UNRWA's operations throughout the OPT because it prohibits "any contact" between Israeli authorities and UNRWA or its representatives.⁷⁷ This in turn would preclude Israeli authorities from providing UNRWA employees the permits that they require to enter the OPT, and from coordinating the passage of aid into the OPT.⁷⁸ Given that UNRWA coordinates virtually all humanitarian aid on the ground, the law also threatens the activities of other international organizations in the OPT.

b. *Israel's Other Measures Hindering International Organizations' Humanitarian Work in the OPT*

36. Since the beginning of the conflict in Gaza, Israel has imposed measures on UNRWA and other international organizations that have hindered their humanitarian work in the OPT in violation of Israel's obligation not to interfere with the UN's functions. For example, in February 2024, Israel imposed financial restrictions on UNRWA, preventing the shipment of food for 1.1 million Palestinians in Gaza.⁷⁹ In March 2024, UNRWA announced that Israel had barred

⁷⁵ "Israel Land Authority to transform UNRWA complex into major housing development," *The Jerusalem Post* (11 Oct. 2024), <https://tinyurl.com/3ka4ed6u>.

⁷⁶ See *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Advisory Opinion, *I.C.J. Reports 2004*, p. 183, para. 120 ("**Wall Advisory Opinion**"); *Occupied Palestinian Territory* Advisory Opinion, para. 155.

⁷⁷ Letter from the Secretary-General addressed to the President of the General Assembly, UN Doc. A/79/558 (29 Oct. 2024), p. 2.

⁷⁸ See "Israeli laws blocking UNRWA – devastating humanitarian impact for Palestinians?," *UN News* (31 Oct. 2024), <https://tinyurl.com/3wyp6kh9>.

⁷⁹ J. Frankel, "Israel is holding up food for 1.1 million Palestinians in Gaza, the main UN aid agency there says," *AP News* (9 Feb. 2024), <https://tinyurl.com/4d6y3eyh>. See also Report of the Commissioner-General of UNRWA, 1 January-31 December 2023, UN Doc. A/79/13 (14 Aug. 2024), p. 24, para. 79.

it from making deliveries in northern Gaza, without giving any reason.⁸⁰ In April 2024, UNRWA reported that Israel continued to block UNRWA's lifesaving deliveries by failing to grant requests for access permits.⁸¹

37. In particular, between October 2024 and January 2025, Israel imposed a tight siege on northern Gaza. According to the United Nations Office for the Coordination of Humanitarian Affairs ("OCHA"), "in November, every attempt by the UN to access besieged areas of northern Gaza governorate with food and health missions to support tens of thousands of people remaining there was either denied or impeded."⁸² Similarly, there are reports of shipments of crucial medical supplies to the West Bank being unduly delayed by Israeli authorities.⁸³

38. These actions violate Israel's obligations by either directly interfering with the UN's functions, or at the very least, amounting to unduly "burdensome administrative procedures."⁸⁴

⁸⁰ "Israel will no longer approve Unrwa food aid to northern Gaza, agency says," *The Guardian* (24 Mar. 2024), <https://tinyurl.com/5n87pert>. World Food Programme convoys were similarly blocked. See G. Wright, "World Food Programme says northern Gaza aid convoy blocked," *BBC* (5 Mar. 2024), <https://tinyurl.com/2d2ccuxt>.

⁸¹ "Israel continues to block aid into northern Gaza; UN sending team to shattered Al-Shifa Hospital," *UN News* (1 Apr. 2024), <https://tinyurl.com/mr3jw7sb>; Report of the Commissioner-General of UNRWA, 1 January-31 December 2023, UN Doc. A/79/13 (14 Aug. 2024), p. 23, para. 71 (describing denial of permits from Israeli authorities without substantive justification); pp. 24-25, paras. 80-81 (describing "laborious and time-consuming approval, monitoring and coordination requirements introduced by the Israeli authorities," "[c]umbersome clearance procedures and frequent processing delays," "complex screening processes," "[s]evere limitations, without clear definition, placed by the Israeli authorities on the entry of items into Gaza").

⁸² See OCHA, "Humanitarian Situation Update #237 | Gaza Strip" (12 Nov. 2024), <https://tinyurl.com/539a6855>. See also "Critical aid blocked in Gaza, as fuel shortages threaten lifesaving services," *UN News* (10 Jan. 2025), <https://tinyurl.com/yw2kp6kv> ("[O]nly 10 out of 21 planned humanitarian movements were facilitated by the Israeli authorities. Seven were denied outright, three were impeded and one was cancelled due to security and logistical challenges.").

⁸³ See J. Burke, "Documents reveal alleged pattern of Israeli harassment of Unrwa workers on West Bank," *The Guardian* (19 Mar. 2024), <https://tinyurl.com/5daw9hjb> ("Unrwa's health centres in the West Bank ran low on crucial supplies after a shipment of medicine was held up by Israeli customs for more than two months in Jordan."); Report of the Commissioner-General of UNRWA, 1 January-31 December 2023, UN Doc. A/79/13 (14 Aug. 2024), p. 22, para. 65 ("In the West Bank, access restrictions significantly hampered UNRWA operations as a result of demands for searches, delays at checkpoints and denials of crossings, poor treatment of staff and other impediments.").

⁸⁴ See, e.g., "We are pausing the delivery of aid through Kerem Shalom," UNRWA (1 Dec. 2024), <https://tinyurl.com/y49yhbxc> (citing "[h]urdles from Israeli authorities" as rendering UNRWA's humanitarian operation impossible).

39. In sum, to comply with its obligations under the UN Charter, Section 3 of the General Convention, and the Exchange of Letters, Israel must (i) revoke and cease to enforce the 28 October 2024 legislation; and (ii) immediately cease to hinder either directly, or indirectly through burdensome procedures, the UN and other international organizations' operations in the OPT, in particular the delivery of humanitarian aid.

2. The Obligation not to Attack and to Ensure the Safety and Security of the Premises and Staff of the UN and of Other International Organizations

40. Section 3 of the General Convention provides that “[t]he premises of the United Nations shall be inviolable.” This duty of inviolability also flows from Article 105.⁸⁵

41. As explained above, inviolability includes immunity from any kind of “interference” by the State. Inviolability thus not only encompasses the obligation not to enter UN premises without prior request or authorization from the UN, but also a *positive* obligation for States to afford “active protection of the premises from any threat or disturbance from the outside that might affect them.”⁸⁶ Moreover, under the Exchange of Letters, Israel undertook to “ensure the protection and security of the personnel, installations and property of UNRWA.”⁸⁷ In the context of the conflict in Gaza, the UN Security Council reaffirmed this obligation and demanded that Israel “take all appropriate steps to ensure the safety and security of United Nations and associated personnel, those of its specialized agencies [...] without prejudice to their freedom of movement and access.”⁸⁸

⁸⁵ As commentators explain, this concept was considered “fundamental” to Article 105, and the drafting committee considered it “superfluous” to specifically list inviolability as an immunity, as it would be implicit in the list of privileges “necessary to the realization of the purposes of the Organization.” Bartholomeusz, p. 94; Reinisch Commentary, pp. 125-126, 139.

⁸⁶ Bartholomeusz, p. 74; Reinisch Commentary, p. 129; Fourth report on relations between States and international organizations (second part of the topic), by Mr. Leonardo Díaz-González, Special Rapporteur, UN Doc. A/CN.4/424 and Corr. 1 (1989), p. 166, para. 105. *See also* 1967 UN Secretariat Study, p. 228, para. 96. The General Assembly has recognized this duty for States to “ensure the safety of the personnel of [UNRWA], the protection of its institutions and the safeguarding of the security of its facilities.” *See* UNGA Resolution 69/88, para. 17; UNGA, Resolution 64/89, UN Doc. A/RES/64/89 (19 Jan. 2010), para. 15.

⁸⁷ Exchange of Letters, para. (a).

⁸⁸ UN Security Council (“UNSC”), Resolution 2720, UN Doc. S/RES/2720 (2023), para. 13.

42. Military strikes during hostilities that damage or destroy UN property and injure or kill UN personnel are egregious violations of the inviolability of UN premises.⁸⁹ In the context of prior hostilities in Gaza, the General Assembly has condemned damage to and destruction of UN facilities by Israeli forces as breaches of the inviolability of UN premises. For example, in Resolution 69/88 (2014), the General Assembly deplored “attacks affecting United Nations installations, including [UNRWA] schools sheltering displaced civilians, *and all other breaches of the inviolability of United Nations premises during the conflict in the Gaza Strip in July and August 2014.*”⁹⁰ It thus called upon Israel “to abide by Articles 100, 104 and 105 of the Charter of the United Nations and the Convention on the Privileges and Immunities of the United Nations in order to ensure the safety of the personnel of [UNRWA], the protection of its institutions and the safeguarding of the security of its facilities in the Occupied Palestinian Territory, including East Jerusalem, at all times.”⁹¹

43. Importantly, the inviolability of UN premises *cannot be overridden by military necessity*, or any other application of the law of armed conflict.⁹² This has been the consistent

⁸⁹ See, e.g., Summary of 2009 Board of Inquiry Report, paras. 16, 26 (concluding that the IDF had “carried out direct and intentional strikes on United Nations premises” which “amounted to egregious breaches of the inviolability of United Nations premises and a failure to accord the property and assets of the Organization immunity from any form of interference”); Human Rights Council, *Report of the United Nations High Commissioner for Human Rights on the Implementation of Human Rights Council Resolution S21/1 on Ensuring Respect for International Law in the Occupied Palestinian Territory, Including East Jerusalem*, UN Doc. A/HRC/27/76 (7 Oct. 2014), para. 24 (“[A]ttacks on schools, including the UNRWA schools that were used as shelters for internally displaced persons, [are] in breach of the inviolability of United Nations premises.”).

⁹⁰ UNGA Resolution 69/88, preamble (emphasis added).

⁹¹ *Id.*, para. 17. See also UNGA Resolution 64/89, preamble, p. 3 (deploring “the extensive damage and destruction of [UNRWA] facilities in the Gaza Strip caused during the military operations between December 2008 and January 2009, including to schools where civilians were sheltered and [UNRWA]’s main compound and warehouse,” which amounted to “breaches of the inviolability of United Nations premises, the failure to accord the property and assets of the Organization immunity from any form of interference and the failure to protect United Nations personnel, premises and property”).

⁹² See Summary of 2009 Board of Inquiry Report, paras. 16, 91 (“The Board recalled that United Nations premises were inviolable. That inviolability, it noted, could not be set aside by any Member State on the grounds that, in the special circumstances of hostilities, it must be qualified or overridden by demands of military expediency. The Board also recalled that the property and assets of the United Nations were immune from any form of interference and that that immunity also could not be overridden by such demands.”); Bartholomeusz, p. 74; Reinisch Commentary, p. 131.

position of the UN Legal Counsel.⁹³ As noted above, the General Assembly has also emphasized that the inviolability of UN premises applies “*at all times*,” including in the context of armed conflict.⁹⁴ This is because, as also explained, the inviolability of UN premises, and all privileges and immunities of the UN and UN officials more generally, flow directly from Article 105 of the UN Charter. And under Article 103 of the Charter, “[i]n the event of a conflict between the obligations of the Members of the United Nations under the present Charter and their obligations under any other international agreement, *their obligations under the present Charter shall prevail*.”⁹⁵ Therefore, by application of Article 103, the inviolability of premises and other privileges and immunities of the UN prevail over conflicting rules of armed conflict.⁹⁶

44. Accordingly, a military strike that could be justified under international humanitarian law, for instance because the incidental damage to civilians would not be excessive in relation to the military advantage, would still breach the General Convention if it damaged UN property. The proper course of action in this scenario would be for Israel to seek a prior determination by the UN that it is no longer asserting inviolability over the specific property subject to targeting or at risk of damage. As one commentator has explained “[w]hether inviolability of UN premises would cease or be suspended would be for the UN to authoritatively determine, and not a party to the conflict.”⁹⁷

⁹³ Note to the Under-Secretary-General of the Department of Peacekeeping Operations, United Nations (11 July 2003), UN Jurid. Yearbook 2003, p. 522, para. 11 (“The Convention does not contain anything to the effect that the privileges and immunities for which it provides are subject to abridgement or qualification in times of internal unrest or even in times of armed conflict. *Indeed, it has been the consistent position of the Organization that the General Convention applies in such circumstances just as much as it does in times of peace and that the privileges and immunities for which it provides may not be qualified or overridden by any demands of military expediency or security.*”) (emphasis added).

⁹⁴ UNGA Resolution 69/88, preamble, p. 3, and para. 17 (emphasis added).

⁹⁵ UN Charter, Article 103 (emphasis added).

⁹⁶ Commentators agree on this point. *See, e.g.*, Bartholomeusz, pp. 93-94; Reinisch Commentary, p. 131.

⁹⁷ Bartholomeusz, p. 86.

