

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 REPUBLIC OF SLOVENIA

27 February 2025

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WRITTEN STATEMENT OF THE REPUBLIC OF SLOVENIA

Introduction

1. On 19 December 2024, the United Nations General Assembly adopted resolution 79/232 entitled “Request for an advisory opinion of the International Court of Justice on 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”¹, by which it decided, in accordance with Article 96 of the Charter of the United Nations, to request the International Court of Justice, pursuant to Article 65 of the Statute of the Court, on a priority basis and with the utmost urgency, to render an advisory opinion².

2. By the Order dated 23 December 2024, the Court decided that “the United Nations and its Member States, as well as the observer State of Palestine, are considered likely to be able to furnish information on the question submitted to the Court for an advisory opinion” and fixed the time-limits for the submission of written statements³.

3. In accordance with the instructions of the Court, and mindful of the importance of the present advisory proceedings and the legal question submitted to the scrutiny of the Court, the Republic of Slovenia, having been a co-sponsor of the resolution mentioned above, is grateful for the opportunity to present information and elements that it considers relevant for answering the question submitted to the Court by the General Assembly.

¹ United Nations General Assembly, Resolution 79/232, Request for an advisory opinion of the International Court of Justice on the obligations of Israel in relation to the presence and activities of the United Nations, other international organizations and third States, 19 December 2024 [Dossier No. 3].

² *Ibid.*, para. 10.

³ *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*, Order of 23 December 2024, p. 2, paras. 1 and 2.

4. Slovenia is fully committed to the right of the Palestinian people to self-determination. This right has been recognized by the United Nations, and by the Court as its principle judicial organ⁴. Slovenia has recognized Israel on 28 April 1992⁵ and the State of Palestine on 4 June 2024⁶, respectively. It recalled and reiterated before the Court in February 2024, its “unwavering support for a negotiated two-State solution on the basis of the 1967 borders resulting in two sovereign, democratic States living together in peace and security, in full respect of international law”⁷. The Court itself then considered it important to stress that:

“the realization of the right of the Palestinian people to self-determination, including its right to an independent and sovereign State, living side by side in peace with the State of Israel within secure and recognized borders for both States, as envisaged in resolutions of the Security Council and General Assembly, would contribute to regional stability and the security of all States in the Middle East”⁸.

5. Slovenia is deeply concerned about the violence that has escalated in Israel and in the Occupied Palestinian Territory on and since 7 October 2023. It welcomes the recently concluded ceasefire agreement, including the release of hostages held in Gaza. Nevertheless, it remains concerned about the humanitarian and security situation in the entire Occupied Palestinian Territory undermining the Palestinian people’s right to self-determination.

⁴ *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Advisory Opinion, I.C.J. Reports 2004 (I), p. 183, para. 118; *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*, Advisory Opinion of 19 July 2024, p. 65, para. 230.

⁵ Protocol between the Republic of Slovenia and the State of Israel regarding the establishment of diplomatic relations, 28 April 1992 (*Uradni list Republike Slovenije* [Official Journal of the Republic of Slovenia], No. 32/1992, 30 June 1992, p. 72).

⁶ Decision on the recognition of the independence and sovereignty of the State of Palestine, 4 June