45. Since the beginning of the conflict in Gaza, and in continuance of its longstanding pattern in its previous military operations,⁹⁸ Israel has repeatedly breached the inviolability of UN premises and failed to uphold its duty to ensure the safety of UN personnel, premises and property. In particular, Israeli forces have targeted UNRWA premises nearly 650 times, destroying or damaging two thirds of UNRWA facilities.⁹⁹ At least 273 UNRWA staff members have been killed since the beginning of the conflict.¹⁰⁰ The examples of breaches of inviolability are too numerous to list exhaustively, but of note:

- In March 2024, Israel bombed an UNRWA aid warehouse and food distribution center, injuring 22 aid workers.¹⁰¹
- In May 2024, Israel fired at a WHO vehicle and killed its driver, a UN employee.¹⁰²
- In May 2024, UNRWA was forced to close its East Jerusalem headquarters after Israel failed to protect it against Israeli extremists who set fire to it twice.¹⁰³

⁹⁸ See, e.g., Letter dated 27 April 2015 from the Secretary-General addressed to the President of the Security Council, Summary by the Secretary-General of the report of the United Nations Headquarters Board of Inquiry into certain incidents that occurred in the Gaza Strip between 8 July 2014 and 26 August 2014, UN Doc. S/2015/286 (27 Apr. 2015), paras. 21, 25, 32, 36, 40, 43, 48 (finding that the IDF had struck and damaged seven UNRWA schools in the Gaza Strip during the 2014 hostilities, leading to death and injuries of UNRWA staff members); Summary of 2009 Board of Inquiry, paras. 13, 16, 21, 34, 43, 50, 63, 72 (finding that the IDF had struck and damaged three UNRWA schools (including a “*direct and intentional strike*”), one UNRWA health center, an UNRWA convoy, an UNRWA field office compound, and the compound of the Office of the United Nations Special Coordinator for the Middle East Peace Process, injuring and killing UN staff members) (emphasis added). Moreover, in March 2024, internal UN documents revealed a pattern of harassment of UNRWA employees, unlawful searches, incursions, and damage to UNRWA property by Israeli forces in the West Bank. See J. Burke, “Documents reveal alleged pattern of Israeli harassment of Unrwa workers on West Bank,” *The Guardian* (19 Mar. 2024), <https://tinyurl.com/5daw9hjb>.

⁹⁹ P. Lazzarini, @UNLazzarini, post, *X* (31 Dec. 2024, 3:22 AM EST), <https://tinyurl.com/5xsnke5s>.

¹⁰⁰ UNWRA, “UNRWA Situation Report #159 on the Humanitarian Crisis in the Gaza Strip and the West Bank, including East Jerusalem” (13 Feb. 2025), <https://tinyurl.com/33z7mxu>.

¹⁰¹ OCHA, “Hostilities in the Gaza Strip and Israel | Flash Update #139” (14 Mar. 2024), <https://tinyurl.com/3enffvtw>; A. Patil, “Israeli forces make a lethal strike on a U.N. aid warehouse in Rafah,” *New York Times* (13 Mar. 2024), <https://tinyurl.com/2ur2zt62>.

¹⁰² OCHA, “Hostilities in the Gaza Strip and Israel | Flash Update #166” (15 May 2024), <https://tinyurl.com/mu77autv>; “WHO driver killed, foreign employee injured by Israeli fire in Gaza’s Rafah,” *Anadolu Agency* (13 May 2024), <https://tinyurl.com/bdxj74x5>.

¹⁰³ OCHA, “Hostilities in the Gaza Strip and Israel | Flash Update #166” (15 May 2024), <https://tinyurl.com/mu77autv>; L. Tondo, “UN agency closes East Jerusalem HQ after arson attack by ‘Israeli extremists’,” *The Guardian* (10 May 2024), <https://tinyurl.com/36zskw4u>.

- In July 2024, Israeli forces destroyed UNRWA's headquarters in Gaza.¹⁰⁴ This came after a June 2024 airstrike on the same compound while UNRWA was distributing aid.¹⁰⁵
- On 11 September 2024, Israeli airstrikes hit a UNRWA school-turned-shelter in Gaza, killing 34 people, including six UNRWA staff members.¹⁰⁶
- On 31 October 2024, Israeli forces severely damaged the UNRWA office of Nur Shams Camp in the West Bank, using bulldozers.¹⁰⁷
- On 15 December 2024, Israeli forces bombed another UN school in Southern Gaza, killing at least 20 people.¹⁰⁸
- On 5 January 2025, Israeli forces directly fired at a World Food Program (WFP) convoy clearly marked as such in Gaza.¹⁰⁹
- On 30 January 2025, Israel failed to protect the UNRWA headquarters in East Jerusalem from Israeli right-wing activists who attacked the premises, yanked down its UN flag and replaced it with the Israeli flag.¹¹⁰

46. Moreover, to the extent that Israel's failure to ensure the safety of property and personnel of the UN and other international organizations hinders their operations, it also

¹⁰⁴ UNWRA, @UNWRA, post, X (15 July 2024, 9:29 AM EST), <https://tinyurl.com/3yd65txc>.

¹⁰⁵ UNWRA, "UNWRA Situation Report #115 on the Situation in the Gaza Strip and the West Bank, including East Jerusalem" (26 June 2024), <https://tinyurl.com/36nb9smr>; "At least eight killed in Israeli air strike on UNRWA aid centre in Gaza," *Al Jazeera* (23 June 2024), <https://tinyurl.com/4mhfyj43>.

¹⁰⁶ "Gaza: Six UNRWA staff killed in strikes on school sheltering displaced people," *UN News* (11 Sept. 2024), <https://tinyurl.com/4z7cbebj>. See also "Schools 'bombed-out' in latest Gaza escalation, says UNRWA chief," *UN News* (10 July 2024), <https://tinyurl.com/3ksuzhzhz>; "Children torn apart' as Israel attacks Gaza school sheltering Palestinians," *Al Jazeera* (28 Oct. 2024), <https://tinyurl.com/msr3en2h>.

¹⁰⁷ OCHA, "Humanitarian Situation Update #236 | West Bank" (7 Nov. 2024), <https://tinyurl.com/3kfzaez4>; P. Lazzarini, @UNLazzarini, post, X (31 Oct. 2024, 5:54 PM EST), <https://tinyurl.com/yzyj4dft>.

¹⁰⁸ "Gaza death toll passes 45,000 as UN school suffers new deadly strike" *UN News* (16 Dec. 2024), <https://tinyurl.com/u794b29c>; "Israel bombs another UN-run school in Gaza 'without warning', killing 20," *Al Jazeera* (16 Dec. 2024), <https://tinyurl.com/bdfza4zu>. See also "At least 12 displaced Palestinians killed in Israeli strike on Gaza school," *Al Jazeera* (7 Nov. 2024), <https://tinyurl.com/p8zbr6a8>.

¹⁰⁹ OCHA, "Humanitarian Situation Update #253 | Gaza Strip" (8 Jan. 2025), <https://tinyurl.com/bdhvmmrt>.

¹¹⁰ I. Debre, "Israel's ban on UN's Palestinian aid agency has come into effect. Here's what that looks like," *AP News* (30 Jan. 2025), <https://tinyurl.com/46przybr>.

constitutes a violation of Israel’s obligation to allow such organizations to operate as outlined in Section II.B.1 above.¹¹¹

3. The Obligation to Respect the Immunity from Legal Process of Officials of the UN and of Other International Organizations, and of UN Experts on Mission

47. Article 105(2) of the UN Charter confers on UN officials “such privileges and immunities as are necessary for the independent exercise of their functions in connection with the Organization.” Section 18 of the General Convention notably provides that “Officials of the United Nations shall [...] [b]e immune from legal process in respect of words spoken or written and all acts performed by them in their official capacity.” Section 22(b) provides *mutatis mutandis* the same functional immunity from legal process to UN experts on missions.¹¹² As the Court has recognized, the immunities of officials go hand-in-hand with those of the Organizations itself, as they are necessary to its proper functioning and independence.¹¹³

48. As to the application *ratione personae* of this immunity, Section 17 provides that “[t]he Secretary-General will specify the categories of officials to which” these privileges and immunities apply. Accordingly, in Resolution 76(1) of 1946, the General Assembly accepted the Secretary-General’s proposal to apply these privileges and immunities to all UN staff members,

¹¹¹ See, e.g., “We are pausing the delivery of aid through Kerem Shalom,” UNRWA (1 Dec. 2024), <https://tinyurl.com/y49yhbxc> (citing lack of safety on aid routes and protection from armed gangs as causing the halt of aid delivery through Kerem Shalom in Gaza); “Intense bombardments, mass displacements and lack of access in northern Gaza force the postponement of polio vaccination campaign,” WHO (23 Oct. 2024), <https://tinyurl.com/5bxek3vh>.

¹¹² See Reinisch Commentary, p. 460 (noting that “[t]he UN has treated officials and experts on mission in the same manner in relation to questions concerning the scope and applicability of this immunity”). Section 22(b) of the General Convention provides: “Experts [...] performing missions for the United Nations shall be accorded [...] [i]n respect of words spoken or written and acts done by them in the course of the performance of their mission, immunity from legal process of every kind.”

¹¹³ *Reparation for injuries suffered in the service of the United Nations, Advisory Opinion, I.C.J. Reports 1949*, p. 183 (“Both to ensure the efficient and independent performance of these missions and to afford effective support to its agents, the Organization must provide them with adequate protection. This need of protection for the agents of the Organization [is] a condition of the performance of its functions.”) (emphasis added). See also Reinisch Commentary, p. 328.

“with the exception of those who are recruited locally and are assigned to hourly rates.”¹¹⁴ This includes employees of the UN funds and programmes, including UNRWA.¹¹⁵

49. While there is no definition of “experts on missions” in the General Convention, in the *Mazilu* Advisory Opinion, the Court clarified that they are “persons (other than United Nations officials) to whom a mission has been entrusted by the Organization.”¹¹⁶ They may be “appointed or elected,” “may or may not be remunerated, may or may not have a contract, may be given a task requiring work over a lengthy period or a short time. *The essence of the matter lies not in their administrative position but in the nature of their mission.*”¹¹⁷ Such missions include “mediation, [...] preparing reports, preparing studies, conducting investigations or finding and establishing facts, [participating] in certain peacekeeping forces, technical assistance work, and a multitude of other activities.”¹¹⁸

50. As to the content of immunity of UN officials and experts on missions, Sections 18 and 22 provide for immunity from *any* form of legal process. “Legal process” has been given a “broad interpretation”¹¹⁹ and encompasses:

[T]he entire judicial proceedings including the writ, mandate, summons or act by which the court assumes jurisdiction and compels the appearance of the defendant and witnesses and acts of execution, as well as other acts on the part of public authorities such as arrest and detention in custody, in connexion with legal proceedings.¹²⁰

¹¹⁴ UNGA, Resolution 76(1), UN Doc. A/RES/76(1) (7 Dec. 1946). The conditions of this exception are cumulative. *See, e.g.*, The practice of the United Nations, the specialized agencies and the International Atomic Energy Agency concerning their status, privileges and immunities: study prepared by the Secretariat, UN Doc. A/CN.4/L.383 and Add.1-3 (1985) (“**1985 UN Secretariat Study**”), p. 171, para. 54.

¹¹⁵ *See* Reinisch Commentary, p. 319 and note 31.

¹¹⁶ *Mazilu* Advisory Opinion, p. 195, para. 52.

¹¹⁷ *Id.*, p. 194, para. 47 (emphasis added).

¹¹⁸ *Id.*, p. 194, para. 48.

¹¹⁹ Scope and Effect of the Privileges and Immunities Required Under the 1946 Convention on the Privileges and Immunities of the United Nations for Locally Recruited Staff, Memorandum from the General Counsel of UNRWA (15 May 1968), UN Jurid. Yearbook 1968, p. 213. *See also* Reinisch Commentary, p. 329.

¹²⁰ 1967 UN Secretariat Study, p. 266, para. 250.

51. This immunity is not absolute, but functional in nature. However, the Secretary-General has the exclusive prerogative to determine whether acts of UN officials and experts on missions were performed in an “official” capacity or not.¹²¹ This is because, in the words of the Court, in the performance of their duties, UN agents are “under the protection of the Organization.”¹²² In the case of UNRWA specifically, the Commissioner-General of UNRWA also has the authority to determine if acts are official.¹²³

52. Whether an act was performed in an “official” capacity is a question of fact that depends on the circumstances of each case.¹²⁴ To be able to make this determination in cases of detention, the UN has consistently maintained that it has a right to visit and communicate with detained staff members or experts, “to be apprised of the grounds for the arrest or detention, including the main facts and formal charges, to assist the staff member in arranging for legal counsel and to appear in legal proceedings to defend any United Nations interest affected by the

¹²¹ See 1985 UN Secretariat Study, p. 171, para. 56; Office of Legal Affairs, Note on the legal status of the United Nations in the United States of America (7 Feb. 2006), UN Jurid. Yearbook 2006, p. 443, para. 10 (“In accordance with the established jurisprudence, it is the Secretary-General’s prerogative to establish what constitutes ‘official capacity’.”). See also *Difference Relating to Immunity from Legal Process of a Special Rapporteur of the Commission on Human Rights*, Advisory Opinion, I.C.J. Reports 1999 (“**Cumaraswamy Advisory Opinion**”), p. 87, para. 60 (“[I]t is up to [the Secretary-General] to assess whether its agents acted within the scope of their functions and, where he so concludes, to protect these agents, including experts on mission, by asserting their immunity.”).

¹²² *Reparation for injuries suffered in the service of the United Nations*, Advisory Opinion, I.C.J. Reports 1949, p. 184.

¹²³ See Scope and Effect of the Privileges and Immunities Required Under the 1946 Convention on the Privileges and Immunities of the United Nations for Locally Recruited Staff, Memorandum from the General Counsel of UNRWA (15 May 1968), UN Jurid. Yearbook 1968, p. 213 (“[A]s the employer, [UNRWA] must reserve the right to make this decision [of whether the act at issue is ‘official’ or ‘non-official’].”). This is because UNGA Resolution 302 (IV), which created UNRWA, affords it more independence in recruiting and administering its own staff. UNGA, Resolution 302, UN Doc. A/RES/302 (IV) (8 Dec. 1949), para. 9(b).

¹²⁴ See Letter to the Legal Liaison Officer, United Nations Industrial Development Organization (12 Dec. 1977), 1977 UN Jurid. Yearbook, p. 247 (“There is no precise definition of the expressions ‘official capacity’, ‘official duties’, or ‘official business’. These are functional expressions and *must be related to a particular context*.”) (emphasis added). See *mutatis mutandis* for the immunity of experts on missions, *Cumaraswamy Advisory Opinion*, p. 85, para. 52 (“The determination whether an agent of the Organization has acted in the course of the performance of his mission depends upon the facts of a particular case.”).

arrest or detention.”¹²⁵ This is the case “[e]ven if in fact there is no connexion between the staff members’ duties and the reason for the detention.”¹²⁶

53. In addition to this functional immunity, experts on missions, for their part, also enjoy personal inviolability—*i.e.*, absolute immunity— “from personal arrest or detention.”¹²⁷

54. When functional immunity applies, the Secretary-General (or, for UNRWA, the Commissioner-General on his behalf) can and must waive immunity if it would, in the Secretary-Generals’ opinion, “impede the course of justice,” and “can be waived without prejudice to the interests of the United Nations.”¹²⁸

55. Since the beginning of the hostilities, Israel has frequently violated the immunity of UN Officials. It has detained UNRWA staff members, “including some detained during the performance of their official duties for the UN, including while working at UNRWA installations and in one case during a coordinated humanitarian movement.”¹²⁹ According to a March 2024 UNRWA report, UNRWA staff were held incommunicado and subjected to ill-treatment and torture, both in Gaza and in Israel.¹³⁰ UNRWA reported that detainees were “subjected to threats and coercion while in detention and being pressured during interrogations to make forced confessions against the Agency, including that the Agency has affiliations with Hamas and that

¹²⁵ Respect for the privileges and immunities of officials of the United Nations and the specialized agencies, Report of the Secretary-General, UN Doc. A/C.5/36/31 (4 Nov. 1981), p. 2, para. 6. *See also* 1967 UN Secretariat Study, p. 266, para. 251.

¹²⁶ 1967 UN Secretariat Study, p. 266, para. 251.

¹²⁷ General Convention, Section 22(a). *See also* A. J. Miller, “United Nations Experts on Mission and their Privileges and Immunities,” *International Organizations Law Review* (2007), pp. 40, 42; Reinisch Commentary, pp. 439, 459-460.

¹²⁸ General Convention, Sections 20, 23.

¹²⁹ UNWRA, *Detention and alleged ill-treatment of detainees from Gaza during Israel-Hamas War* (16 Apr. 2024), <https://tinyurl.com/8xb5nhr>, p. 2.

¹³⁰ *Id.*

UNRWA staff took part in the 7 October attacks against Israel.”¹³¹ Reports of torture by detained UNRWA staff included:

[S]evere physical beatings and treatment akin to waterboarding, resulting in extreme physical suffering; beatings by doctors when referred for medical assistance; exposure to and being attacked by dogs; threats of rape and electrocution; threats of violence with guns pointed at them; verbal and psychological abuse; threats of murder, injury or harm to family members; humiliating and degrading treatment; being forced to strip naked and being photographed while they are undressed; and being forced to hold stress positions.¹³²

56. UNRWA has officially protested against the detention and mistreatment of its staff, but received no response from Israel.¹³³ As of 31 December 2025, there were still at least 20 UNRWA staff members in Israeli detention.¹³⁴

57. Israel claims it has detained UNRWA employees on the grounds that they were allegedly affiliated with Hamas. In early 2024, Israel made accusations that 19 UNRWA staff participated in the October 7 attacks. Following Israel’s grave accusations, the UN Office of Internal Oversight (“OIOS”) launched an internal investigation, finding that of the 19 accused staff, “[i]n one case, no evidence was obtained by OIOS to support the allegations of the staff member’s involvement, while in nine other cases, the evidence obtained by OIOS was insufficient to support the staff members’ involvement.”¹³⁵ As concerns the other nine accused, OIOS found that they “may have been involved in the 7 October attacks.”¹³⁶ The UN stressed, however, “that since information used by Israeli officials to support the allegations have remained in Israeli

¹³¹ *Id.*

¹³² *Id.*, p. 3.

¹³³ *Id.*

¹³⁴ P. Lazzarini, @UNLazzarini, post, X (31 Dec. 2024, 3:22 AM EST), <https://tinyurl.com/5xsnke5s>.

¹³⁵ “UN completes investigation on UNRWA staff,” *UN News* (5 Aug. 2024), <https://tinyurl.com/hwujnjs8>.

¹³⁶ *Id.*

custody, OIOS was not able to independently authenticate most of the information provided to it.”¹³⁷ Nevertheless, the UN immediately terminated these nine employees’ contracts.¹³⁸

58. In parallel, an independent review ordered by the Secretary-General (“**Colonna Report**”) concluded in April 2024 that UNRWA has a “more developed approach to neutrality” than similar UN entities or NGOs and had established numerous procedures to ensure compliance with neutrality.¹³⁹ It also noted that UNRWA had adhered to strict vetting protocols, and that “the Israeli Government has not informed UNRWA of any concerns relating to any UNRWA staff based on these staff lists since 2011.”¹⁴⁰

59. In a 27 January 2025 letter addressed to the Permanent Representative of Israel to the UN, the UN Secretary-General reiterated that the UN took Israel’s allegations “very seriously” and had taken “decisive action in relation thereto.”¹⁴¹ Following the OIOS internal investigation and the Colonna Report, all UN Member States that had suspended their funding of UNRWA following Israel’s allegations but one reinstated their funding.¹⁴²

60. Regardless, however, of whether Israel’s allegations against the UNRWA staff it has detained are well-founded, such detentions are incompatible with Section 18 of the General Convention. In particular, the staff members were held incommunicado, with no opportunity for UNRWA to visit them and learn the reasons for their detention in view of asserting immunity, and/or decide whether to waive immunity. Merely alleging affiliation with Hamas or terrorism does not relieve Israel of this obligation. As explained above, since the immunity of UN officials

¹³⁷ *Id.*

¹³⁸ *Id.*; Report of the Commissioner-General of UNRWA, 1 January-31 December 2023, UN Doc. A/79/13 (14 Aug. 2024), p. 5.

¹³⁹ Independent Review of Mechanisms and Procedures to Ensure Adherence by UNRWA to the Humanitarian Principle of Neutrality, Final Report for the United Nations Secretary-General (20 Apr. 2024) (Dossier No. N297), pp. 4-5.

¹⁴⁰ *Id.*, pp. 21-22.

¹⁴¹ Letter from the UN Secretary-General to the Permanent Representative of Israel to the UN (27 Jan. 2025) (Dossier No. N308).

¹⁴² See Report of the Commissioner-General of UNRWA, 1 January-31 December 2023, UN Doc. A/79/13 (14 Aug. 2024), p. 5.

derives directly from Article 105 of the UN Charter, it cannot be overridden by international humanitarian law or considerations of security.¹⁴³

61. Moreover, even if the detentions were compatible with Section 18 of the 1946 Convention, *i.e.* if UNRWA made the determination that these employees were being detained for acts not performed in their official capacity, or waived immunity, these detentions would still be illegal under other norms of international law, including the prohibition of arbitrary detention,¹⁴⁴ and the prohibition of torture, inhuman or degrading treatment or punishment.¹⁴⁵ These prohibitions apply even in time of armed conflict, and are enshrined under international humanitarian law treaties and custom.¹⁴⁶

62. Separately, to the extent that the Israeli legislation prohibiting any UNRWA activity would lead to the prosecution of UNRWA employees for performing their functions, this would be a clear violation of Section 18 of the General Convention. In this regard, the Israeli legislation prohibiting any contact between Israeli authorities and UNRWA specifies that it shall not preclude “any criminal proceedings against UNRWA employees.”¹⁴⁷

4. The Obligation to Allow Entry of Officials of the UN and of Other International Organizations, and Experts on Mission, into Israel and the OPT

63. As already mentioned, Article 105(2) of the UN Charter provides for privileges and immunities of UN officials “as are necessary for the independent exercise of their functions in connection with the Organization.” This implies an obligation for States to ensure UN officials’

¹⁴³ *See supra* para. 44.

¹⁴⁴ Enshrined notably in Article 9 of the International Covenant on Civil and Political Rights (“**ICCPR**”), to which Israel is party.

¹⁴⁵ Enshrined in Article 7 of the ICCPR and in the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, to which Israel is party.

¹⁴⁶ *See, e.g.*, Geneva Convention (IV) Relative to the Protection of Civilian Persons in Time of War (1949) (“**Fourth Geneva Convention**”), Article 32 (prohibition of torture); International Committee of the Red Cross (“**ICRC**”), Customary International Humanitarian Law Database, Rule 99 (prohibition of arbitrary detention).

¹⁴⁷ Letter dated 28 October 2024 from the Secretary-General addressed to the President of the General Assembly, UN Doc. A/79/558 (29 Oct. 2024), p. 2.

freedom of movement within their territory.¹⁴⁸ To that end, Section 18(d) of the General Convention provides that UN officials shall be immune “from immigration restrictions.” This notably requires States to issue visas to officials without “restrictions [...] that would impede UN officials from performing their functions.”¹⁴⁹ In addition, in the 1967 Exchange of Letters, Israel specifically undertook to permit the freedom of movement of UNRWA vehicles and staff members within Israel, and in and out of Israel and the OPT.¹⁵⁰

64. As regards experts on missions, the *chapeau* of Section 22 provides that they “shall be accorded such privileges and immunities as are necessary for the independent exercise of their functions during the period of their missions, including the time spent on journeys in connection with their missions.” This has been interpreted as creating for experts on missions a right of entry and exit as necessary for the independent exercise of their mission.¹⁵¹

65. Israel has breached these obligations in several ways. *First*, as described above, its legislation banning UNRWA’s activities prohibits Israeli authorities from delivering the necessary entry permits and visas to UNRWA employees to perform their official duties in Israel and within the OPT,¹⁵² including the delivery of life-saving aid. Shortly after Israel demanded that UNRWA evacuate its premises in East Jerusalem,¹⁵³ Israel shortened UNRWA international staff’s visas to expire on 29 January 2025, forcing them to evacuate the East Jerusalem offices and relocate to

¹⁴⁸ 1967 UN Secretariat Study, p. 289, para. 364 (“The United Nations has consistently maintained that its officials and others (e.g. experts on mission) travelling in order to fulfil their functions on behalf of the United Nations should be granted freedom of movement by all Member States.”).

¹⁴⁹ Reinisch Commentary, p. 353; A. J. Miller, “Privileges and Immunities of United Nations Officials,” *International Organizations Law Review* (2007), p. 211.

¹⁵⁰ Exchange of Letters, paras. (b), (c), (d).

¹⁵¹ Reinisch Commentary, p. 459; A. J. Miller, “United Nations Experts on Mission and their Privileges and Immunities,” *International Organizations Law Review* (2007), pp. 43–44. *See also* Facsimile to the Chief of the Special Procedures Centre for Human Rights, United Nations Office at Geneva (26 Apr. 1996), UN Jurid. Yearbook 1996, p. 438 (“[E]xperts who have a certificate stating that they are traveling on official United Nations business are entitled to ‘similar facilities’ normally accorded under the General Convention [to] officials of the Organization.”).

¹⁵² *See* P. Wintour, “Israel insists it is going ahead with Unrwa ban – what it may mean for Palestinians,” *The Guardian* (27 Jan. 2025), <https://tinyurl.com/dbnsdded>.

¹⁵³ Letter from the Permanent Representative of Israel to the UN to the UN Secretary-General (24 Jan. 2025) (Dossier No. N307), p. 2.

Amman, Jordan.¹⁵⁴ This is not only a violation of Article 105 of the Charter and of Section 18 of the General Convention, but also of Israel's specific commitments with regard to the freedom of movement of UNRWA employees under the Exchange of Letters.

66. *Second*, Israel has denied entry to the current Special Rapporteur on the situation of human rights in the OPT, Francesca Albanese,¹⁵⁵ and to all her predecessors.¹⁵⁶ The Court has already found that Special Rapporteurs who “carry out [...] research independently for the United Nations” and/or “monitor[] human rights violations and report[] on them” fall within the category of experts on missions, and are thus to be accorded those privileges and immunities.¹⁵⁷ Albanese's mandate includes investigating violations, undertaking regular visits or missions, and reporting on findings in the OPT.¹⁵⁸ She, and her predecessors, are thus “experts on missions” entitled to freedom of movement in Israel and the OPT as necessary to perform their functions.¹⁵⁹ Israel has also denied entry to UN officials specialized in human rights protection.¹⁶⁰

¹⁵⁴ “Israel's new laws banning UNRWA already taking effect,” *UN News* (29 Jan. 2025), <https://tinyurl.com/2rybwcf9>. Even before the entry into force of the ban, Israeli authorities restricted UN staff's freedom of movement within and in and out of the OPT. *See* Report of the Commissioner-General of UNRWA, 1 January-31 December 2023, UN Doc. A/79/13 (14 Aug. 2024), pp. 22-23, paras. 64-71.

¹⁵⁵ “Gaza: Israel's censure or rights expert should not distract from possible war crimes,” *UN News* (15 Feb. 2024), <https://tinyurl.com/4mvpjp6z>.

¹⁵⁶ *See, e.g.*, “Faced with Israeli denial of access to Occupied Palestinian Territory, UN expert resigns,” *UN News* (4 Jan. 2016), <https://tinyurl.com/sfv8t2vh>; “Treatment of UN expert ‘unprecedented and deeply regrettable,’ says UN human rights chief,” OHCHR (16 Dec. 2008), <https://tinyurl.com/jubezu6u>.

¹⁵⁷ *Mazilu* Advisory Opinion, p. 196, para. 55; *Cumaraswamy* Advisory Opinion, p. 83, para. 43.

¹⁵⁸ OHCHR, Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, “About the mandate,” <https://tinyurl.com/yc5bdjr3> (last accessed on 19 Feb. 2025).

¹⁵⁹ Moreover, on 24 May 2024, the Court also ordered Israel to “[t]ake effective measures to ensure the unimpeded access to the Gaza Strip of any commission of inquiry, fact-finding mission or other investigative body mandated by competent organs of the United Nations to investigate allegations of genocide.” *South Africa v. Israel*, Order of 24 May 2024, para. 57(2)(c). As Albanese's mandate includes investigating human rights violations in the OPT, Israel's continuous ban of entry therefore also violates this provisional measures order.

¹⁶⁰ “Bachelet deplores Israel's failure to grant visas for UN Human Rights staff in the occupied Palestinian territory,” OHCHR (30 Aug. 2022), <https://tinyurl.com/ycy8y8h2>. Israel also recently denied entry to Philippe Lazzarini, Commissioner-General of UNRWA. *See* “UNRWA chief says Israel blocks him from Gaza,” *Reuters* (18 Mar. 2024), <https://tinyurl.com/4cjf9v8c>.

67. *Third*, Israel recently banned the UN Secretary-General himself from entry into Israel,¹⁶¹ purporting to designate him as *persona non grata*. This is not only an egregious violation of Article 105 of the UN Charter and Sections 18 and 19 of the General Convention,¹⁶² it is also incompatible with Article 100(2) of the Charter, under which UN Member States “undertake[] to respect the exclusively international character of the responsibilities of the Secretary-General and the staff and not to seek to influence them in the discharge of their responsibilities.” The doctrine of *persona non grata*, which derives from the law of diplomatic immunities, is thus inapplicable to UN officials, especially the Secretary-General, because they do not represent a government and must remain independent.¹⁶³ In a similarly unlawful move, Israel also recently denied entry to Philippe Lazzarini, Commissioner-General of UNRWA.¹⁶⁴

68. Israel is thus under an obligation to immediately revoke those entry bans and to ensure the freedom of movement of UN officials and experts on missions in Israel and the OPT.

¹⁶¹ “Israel bars UN secretary-general from entering country,” *Reuters* (2 Oct. 2024), <https://tinyurl.com/3daj885x>; United Nations, “Daily Press Briefing by the Office of the Spokesperson for the Secretary-General” (2 Oct. 2024), <https://tinyurl.com/ycky3akw> (describing the ban as “just one more attack [...] on UN staff that we’ve seen from the government of Israel”).

¹⁶² Section 19 of the General Convention confirms that the Secretary-General benefits from all privileges and immunities accorded to UN officials under Section 18.

¹⁶³ This is the long-standing opinion of the UN. *See* Aide-Mémoire to the Permanent Representatives of various Member States (23 Jan. 1964), UN Jurid. Yearbook 1964, p. 261 (“The principle of *persona non grata* which applies with respect to diplomats accredited to a government has no application with respect to United Nations staff or military observers who are not accredited to a government but must serve as independent and impartial international officials responsible to the United Nations.”); United Nations, “Daily Press Briefing by the Office of the Spokesperson for the Secretary-General” (2 Oct. 2024), <https://tinyurl.com/ycky3akw> (explaining that the UN does not recognize the concept of *persona non grata* as applicable to UN staff); Reinisch Commentary, pp. 315, 357-359.

¹⁶⁴ *See* “UNRWA chief says Israel blocks him from Gaza,” *Reuters* (18 Mar. 2024), <https://tinyurl.com/psynvnsk>.

III. ISRAEL'S OBLIGATIONS UNDER INTERNATIONAL HUMANITARIAN LAW AS AN OCCUPYING POWER

69. After briefly recalling the applicability of international humanitarian law to the OPT (**Section III.A**), this section identifies Israel's specific obligations under international humanitarian law relevant to the Request (**Section III.B**).

A. The Applicability of International Humanitarian Law

70. In its previous advisory opinion on the *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*, the Court reaffirmed that international humanitarian law applies to Israel's conduct in relation to the OPT. In particular, it recalled that the Geneva Convention (IV) relative to the Protection of Civilian Persons in Time of War (1949) ("**Fourth Geneva Convention**" or "**GC IV**")

[I]s applicable in any occupied territory in the event of an armed conflict arising between two or more High Contracting Parties [...] Egypt, Israel and Jordan were all parties to that Convention when the 1967 armed conflict broke out. Therefore, the Fourth Geneva Convention is applicable in the Occupied Palestinian Territory.¹⁶⁵

71. The Court also found that the Regulations Respecting the Laws and Customs of War on Land annexed to the Fourth Hague Convention of 18 October 1907 ("**Hague Regulations**") are binding on Israel as reflective of customary international law.¹⁶⁶

72. For the same reasons, the Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (1949) ("**First Geneva Convention**" or "**GC I**"), which has the same scope of application as the Fourth Geneva Convention,¹⁶⁷ also applies.

¹⁶⁵ *Occupied Palestinian Territory* Advisory Opinion, para. 96; *Wall* Advisory Opinion, p. 177, para. 101. *See also* Fourth Geneva Convention, Article 2.

¹⁶⁶ *Occupied Palestinian Territory* Advisory Opinion, para. 96; *Wall* Advisory Opinion, p. 172, para. 89.

¹⁶⁷ First Geneva Convention, Article 2 ("In addition to the provisions which shall be implemented in peacetime, the present Convention shall apply to all cases of declared war or of any other armed conflict which may arise between two or more of the High Contracting Parties, even if the state of war is not recognized by one of them. The Convention shall also apply to all cases of partial or total occupation of the territory of a High Contracting Party, even if the said

73. As the Court noted in its previous opinion, the Gaza Strip “is an integral part of the territory that was occupied by Israel in 1967,”¹⁶⁸ and thus international humanitarian law applies to Gaza as it does to the rest of the OPT. In that opinion, the Court also considered the effect of Israel’s “Disengagement Plan” to Gaza’s status as an occupied territory. It concluded that:

Israel remained capable of exercising, and continued to exercise, certain key elements of authority over the Gaza Strip [...]. 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.¹⁶⁹

74. As the Court observed, Israel’s effective control over the Gaza Strip is even more evident “since 7 October 2023.”¹⁷⁰ The Court held that a State has effective control over the territory, and therefore is deemed to occupy it, if its authority “has been established and can be exercised,”¹⁷¹ *i.e.* if it has “the capacity to enforce its authority, including by making its physical presence felt within a reasonable time.”¹⁷² To say that Israel has made its “physical presence felt” in Gaza is an understatement. Since 7 October 2023, Israel has launched a full-scale military invasion of Gaza, deploying 50,000 troops,¹⁷³ and completely besieged the strip.¹⁷⁴ It has bombarded the majority of the territory,¹⁷⁵ and displaced 90% of its population, including into

occupation meets with no armed resistance.”). By 1967, Israel, Jordan, and Egypt were all parties to the First Geneva Convention and Israel has remained a party to this day.

¹⁶⁸ *Occupied Palestinian Territory* Advisory Opinion, para. 88.

¹⁶⁹ *Id.*, paras. 88, 93-94.

¹⁷⁰ *Id.*, para. 93.

¹⁷¹ *Id.*, para. 92.

¹⁷² *Id.*, para. 91.

¹⁷³ P. Kingsley *et al.*, “Israel Says Its Military Is Starting to Shift to a More Targeted Gaza Campaign,” *New York Times* (8 Jan. 2024), <https://tinyurl.com/ymbm7pkv>.

¹⁷⁴ “Israel-Gaza war in maps and charts: Live tracker,” *Al Jazeera*, <https://tinyurl.com/y52e8nm8> (last updated on 3 Feb. 2025).

¹⁷⁵ “Gaza Strip in maps: How 15 months of war has drastically changed life in the territory,” *BBC* (16 Jan. 2025), <https://tinyurl.com/yx3te39f> (showing extent of damage throughout the territory as of 11 January 2025).

overcrowded makeshift camps.¹⁷⁶ Israeli nationals, including Israeli ministers, have even recently called for the reestablishment of Israeli settlements in Gaza.¹⁷⁷ Therefore, there now can be no doubt that Israel fully exercises effective control over the entirety of Gaza. Israel is thus bound to apply its obligations under the First and Fourth Geneva Conventions and relevant rules of customary international humanitarian law in the Gaza Strip commensurate with its effective control.

B. Israel's Relevant Obligations Under International Humanitarian Law

75. There are numerous international humanitarian law obligations binding upon Israel as an occupying power under the legal sources identified above. To be of assistance to the Court, however, this Statement will only identify the obligations that are most relevant to the presence and activities of the UN, of other international organizations, and States in and in relation to the OPT.

1. The Obligation to Allow and Facilitate Relief Schemes and Distribution of Aid

76. As the Court has already recognized, Israel “has the continuing duty to ensure that the local population has an adequate supply of foodstuffs, including water” under Article 55 GC IV.¹⁷⁸ If the population is inadequately supplied, Israel has the obligation under Article 59 to “agree to relief schemes” and “facilitate them by all the means at its disposal.” Such schemes may be undertaken “by States or by impartial humanitarian organizations,” in particular for the provision of foodstuffs, medical supplies, and clothing.¹⁷⁹ These relief schemes, however, do not relieve

¹⁷⁶ OCHA, “Reported impact snapshot | Gaza Strip (8 January 2025),” <https://tinyurl.com/3664dnsp>; “Gaza Strip in maps: How 15 months of war has drastically changed life in the territory,” *BBC* (16 Jan. 2025), <https://tinyurl.com/yx3te39f>.

¹⁷⁷ J. Laizans & M. Y. Itzhaki, “On the edge of Gaza, Israeli settlers want back in,” *Reuters* (21 Oct. 2024), <https://tinyurl.com/4dcfb4xy>.

¹⁷⁸ *Occupied Palestinian Territory Advisory Opinion*, para. 124. *See* Fourth Geneva Convention, Article 55 (“To the fullest extent of the means available to it, the Occupying Power has the duty of ensuring the food and medical supplies of the population; it should, in particular, bring in the necessary foodstuffs, medical stores and other articles if the resources of the occupied territory are inadequate.”).

¹⁷⁹ Fourth Geneva Convention, Article 59.

Israel of its core obligation to ensure the supply of food and water under Article 55.¹⁸⁰ Moreover, GC IV Article 63(a) provides that “recognized National Red Cross (Red Crescent, Red Lion and Sun) Societies shall be able to pursue their activities in accordance with Red Cross principles,” and that “[o]ther relief societies shall be permitted to continue their humanitarian activities under similar conditions.”

77. Under customary international law, Israel has the obligation to “allow and facilitate rapid and unimpeded passage of humanitarian relief for civilians in need, which is impartial in character and conducted without any adverse distinction, subject to [its] right of control.”¹⁸¹ This implies the free passage of supplies, equipment, and personnel participating in humanitarian relief.¹⁸²

78. This obligation is further specified in the Fourth Geneva Convention. GC IV Article 59 provides that “[a]ll Contracting Parties” (including Israel) “shall permit the free passage” of foodstuffs, medical supplies, and clothing, and “shall guarantee their protection.” Under GC IV Article 23, Israel must also “allow the free passage of all consignments of medical and hospital stores and objects necessary for religious worship intended only for civilians” as well as “the free passage of all consignments of essential foodstuffs, clothing and tonics intended for children under fifteen, expectant mothers and maternity cases.” And under GC IV Article 61, Israel must “endeavour to permit the transit and transport, free of charge, of such relief consignments on their way to occupied territories.”

79. In addition, Article 61 obliges Israel to “facilitate the rapid distribution” of relief consignments, and Article 23 provides that aid must be “forwarded as rapidly as possible.” In this regard, commentators have specified that “[a]dministrative procedures and formalities and other

¹⁸⁰ *Id.*, Article 60.

¹⁸¹ ICRC, Customary International Humanitarian Law Database, Rule 55. *See also Rome Statute of the International Criminal Court, Article-by-Article Commentary* (4th ed.) (Kai Ambos (ed.), Beck/Hart/Nomos 2021) (“**Rome Statute Commentary**”), p. 415.

¹⁸² *See* D. Akande & E.-C. Gillard, *Oxford Guidance on the Law Relating to Humanitarian Relief Operations in Situations of Armed Conflict* (2016), <https://tinyurl.com/9tuz58pv>, p. 36, para. 94; ICRC, Customary International Humanitarian Law Database, Rule 56.

technical arrangements must be applied in good faith and their nature, extent, and impact must not prevent the rapid delivery of humanitarian relief in a principled manner.”¹⁸³ Israel must also prevent the diversion and looting of relief supplies.¹⁸⁴

80. Of relevance to these obligations is the prohibition of starvation under customary international law, which is codified as a war crime in Article 8(b)(xxv) of the Rome Statute of the International Criminal Court (“**Rome Statute**”).¹⁸⁵ Under Article 8(2)(b)(xxv), it is a “serious violation[] of the laws and customs applicable in international armed conflict” to “[i]ntentionally us[e] starvation of civilians as a method of warfare by depriving them of objects indispensable to their survival, *including wilfully impeding relief supplies as provided for under the Geneva Conventions*.”¹⁸⁶ “Objects indispensable to [...] survival” refers to food, water, and also basic shelter and clothing necessary to survive climatic conditions.¹⁸⁷ The Security Council has reaffirmed this obligation in the context of the conflict in Gaza.¹⁸⁸

81. Commentators interpret this obligation as creating a duty to accept relief when it is necessary for the survival of the civilian population, a duty which, as mentioned above, also stems from GC IV Article 59.¹⁸⁹ A State discretionarily or arbitrarily refusing or impeding relief action

¹⁸³ Oxford Guidance on the Law Relating to Humanitarian Relief Operations in Situations of Armed Conflict, p. 26, para. 56.

¹⁸⁴ *See id.*, p. 32, para. 82.

¹⁸⁵ *See also* ICRC, Customary International Humanitarian Law Database, Rule 53; Rome Statute Commentary, pp. 582-583 (explaining that the prohibition of starvation is a rule of custom).

¹⁸⁶ Rome Statute, Article 8(2)(b)(xxv) (emphasis added).

¹⁸⁷ Rome Statute Commentary, pp. 586-587.

¹⁸⁸ UNSC Resolution 2720, para. 10 (“Reaffirms the obligations of all parties under international humanitarian law, including with regard to respecting and protecting civilians and taking constant care to spare civilian objects, including such objects critical to the delivery of essential services to the civilian population, and with regard to refraining from attacking, destroying, removing or rendering useless objects that are indispensable to the survival of the civilian population.”).

¹⁸⁹ Rome Statute Commentary, p. 587; Oxford Guidance on the Law Relating to Humanitarian Relief Operations in Situations of Armed Conflict, p. 18, para. 33 (“[T]he occupying power may not withhold consent to relief operations that are humanitarian and impartial in character”); *The 1949 Geneva Conventions: A Commentary* (A. Clapham *et al.* (eds.), OUP 2015), pp. 244-245 (“The rules of CIL on the prohibition of starvation demand that any civilian population at risk of starvation *must* receive the relief supplies necessary for its survival.”) (emphasis in the original).

or consignments would be in violation of the prohibition of starvation.¹⁹⁰ As the Special Rapporteur on the Right to Food noted, “military necessity [...] can be invoked only to regulate humanitarian access, not to prohibit definitively the possibility for an impartial humanitarian organization to operate in certain areas[, and only] temporarily and within specific geographical limits.”¹⁹¹ An example of arbitrary refusal would be a failure to provide reasons for withholding consent.¹⁹²

82. In the specific context of the recent conflict in Gaza, the UN Security Council reaffirmed these obligations, which are binding upon Israel. In November 2023, it called for:

[U]rgent and extended humanitarian pauses and corridors throughout the Gaza Strip for a sufficient number of days to enable, consistent with international humanitarian law, the full, rapid, safe, and unhindered humanitarian access for United Nations humanitarian agencies and their implementing partners, the International Committee of the Red Cross and other impartial humanitarian organizations, to facilitate the continuous, sufficient and unhindered provision of essential goods and services important to the well-being of civilians [...].¹⁹³

¹⁹⁰ Rome Statute Commentary, p. 590 (citing notably UNSC, Resolution 2139, UN Doc. S/RES/2139 (2014), preamble, p. 2 (“[R]ecalling that arbitrary denial of humanitarian access and depriving civilians of objects indispensable to their survival, including wilfully impeding relief supply and access, can constitute a violation of international humanitarian law”). *See also* Oxford Guidance on the Law Relating to Humanitarian Relief Operations in Situations of Armed Conflict, p. 21, para. 44; *The 1949 Geneva Conventions: A Commentary* (A. Clapham *et al.* (eds.), OUP 2015), p. 245 (“[T]he Geneva Conventions’ ‘consent requirement’ for IACs, [...] *is not applicable in every circumstance. It cannot be used to justify a lack of concern for a population, or part of it, whose survival is in acute danger.* This means that relief activities in the gravest situations can only be subject to certain conditions and modalities regarding the delivery of relief supplies in the field. They cannot be subject to a strict ‘overall’ condition of consent.”) (emphasis added).

¹⁹¹ Interim report of the Special Rapporteur on the right to food, UN Doc. A/72/188 (21 July 2017), para. 77. *See also* Oxford Guidance on the Law Relating to Humanitarian Relief Operations in Situations of Armed Conflict, p. 27, para. 62.

¹⁹² Oxford Guidance on the Law Relating to Humanitarian Relief Operations in Situations of Armed Conflict, p. 25, para. 54.

¹⁹³ UNSC, Resolution 2712, UN Doc. S/RES/2712 (2023), para. 2. *See also* UNSC Resolution 2720, para. 1.

It also called on Israel to “refrain from depriving the civilian population in the Gaza Strip of basic services and humanitarian assistance indispensable to their survival, consistent with international humanitarian law.”¹⁹⁴

83. In a December 2023 resolution, the Security Council further demanded that Israel “allow, facilitate and enable the immediate, safe and unhindered delivery of humanitarian assistance at scale directly to the Palestinian civilian population throughout the Gaza Strip” and called for “urgent steps to immediately allow safe, unhindered, and expanded humanitarian access.”¹⁹⁵

84. In the context of the *South Africa v. Israel* case, in March 2024, the Court also unanimously ordered Israel to:

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.¹⁹⁶

85. Israel has repeatedly breached these obligations in relation to the UN and other international organizations. *First*, and as already explained, Israel passed legislation banning UNRWA and effectively preventing its operations in the OPT. As mentioned, UNRWA has played a vital role in the delivery of humanitarian aid in Gaza since the beginning of the conflict, and in

¹⁹⁴ UNSC Resolution 2712, para. 4.

¹⁹⁵ UNSC Resolution 2720, para. 2. *See also* UNSC, Resolution 2728, UN Doc. S/RES/2728 (2024), para. 2. (“Emphasizes the urgent need to expand the flow of humanitarian assistance [...] and reiterates its demand for the lifting of all barriers to the provision of humanitarian assistance at scale.”).

¹⁹⁶ *South Africa v. Israel*, Order of 28 March 2024, para. 51(2)(a). *See South Africa v. Israel*, Order of 24 May 2024, para. 57(2)(b) (ordering Israel to “[m]aintain open the Rafah crossing for unhindered provision at scale of urgently needed basic services and humanitarian assistance”).

providing essential services to Palestinians in the OPT generally. UNRWA handles almost all aid distribution in Gaza and provides services to no fewer than 19 refugee camps in the West Bank.¹⁹⁷

86. In addition, UNRWA fulfils an important coordinating role in Gaza, without which other relief agencies and NGOs will be unable to distribute food and medicine. As UNICEF noted, UNRWA is the “backbone of the humanitarian response in Gaza.”¹⁹⁸ Philippe Lazzarini, Commissioner-General of UNRWA, summarized the consequences in Gaza of the UNRWA ban as follows:

Operationally, the entire humanitarian response in Gaza – which rests on UNRWA’s infrastructure – may disintegrate. Coordination with Israel would cease, further disrupting the provision of shelter, food, and healthcare to people in desperate need [...].¹⁹⁹

87. As the UN Secretary-General, the UNRWA Commissioner-General, the head of OCHA, and several States have pointed out, UNRWA is “irreplaceable,”²⁰⁰ and 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.”²⁰¹ While Israel has expressed willingness to work with other “international partners” to facilitate humanitarian aid to the OPT,²⁰² there is no evidence that Israel has taken any steps to

¹⁹⁷ “What is Unrwa and why has Israel banned it,” *BBC* (29 Oct. 2024), <https://tinyurl.com/2p84fxpc>.

¹⁹⁸ “Potentially ‘deadly’ consequences could arise from Israel’s UNRWA ban: UNICEF,” *UN News* (31 Oct. 2024), <https://tinyurl.com/55795jb7>.

¹⁹⁹ UNRWA, “Statement of Philippe Lazzarini, Commissioner-General of UNRWA, at the United Nations Security Council” (9 Oct. 2024), <https://tinyurl.com/5yb27a52>.

²⁰⁰ “Israeli Knesset vote on UNRWA set to deepen Palestinian suffering,” *UN News* (28 Oct. 2024), <https://tinyurl.com/46avw53v>. See also “Israel’s new laws banning UNRWA already taking effect,” *UN News* (29 Jan. 2025), <https://tinyurl.com/2rybwcf9> (“No other agency has the scale and depth to do what [UNRWA] do[es].”).

²⁰¹ Letter from the UN Secretary-General addressed to the President of the General Assembly, UN Doc. A/79/558 (29 Oct. 2024), p. 3. See also Letter from the UN Secretary General to the Permanent Representative of Israel to the UN (27 Jan. 2025) (Dossier No. N308), p. 1.

²⁰² See J. Frankel, “Israel’s move to ban a UN agency raises alarm about aid to Gaza even as the implications are unclear,” *AP News* (30 Oct. 2024), <https://tinyurl.com/bvn8p6m4>.

ensure UNRWA's replacement. Therefore, it is extremely likely that the Israeli legislation will lead to the collapse of humanitarian relief in Gaza as well as in the rest of the OPT.²⁰³

88. The legislation thus violates Israel's obligations to ensure that the civilian population in the OPT is adequately supplied in food, water, and medical supplies, as well as its obligations not to impede, and to facilitate the passage and distribution of humanitarian aid.

89. *Second*, Israel has repeatedly impeded the delivery of humanitarian aid, impacting the operations of UN agencies, in particular UNRWA, WFP, and that of other international organizations, the Palestinian Red Crescent Society, and third States. Most notably:

- Israel has arbitrarily blocked the shipment of lifesaving aid by these organizations, including by imposing financial restrictions,²⁰⁴ blocking deliveries without reason,²⁰⁵ and refusing to grant access permits.²⁰⁶
- Israel blocked humanitarian crossings in Rafah²⁰⁷ and blocked access routes in northern Gaza, systematically preventing the delivery of aid.²⁰⁸
- Israel failed to prevent lootings and diversion of lifesaving aid,²⁰⁹ notably leading UNRWA to pause deliveries through the Kerem Shalom crossing.²¹⁰

²⁰³ See "Israel's new laws banning UNRWA already taking effect," *UN News* (29 Jan. 2025), <https://tinyurl.com/2rybwcf9>.

²⁰⁴ J. Frankel, "Israel is holding up food for 1.1 million Palestinians in Gaza, the main UN aid agency there says," *AP News* (9 Feb. 2024), <https://tinyurl.com/4d6y3eyh>.

²⁰⁵ "Israel will no longer approve Unrwa food aid to northern Gaza, agency says," *The Guardian* (24 Mar. 2024), <https://tinyurl.com/5n87pert>.

²⁰⁶ See *supra* notes 79-83.

²⁰⁷ C. Vinograd, "Israel's Closures of 2 Gaza Border Crossings Prompt Alarm Over Humanitarian Aid," *New York Times* (7 May 2024), <https://tinyurl.com/4jyxpeap>.

²⁰⁸ See OCHA, "Humanitarian Situation Update #237 | Gaza Strip" (12 Nov. 2024), <https://tinyurl.com/539a6855>.

²⁰⁹ See, e.g., "No end in sight to 'horror' in Gaza, UN official tells Security Council," *UN News* (25 Nov. 2024), <https://tinyurl.com/mwk3j9rj> ("A UN convoy of 109 trucks carrying food was looted on November 16, with 97 trucks lost."); "Gaza: 'Devastation is absolutely staggering', says senior WFP official," *UN News* (12 Dec. 2024), <https://tinyurl.com/4hm45rax> (describing gangs looting aid trucks).

²¹⁰ "We are pausing the delivery of aid through Kerem Shalom," UNRWA (1 Dec. 2024), <https://tinyurl.com/y49yhbxc>. See also "Red Crescent suspends coordinated medical missions with Israeli forces in Gaza due to safety concerns," *CNN* (26 Feb. 2024), <https://tinyurl.com/ye23m9ut>.

- Far from facilitating the delivery of aid, Israeli forces have attacked UN aid convoys.²¹¹
- Most recently, Israeli lawmakers introduced a bill that would impose an 80% tax on foreign government donations to Israeli NGOs, and would likely prevent many local organizations from operating in Israel and the West Bank.²¹² In addition to hindering humanitarian aid generally, this bill would also be inconsistent with Israel's obligation to facilitate relief schemes with third States under Article 59 of the Fourth Geneva Convention.

90. All the above violations must be placed within the humanitarian context in Gaza. As the Court itself has noted, the humanitarian situation in the Gaza strip is “catastrophic.”²¹³ The population in Gaza has “no access to the most basic foodstuffs, potable water, electricity, essential medicines or heating.”²¹⁴ The Court observed in its 28 March 2024 order that famine had already set in in Gaza.²¹⁵ Since then, the conditions in Gaza have only worsened. Notably, on 6 October 2024, Israel imposed a tight siege on northern Gaza, which has put “[t]he entire Palestinian population [...] at imminent risk of dying from [...] famine” notably due to the lack of basic, life-saving goods.²¹⁶ On 8 November 2024, the IPC Famine Review Committee published an Integrated Food Security Phase Classification alert warning that “there is a strong likelihood that famine is imminent in areas within the northern Gaza Strip.”²¹⁷

²¹¹ See, e.g., “Gaza war; UN World Food Programme condemns Israeli attack on aid convoy,” *UN News* (6 Jan. 2025), <https://tinyurl.com/mrxupj7c> (attack on WFP convoy); “Gaza City-bound UN aid convoy comes under Israeli fire, says UNRWA,” *UN News* (22 July 2024), <https://tinyurl.com/4fzbsrdn>.

²¹² See S. Sokol, “Ministers advance bill levying 80% tax on foreign state funding of Israeli NGOs,” *The Times of Israel* (16 Feb. 2025), <https://tinyurl.com/bdz5jvm5>.

²¹³ *South Africa v. Israel*, Order of 28 March 2024, para. 18; *South Africa v. Israel*, Order of 24 May 2024, paras. 27-28.

²¹⁴ *South Africa v. Israel*, Order of 28 March 2024, para. 18; *South Africa v. Israel*, Order of 26 January 2024, para. 70.

²¹⁵ *South Africa v. Israel*, Order of 28 March 2024, para. 21. See also *id.*, para. 31 (confirming “unprecedented levels of food insecurity”). See also Report of the Commissioner-General of UNRWA, 1 January-31 December 2023, UN Doc. A/79/13 (14 Aug. 2024), p. 10, para. 12.

²¹⁶ Inter-Agency Standing Committee, “Statement by Principals of the Inter-Agency Standing Committee - Stop the assault on Palestinians in Gaza and on those trying to help them” (1 Nov. 2024), <https://tinyurl.com/478k9wn5>.

²¹⁷ IPC Famine Review Committee Alert, Gaza Strip (8 Nov. 2024), <https://tinyurl.com/3rydfpr6>.

91. As stated above, delivery of aid has scaled up since the ceasefire agreement came into effect,²¹⁸ but the situation remains precarious.²¹⁹ To this day, 91% of the population in Gaza is still projected to face high levels of acute food insecurity.²²⁰ Further, as explained, the enforcement of the Israeli UNRWA ban will likely make delivery of aid even more challenging given UNRWA's key role in coordinating aid deliveries to the OPT with Israel.²²¹

2. The Obligation to Respect and Protect Humanitarian Relief Personnel and Objects of International Organizations and Third States

92. Under customary international law, humanitarian relief personnel and objects used for humanitarian relief operations must be respected and protected.²²² The rule derives from the fundamental customary principle of distinction between civilians and combatants.²²³ It is also a necessary corollary of the prohibition of starvation described above,²²⁴ as well as the rule that the wounded and sick must be collected and cared for.²²⁵ It is codified in Article 71(2) of Additional Protocol I.²²⁶ Moreover, Article 8(2)(b)(iii) of the Rome Statute makes it a war crime to “[i]ntentionally direct[] attacks against personnel, installations, material, units or vehicles involved in a humanitarian assistance or peacekeeping mission in accordance with the Charter of the United Nations, as long as they are entitled to the protection given to civilians or civilian objects under

²¹⁸ See “Aid surge into Gaza continues, UN teams prioritize immediate needs,” *UN News* (13 Feb. 2025), <https://tinyurl.com/2s4hyevu>; “Aid efforts in Gaza escalate, as risk from deadly unexploded ordnance grows,” *UN News* (29 Jan. 2025), <https://tinyurl.com/2s3s9t29>.

²¹⁹ See “Aid surge into Gaza continues, UN teams prioritize immediate needs,” *UN News* (13 Feb. 2025), <https://tinyurl.com/2s4hyevu>; J. Frankel & S. Magdy, “Too few tents entering Gaza threatens the truce. Here’s what’s happening,” *AP News* (12 Feb. 2025), <https://tinyurl.com/3pvfc73a>; “Israel’s new laws banning UNRWA already taking effect,” *UN News* (29 Jan. 2025), <https://tinyurl.com/2rybwcf9>; “Aid surging into Gaza ‘at scale’ but massive needs remain: OCHA, WHO,” *UN News* (21 Jan. 2025), <https://tinyurl.com/mry8hf6v>.

²²⁰ OCHA, “Reported impact snapshot | Gaza Strip (18 February 2025),” <https://tinyurl.com/2vdmwspp>.

²²¹ See “Israel’s new laws banning UNRWA already taking effect,” *UN News* (29 Jan. 2025), <https://tinyurl.com/2rybwcf9>.

²²² ICRC, Customary International Humanitarian Law Database, Rules 31, 32.

²²³ Codified notably in Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (1977) (“**Additional Protocol I**”), Article 48.

²²⁴ Rome Statute, Article 8(2)(b)(xxv).

²²⁵ ICRC, Customary International Humanitarian Law Database, Rules 109-110.

²²⁶ Additional Protocol I, Article 71(2) (“[Relief personnel] shall be respected and protected.”)

the international law of armed conflict.” As mentioned, the Security Council repeatedly reaffirmed this obligation to respect and protect humanitarian personnel in the context of this conflict.²²⁷

93. The obligation to respect imposes an obligation not to attack or harm, while the obligation to protect requires the State to take proactive measures of protection against the dangers of armed conflict.²²⁸ The rule also protects humanitarian personnel from “harassment, intimidation and arbitrary detention.”²²⁹

94. As already explained, Israel has repeatedly violated its obligation to respect and protect humanitarian personnel and objects, in particular those of international organizations, including the UN: it has (i) attacked, killed, and injured humanitarian personnel, including UNRWA personnel; (ii) arbitrarily detained UNRWA personnel and other aid workers; (iii) attacked aid convoys repeatedly, including UN convoys; and (iv) failed to protect international organizations’ humanitarian personnel and objects from external attacks, including looting.

3. The Obligation to Respect and Protect Medical Facilities, Staff, and Transport of International Organizations and Third States

95. Under GC IV Articles 18, 20, 21, and 22 and GC I Articles 19, 24, 35, and 36, Israel has the obligation to respect and protect in all circumstances and at all times civilian hospitals and medical units, hospital staff and medical personnel, and medical transports, including those operated by third States and by international organizations such as UNRWA. As explained above, the obligation to respect and protect entails both a negative obligation not to attack, but also

²²⁷ UNSC Resolution 2712, preamble, p. 1 (“[S]tressing [...] the obligation to respect and protect humanitarian relief personnel.”); UNSC Resolution 2720, preamble, p. 1. (“Stressing the obligation to respect and protect humanitarian relief and medical personnel.”), para. 1 (“[R]ecalls that civilian and humanitarian facilities, including hospitals, medical facilities, schools, places of worship, and facilities of the UN, as well as humanitarian personnel, and medical personnel, and their means of transport, must be respected and protected, according to international humanitarian law.”), para. 10 (“Reaffirms the obligations of all parties under international humanitarian law, including with regard to [...] respecting and protecting humanitarian personnel and consignments used for humanitarian relief operations.”).

²²⁸ *The 1949 Geneva Conventions: A Commentary* (A. Clapham *et al.* (eds.), OUP 2015), p. 784. *See also id.*, p. 809.

²²⁹ ICRC, Customary International Humanitarian Law Database, Rule 31, Commentary, <https://tinyurl.com/48u5bwd7>. The “obligation to respect” under international humanitarian law “requires parties to an armed conflict to abstain from engaging in hostile acts” including violence to persons, torture, and harassment. *The 1949 Geneva Conventions: A Commentary* (A. Clapham *et al.* (eds.), OUP 2015), pp. 784-785.

positive obligations to ensure that “others do not interfere with the work of medical personnel, let alone allow them to be harmed in any way.”²³⁰ This is also reflected notably in Article 8(2)(b)(ix) of the Rome statute, which makes it a war crime to “[i]ntentionally direct[] attacks against [...] hospitals and places where the sick and wounded are collected, provided they are not military objectives.”

96. In addition, under GC IV Article 56, Israel has the duty to ensure and maintain “with the co-operation of national and local authorities, the medical and hospital establishments and services, public health and hygiene in the occupied territory, with particular reference to the adoption and application of the prophylactic and preventive measures necessary to combat the spread of contagious diseases and epidemics.” This means that Israel must “ensure that hospital and medical services can properly work and continue to do so.”²³¹ Article 56 further provides that “[m]edical personnel of all categories shall be allowed to carry out their duties.”²³² This prohibits any measures that interfere with the performance of their duty.²³³

97. Israel has disregarded these obligations throughout the conflict in Gaza. The IDF have systematically attacked and raided hospitals,²³⁴ with reports of Israeli forces bombing hospital without prior warning.²³⁵ UNRWA health centers, in particular, have been targeted, with only 8 out of 26 still functional in Gaza.²³⁶ More than 500 medical professionals have been killed and

²³⁰ *The 1949 Geneva Conventions: A Commentary* (A. Clapham *et al.* (eds.), OUP 2015), p. 809. *See also* ICRC, *Commentary on the First Geneva Convention* (CUP 2016), p. 809. This is also a rule of custom. *See* Hague Regulations, Article 27 (“In sieges and bombardments all necessary steps must be taken to spare, as far as possible, [...] hospitals, and places where the sick and wounded are collected, provided they are not being used at the time for military purposes.”); ICRC, Customary International Humanitarian Law Database, Rules 25, 28-29.

²³¹ ICRC, 1958 Commentary of the Fourth Geneva Convention, Article 56, *available at*: <https://tinyurl.com/bd99ys8h>.

²³² Fourth Geneva Convention, Article 56.

²³³ ICRC, 1958 Commentary of the Fourth Geneva Convention, Article 56, *available at*: <https://tinyurl.com/bd99ys8h>.

²³⁴ *See* OHCHR, *Thematic Report: Attacks on hospitals during the escalation of hostilities in Gaza (7 October 2023 – 30 June 2024)* (31 Dec. 2024), <https://tinyurl.com/yvmakd9u>, p. 11, para. 19 (reporting 136 strikes on at least 27 hospitals).

²³⁵ *See, e.g.*, “Gaza: No evacuation order given before hospital strike, says WHO,” *UN News* (6 Dec. 2024), <https://tinyurl.com/je2tns9s>.

²³⁶ OCHA, “Reported impact snapshot | Gaza Strip (18 February 2025),” <https://tinyurl.com/2vdmwspp>.

many have been arbitrarily arrested and tortured.²³⁷ These acts are, at least *prima facie*, incompatible with Israel's obligation to protect and respect medical buildings, personnel, and transport. With UNRWA operating 65 primary health clinics and one hospital in the OPT,²³⁸ Israel's pattern of targeting medical facilities and personnel puts UNRWA at significant risk.²³⁹

98. Far from ensuring and maintaining public health and hospitals, Israel's attacks have left Gaza's health care system on "the brink of total collapse."²⁴⁰ This even led to the resurgence of polio in Gaza, although it had been eradicated in the enclave more than 25 years ago.²⁴¹ Israel also failed to take "preventive measures necessary to combat the spread of contagious diseases and epidemics."²⁴² In fact, "intense bombardment, mass displacement orders, and lack of assured humanitarian pauses across most of northern Gaza" delayed the third phase of a polio vaccination campaign organized by WHO, UNICEF and UNRWA.²⁴³ This is a clear violation of GC IV Article 56 that particularly impacts these organizations' activities.

4. The Obligation to Ensure Proper Working of Institutions of Care and Education of Children Operated by International Organizations and Third States

99. GC IV Article 24 obliges Israel to facilitate the education of "children under fifteen, who are orphaned or are separated from their families as a result of the war," in all circumstances. Moreover, under GC IV Article 50, Israel has the obligation to "facilitate the proper working of

²³⁷ "Pattern of Israeli attacks on Gaza hospitals raises grave concerns – report," OHCHR (31 Dec. 2024), <https://tinyurl.com/4dcs2ju8>.

²³⁸ Letter dated 28 October 2024 from the Secretary-General addressed to the President of the General Assembly, UN Doc. A/79/558 (29 Oct. 2024), p. 3.

²³⁹ This is especially so given Israel's history of targeting UN medical facilities and personnel. *See, e.g.*, "Infographic: Attacks on medical facilities and personnel in the West Bank and Gaza," MAP (1 Oct. 2017), <https://tinyurl.com/4uh96d8j>.

²⁴⁰ "Israel attacks push Gaza healthcare 'to brink of collapse,'" *UN News* (31 Dec. 2024), <https://tinyurl.com/4nmvj47>.

²⁴¹ T. Ramadan, "Baby paralysed in Gaza's first case of type 2 polio for 25 years, WHO says," *Reuters* (23 Aug. 2024), <https://tinyurl.com/44jdcfuw>.

²⁴² Fourth Geneva Convention, Article 56.

²⁴³ "Intense bombardments, mass displacements and lack of access in northern Gaza force the postponement of polio vaccination campaign," WHO (23 Oct. 2024), <https://tinyurl.com/5bxek3vh>.

all institutions devoted to the care and education of children.” Customary international law similarly protects “institutions dedicated to [...] education.”²⁴⁴ Article 8(2)(b)(ix) of the Rome Statute codifies the customary prohibition of intentional attacks against buildings dedicated to education.²⁴⁵ Israel has repeatedly disregarded these obligations, with particular impact on the UN. As already mentioned, it has repeatedly struck schools run by UNRWA in Gaza.²⁴⁶

²⁴⁴ Hague Regulations, Article 56.

²⁴⁵ Rome Statute, Article 8(2)(b)(ix) (prohibiting “[i]ntentionally directing attacks against buildings dedicated to [...] education [...] provided they are not military objectives”).

²⁴⁶ For example, on 11 September 2024, the Israeli airstrikes hit a UNRWA school-turned shelter in Gaza, killing 34 people, including six UNRWA staff members. “Gaza: Six UNRWA staff killed in strikes on school sheltering displaced people,” *UN News* (11 Sept. 2024), <https://tinyurl.com/4z7cbebj>. On 15 December 2024, Israeli forces bombed another UN school in Southern Gaza, killing at least 20 people. “Israel bombs another UN-run school in Gaza ‘without warning’, killing 20,” *Al Jazeera* (16 Dec. 2024), <https://tinyurl.com/bdfza4zu>.

IV. ISRAEL'S OBLIGATIONS RELATING TO SELF-DETERMINATION AND OTHER HUMAN RIGHTS

100. This section will identify obligations arising from the right to self-determination (Section IV.A), and obligations arising under other norms of international human rights law (Section IV.B).

A. Obligations Arising from the Right to Self-Determination

101. In its previous advisory opinions, the Court recognized the right of the Palestinian people to self-determination.²⁴⁷ It has repeatedly stated that the right to self-determination is owed *erga omnes*,²⁴⁸ and, in the context of foreign occupation, “a peremptory norm of international law,”²⁴⁹ from which States cannot derogate.

102. The right to self-determination, entails corresponding obligations on all States.²⁵⁰ *First*, States have the duty to promote the realization of this right.²⁵¹ In particular, States must promote this right by “render[ing] assistance to the United Nations in carrying out the responsibilities entrusted to it by the Charter regarding the implementation of the principle [of self-determination].”²⁵² In its most recent advisory opinion, the Court specified that “it is for the General Assembly and the Security Council to pronounce on the modalities required to ensure [...]”

²⁴⁷ *Occupied Palestinian Territory* Advisory Opinion, para. 230; *Wall* Advisory Opinion, p. 183, para. 118. This right was reaffirmed by the General Assembly on multiple occasions, most recently in UNGA Resolution 79/163, UN Doc. A/RES/79/163 (19 Dec. 2024), para. 1.

²⁴⁸ *Occupied Palestinian Territory* Advisory Opinion, para. 232; *Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965*, Advisory Opinion, I.C.J. Reports 2019 (“*Chagos Advisory Opinion*”), p. 139, para. 180; *Wall* Advisory Opinion, p. 199, para. 155.

²⁴⁹ *Occupied Palestinian Territory* Advisory Opinion, para. 233.

²⁵⁰ See Human Rights Committee (“HRC”), General Comment No. 12 (1984) (“**General Comment No. 12**”), para. 2 (“The article imposes on all States parties corresponding obligations.”).

²⁵¹ UNGA, Resolution 2625, UN Doc. A/RES/2625(XXV), pp. 123-124 (“Every State has the duty to promote, through joint and separate action, realization of the principle of equal rights and self-determination of peoples.”).

²⁵² *Id.* See also UN Charter, Article 2(5).

the full realization of the right of the Palestinian people to self-determination,” and that “all States must co-operate with the United Nations to put those modalities into effect.”²⁵³

103. *Second*, the right to self-determination entails a negative obligation on all States not to impede the realization of this right.²⁵⁴ The Court has, on several occasions, confirmed that Israel, as an occupying power, “has the obligation not to impede the Palestinian people from exercising its right to self-determination.”²⁵⁵

104. “[A] key element of the right to self-determination is the right of a people freely to determine its political status and to pursue its economic, social and cultural development.”²⁵⁶ In its latest advisory opinion, the Court found that Israel’s policies and practices violated this specific component of the right to self-determination due to their negative repercussions on the economic, social, and cultural development of the Palestinian people, including because such policies and practices made the OPT dependent on Israel “for the provision of basic goods and services.”²⁵⁷

105. Since the beginning of the conflict, Israel has further breached its obligations not to impede the Palestinian people’s right to self-determination, and to cooperate with the UN in carrying out its responsibilities of implementing this right. UNRWA, in particular, has been the main provider to Palestinians in the OPT of all basic social services including, education, health care, poverty relief, emergency assistance, refugee camps, and microfinance.²⁵⁸ It is also the largest

²⁵³ *Occupied Palestinian Territory* Advisory Opinion, para. 275. The General Assembly was indeed assigned the functions of overseeing the application of the right to self-determination. *See Chagos* Advisory Opinion, p. 136, para. 167.

²⁵⁴ *See* ICCPR, Article (3)1; International Covenant on Economic, Social and Cultural Rights, Article 1(3).

²⁵⁵ *Occupied Palestinian Territory* Advisory Opinion, para. 237. *See also Wall* Advisory Opinion, p. 197, para. 149.

²⁵⁶ *Occupied Palestinian Territory* Advisory Opinion, para. 241.

²⁵⁷ *Id.*, paras. 241-242.

²⁵⁸ Letter dated 28 October 2024 from the Secretary-General addressed to the President of the General Assembly, UN Doc. A/79/558 (29 Oct. 2024), p. 3; UNRWA, “What we do,” <https://tinyurl.com/38muwaxe> (last accessed on 19 Feb. 2025) (“UNRWA human development and humanitarian services encompass primary and vocational education, primary health care, relief and social services, infrastructure and camp improvement, microfinance and emergency response, including in situations of armed conflict.”).

employer in Gaza.²⁵⁹ UNRWA has thus played (and continues to play) a crucial role in the Palestinian people’s economic, social, and cultural development. Far from cooperating with UNRWA, however, as explained above, Israel directly impeded UNRWA’s assistance to the Palestinian people’s economic, social and cultural development, and therefore its right to self-determination.

B. Obligations Under Other Norms of International Human Rights Law

106. In its previous opinions, the Court confirmed that international human rights law, in particular the International Covenant on Civil and Political Rights (“**ICCPR**”) and the International Covenant on Economic, Social, and Cultural Rights (“**ICESCR**”), applies to Israel in relation to the OPT, even in times of armed conflict.²⁶⁰ Israel’s human rights obligations—and violations thereof—are too numerous to exhaustively list. The following paragraphs are limited to identifying the rights that are most relevant to the UN and other international organizations providing humanitarian aid and development assistance to the OPT.

107. **Right to life.** The right to life is protected under Article 6 of the ICCPR, from which no derogation is permitted.²⁶¹ The prohibition of arbitrary deprivation of life applies even in times of armed conflict.²⁶² Crucially, in the context of armed conflict, depriving a civilian population of objects indispensable to its survival, including by impeding relief supplies, amounts to a violation of the right to life.²⁶³ This right has thus been interpreted as creating an obligation for States in

²⁵⁹ See J. Frankel, “Israel’s move to ban a UN agency raises alarm about aid to Gaza even as the implications are unclear,” *AP News* (30 Oct. 2025), <https://tinyurl.com/48hjta8w>.

²⁶⁰ *Occupied Palestinian Territory* Advisory Opinion, paras. 99-100; *Wall* Advisory Opinion, p. 178, 180, paras. 106, 111-112. See also HRC, General Comment No. 36, UN Doc. CCPR/C/GC/36 (3 Sept. 2019) (“**General Comment No. 36**”), p. 13, paras. 63-64.

²⁶¹ ICCPR, Article 6(1) (“Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.”). See also *id.*, Article 4.

²⁶² HRC, General Comment No. 36, paras. 2, 63-64.

²⁶³ *Id.*, para. 64.

armed conflict to accept and facilitate humanitarian relief when the survival of the civilian population is threatened.²⁶⁴

108. **Right to food.** This right is protected, *inter alia*, under Article 11(1) of the ICESCR.²⁶⁵ States have a minimum core obligation to “ensure for everyone under its jurisdiction access to the minimum essential food which is sufficient, nutritionally adequate and safe, to ensure their freedom from hunger.”²⁶⁶ Most notably, “the prevention of access to humanitarian food aid in internal conflicts or other emergency situations” amounts to a violation of Article 11.²⁶⁷ As one commentator stated, “the holding up in customs of food intended for distribution to the civilian population, or any other form of harassment or restriction imposed on international agencies engaged in food or nutrition programmes represent clear violations of the minimum core obligations as regards the right to food.”²⁶⁸

109. **Right to water.** The right to water is protected under Articles 11 and 12 of the ICESCR.²⁶⁹ The obligation to respect this right entails the obligation to “refrain from interfering directly or indirectly with the enjoyment of the right to water.”²⁷⁰ Destroying water services, supplies, infrastructure, and irrigation works, including during armed conflicts, violates the right to water.²⁷¹

²⁶⁴ R. Barber, “Facilitating humanitarian assistance in international humanitarian and human rights law,” *International Review of the Red Cross* (Vol. 91, No. 874, 2009), p. 392.

²⁶⁵ ICESCR, Article 11(1) (“The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions.”).

²⁶⁶ Committee on Economic, Social, and Cultural Rights (“CESCR”), General Comment No. 12, UN Doc. E/C.12/1999/5 (12 May 1999) (“**General Comment No. 12**”), para. 14. *See also id.*, para. 17.

²⁶⁷ CESCR, General Comment No. 12, para. 19.

²⁶⁸ R. Barber, “Facilitating humanitarian assistance in international humanitarian and human rights law,” *International Review of the Red Cross* (Vol. 91, No. 874, 2009), p. 394.

²⁶⁹ *See* CESCR, General Comment No. 15, UN Doc. E/C.12/2002/11 (20 Jan. 2023) (“**General Comment No. 15**”), para. 3. *See* ICESCR, Article 11(1); *id.*, Article 12(1) (recognizing “the right of everyone to the enjoyment of the highest attainable standard of physical and mental health”).

²⁷⁰ CESCR, General Comment No. 15, para. 21.

²⁷¹ *Id.*, paras. 21-22. *See also* R. Barber, “Facilitating humanitarian assistance in international humanitarian and human rights law,” *International Review of the Red Cross* (Vol. 91, No. 874, 2009), p. 395.

110. **Right to health.** The right to the highest attainable standard of health is protected under Article 12 of the ICESCR.²⁷² It includes the right not only to “timely and appropriate health care” but also “to the underlying determinants of health, such as access to safe and potable water and adequate sanitation, an adequate supply of safe food, nutrition and housing,”²⁷³ as well as the right to health facilities, goods, and services.²⁷⁴

111. As explained above, Israel has impeded Palestinians’ access to humanitarian relief, health facilities and services, by, *inter alia*, enacting legislation banning UNRWA, attacking humanitarian relief and medical premises and personnel, blocking shipment of aid and humanitarian access routes, and failing to protect aid convoys from looting. Therefore, these acts and omissions constitute violations of, *inter alia*, the right to life, the right to food, and the right to health. In addition, Israel has repeatedly targeted Gaza’s water infrastructure—including water purification facilities and equipment installed or financed by international organizations or States,²⁷⁵ in violation of the right to water.

112. Moreover, by hindering UNRWA’s operations in the OPT, which, as explained, provides education, health care, housing, and other social services to Palestinians, Israel further undermines Palestinians’ rights to education,²⁷⁶ health, and housing,²⁷⁷ among others.

²⁷² ICESCR, Article 12(1).

²⁷³ CESCR, General Comment No. 14, UN Doc. E/C/12/2000/4 (11 Aug. 2000), para. 11.

²⁷⁴ *See id.*, para. 17.

²⁷⁵ *See* N. Lakhani, “Global surge of water-related violence led by Israeli attacks on Palestinian supplies – report,” *The Guardian* (22 Aug. 2024), <https://tinyurl.com/mreucu43> (reporting attacks on water infrastructure in Gaza and the West Bank, including a EU-supported installation); K. Devlin *et al.*, “Half of Gaza water sites damaged or destroyed, BBC satellite data reveals,” *BBC* (9 May 2024), <https://tinyurl.com/ymhebbhh9>.

²⁷⁶ ICESCR, Article 13(1) (“The States Parties to the present Covenant recognize the right of everyone to education.”).

²⁷⁷ *Id.*, Article 11(1) (“The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing.”).

V. JURISDICTION AND DISCRETION

113. The Court has jurisdiction to give the requested advisory opinion pursuant to Article 65(1) of its Statute and under Article 96(1) of the UN Charter. Article 65(1) of the ICJ Statute provides that “[t]he Court may give an advisory opinion on any legal question at the request of whatever body may be authorized by or in accordance with the Charter of the United Nations to make such a request.” Article 96(1) of the UN Charter in turn expressly authorizes the General Assembly to request advisory opinions “on any legal question.” The question here is “legal” in nature, as it asks the Court to identify Israel’s obligations under international law, and is thus “by its very nature susceptible of a reply based on law.”²⁷⁸

114. While the Court has discretion to decline to give an advisory opinion even when the jurisdictional conditions are met, it has consistently held that its answer to such a request, “in principle, should not be refused.”²⁷⁹ The Court has further repeatedly affirmed that “only compelling reasons may lead the Court to refuse its opinion in response to a request falling within its jurisdiction.”²⁸⁰ In practice, the Court has never exercised its discretionary power to decline to respond to a request for an advisory opinion.

115. Moreover, it is well established that the Court has the power to clarify and reformulate questions put to it in an advisory opinion request.²⁸¹ In this regard, the Court is not bound by the exact language of the question when it deems that the request does not reflect the “legal questions really in issue.”²⁸² In particular, as explained above, Qatar respectfully submits that the Court should exercise this prerogative to clarify that the question does not merely require

²⁷⁸ *Wall Advisory Opinion*, p. 153, para. 37 (citing *Western Sahara, Advisory Opinion*, I.C.J. Reports 1975, p. 18, para. 15).

²⁷⁹ *Occupied Palestinian Territory Advisory Opinion*, para. 30; *Chagos Advisory Opinion*, p. 113, para. 65; *Accordance with International Law of the Unilateral Declaration of Independence in Respect of Kosovo, Advisory Opinion*, I.C.J. Reports 2010, p. 416, para. 30; *Wall Advisory Opinion*, p. 156, para. 44.

²⁸⁰ *Occupied Palestinian Territory Advisory Opinion*, para. 31; *Chagos Advisory Opinion*, p. 113, para. 65. *See also Wall Advisory Opinion*, p. 156, para. 44.

²⁸¹ *See Occupied Palestinian Territory Advisory Opinion*, para. 49; *Wall Advisory Opinion*, pp. 153-154, para. 38.

²⁸² *See Interpretation of the Agreement of 25 March 1951 between the WHO and Egypt, Advisory Opinion*, I.C.J. Reports 1980, p. 88, para. 35.

the identification of the legal framework applicable to Israel *in abstracto* but rather the identification of Israel's specific legal obligations as they apply to the situation at issue.

116. There are no compelling reasons for the Court to decline to give the requested advisory opinion here. In particular, since the Request concerns, *inter alia*, the presence and activities of the UN, this question is of direct concern to the UN General Assembly.²⁸³ Moreover, as the Court previously noted, the question of Palestine more generally is “is a matter of particular interest and concern to the United Nations” due to the UN’s involvement in this issue since the Mandate system, and because the General Assembly has a “permanent responsibility towards the question of Palestine until the question is resolved in all its aspects in a satisfactory manner in accordance with international legitimacy.”²⁸⁴

117. Finally, it is important to note that the present Request, while it raises issues arising under the General Convention, does not arise under Section 30 of that Convention. Section 30 of the General Convention provides that:

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.*²⁸⁵

118. The General Assembly’s resolution containing the present Request makes no mention of Section 30.²⁸⁶ Moreover, while there may be a bilateral dispute between the UN and

²⁸³ Cf. *Mazilu* Advisory Opinion, p. 189, para. 33 (“The United Nations is itself intimately, and for the most part directly, concerned with the operation of the General Convention.”).

²⁸⁴ *Occupied Palestinian Territory* Advisory Opinion, para. 35 (quoting UNGA, Resolution 57/107, A/RES/57/107 (3 Dec. 2002)).

²⁸⁵ General Convention, Section 30 (emphasis added).

²⁸⁶ Cf. *Mazilu* Advisory Opinion, para. 34 (noting that the advisory opinion request did not arise under Section 30 notably because “the resolution requesting the advisory opinion made no reference to Section 30”).

Israel concerning Israel's obligations under the General Convention,²⁸⁷ the question posed here is much broader in scope, as it also concerns Israel's obligations in relation to other international organizations and States, and arising under other sources of law.

119. In any event, the fact that the present Request is not submitted under Section 30 of the General Convention does not preclude the Court from answering legal questions pertaining to the General Convention. Indeed, in the *Mazilu* advisory opinion, the Court rendered an advisory opinion on the applicability of a particular section of the General Convention even though the request did not arise under Section 30 of the Convention.²⁸⁸ This is because Section 30 of the General Convention “operates on a different plane and in a different context from that of Article 96 of the Charter.”²⁸⁹ Section 30 provides a dispute-settlement mechanism for differences arising between the UN and a Member State,²⁹⁰ and opinions rendered under Section 30 are thus to be accepted as “decisive” by the parties to the dispute.²⁹¹ By contrast, by requesting an advisory opinion under Article 96 of the Charter and Article 65 of the ICJ Statute, the UN is seeking the Court's “guidance [...] in order to conduct [its] activities in accordance with law.”²⁹² Such an advisory opinion does not aim to settle disputes, and does not have a “decisive” effect on the resolution of any particular dispute.²⁹³

²⁸⁷ As the General Assembly and the Secretary-General have acknowledged. UNGA Resolution 79/232, preamble, p. 1 (noting that “it can readily be appreciated that a situation may exist in which a difference has arisen between the United Nations and the State of Israel regarding, among other things, the interpretation or application of the Convention on the Privileges and Immunities of the United Nations”). *See also* Letter dated 28 October 2024 from the Secretary-General addressed to the President of the General Assembly, UN Doc. A/79/558 (29 Oct. 2024), pp. 3-4.

²⁸⁸ *See Mazilu* Advisory Opinion, p. 190, para. 34.

²⁸⁹ *Id.*, p. 189, para. 32.

²⁹⁰ *Id.*, p. 189, paras. 32, 33.

²⁹¹ General Convention, Section 30.

²⁹² *Mazilu* Advisory Opinion, p. 188, para. 31.

²⁹³ *Id.*

120. For the same reason, rendering this opinion will not preclude a future advisory opinion request whereby the UN submits its dispute with Israel for settlement by the Court under Section 30 of the General Convention.²⁹⁴

²⁹⁴ This would also not preclude any State party to the General Convention from submitting a contentious case before the Court (as the first part of Section 30 allows) to settle a dispute arising out of Israel's violations of the Convention, which enshrines *erga omnes partes* obligations. *See, e.g., Application of the Convention on the Prevention and Punishment of the Crime of Genocide (The Gambia v. Myanmar), Preliminary Objections, Judgment, I.C.J. Reports 2022*, p. 516, para. 108.

VI. CONCLUSIONS

121. For the reasons set out in this Written Statement, the State of Qatar respectfully submits the following conclusions to the Court:

122. *First*, the Court has jurisdiction to give the advisory opinion requested by the General Assembly in its Resolution 79/232 of 19 December 2024, and there are no compelling reasons to decline to exercise such jurisdiction.

123. *Second*, the Court should declare that Israel has the following obligations flowing from (i) the law on privileges and immunities of the UN and of other international organizations, (ii) international humanitarian law, and (iii) international human rights law, including the right to self-determination:

- The obligation to allow the UN and other international organizations, in particular UNRWA and other humanitarian organizations, to operate in Israel and the OPT.
- The obligation to respect and protect the property of the UN and of other international organizations, in particular schools, medical facilities, and transport and water installations, as well as their staff, in particular humanitarian and medical personnel.
- The obligation to respect the immunity from legal process of officials of the UN and of other international organizations and UN experts on mission;
- The obligation to allow entry of officials of the UN and of other international organizations, and experts on mission, into Israel and OPT, in particular humanitarian personnel;
- The obligation to allow and facilitate relief schemes and distribution of lifesaving aid in the OPT, in particular food, clothing, and medical supplies, including by not impeding the work of the UN, and other humanitarian international organizations;
- The obligation not to impede and to actively promote the right to self-determination of the Palestinian people, including by rendering assistance to the UN in carrying out its responsibilities of implementing the right to self-determination.

124. To the extent that these obligations arise under the privileges and immunities of the UN, as explained, they cannot be overridden by considerations of military necessity under international humanitarian law.

125. *Third*, the Court should declare that Israel must immediately take, *inter alia* the following concrete measures in order to comply with the above obligations:

- Revoke and refrain from enforcing the legislation passed by the Israeli Knesset on 28 October 2024 banning UNRWA activities in Israel and East Jerusalem, prohibiting all contacts between Israeli authorities and UNRWA, and purportedly cancelling the Exchange of Letters between UNRWA and Israel;
- Refrain from targeting the property and staff of the UN and of other international organizations during its military operations in the OPT, and take active measures to ensure their safety and security;
- Allow the UN to visit UN employees detained by Israeli forces;
- Remove any impediments to the delivery of humanitarian aid to Gaza by the UN and other international organizations and States;
- Actively facilitate the delivery and distribution of lifesaving aid in the OPT, including by enforcing humanitarian pauses and protecting aid convoys from looting;
- Refrain from otherwise interfering with the work of the UN and of other international organizations in the OPT.

126. Insofar as Israel has violated any of these obligations, it incurs secondary obligations under the law on State responsibility, including: (i) the obligation to cease its violations,²⁹⁵ (ii) the obligation to provide full reparation for the damage caused by the violations,²⁹⁶ and (iii) as appropriate, to provide guarantees and assurances of non-repetition.²⁹⁷

127. Finally, given that some of the obligations outlined above, including those relating to the right to self-determination, are *erga omnes*, they entail legal consequences for all States. In particular, all States are under an obligation to cooperate with the UN in implementing the right to self-determination of the Palestinian people, and ensure that impediments to the Palestinian

²⁹⁵ See, e.g., *Occupied Palestinian Territory Advisory Opinion*, paras. 267-268.

²⁹⁶ See, e.g., *id.*, paras. 269-271.

²⁹⁷ See International Law Commission, *Articles on the Responsibility of States for Internationally Wrongful Acts*, Article 30(b).

people's right to self-determination are brought to an end.²⁹⁸ All States have an obligation not to render aid to Israel in its violations of *erga omnes* obligations.²⁹⁹ Moreover, all parties to the First and Fourth Geneva Conventions are under an obligation, under Article 1 of these Conventions, to ensure compliance by Israel with international humanitarian law as embodied in these conventions.³⁰⁰ And all parties to the Fourth Geneva Convention have the specific obligations to (i) permit the free passage of aid consignments to the OPT and guarantee their protection,³⁰¹ and (ii) "endeavour to permit the transit and transport, free of charge," of relief consignments on their way to the OPT.³⁰²

128. The State of Qatar hereby reaffirms its commitment to the Court and expresses its confidence that the Court's opinion will clarify these legal questions, which are crucial to Palestinians' livelihood as well as the Palestinian people's inalienable right to self-determination.

²⁹⁸ See *Occupied Palestinian Territory* Advisory Opinion, paras. 275, 279; *Wall* Advisory Opinion, p. 200, para. 159.

²⁹⁹ See *Occupied Palestinian Territory* Advisory Opinion, para. 279; *Wall* Advisory Opinion, p. 200, para. 159.

³⁰⁰ *Occupied Palestinian Territory* Advisory Opinion, para. 279; *Wall* Advisory Opinion, para. 159. See First Geneva Convention, Article 1 ("The High Contracting Parties undertake to respect and to ensure respect for the present Convention in all circumstances."); Fourth Geneva Convention, Article 1.

³⁰¹ Fourth Geneva Convention, Article 59.

³⁰² *Id.*, Article 61.

Respectfully submitted,

H.E. Ambassador Mutlaq bin Majed Al Qahtani

AGENT OF THE STATE OF QATAR

28 FEBRUARY 2025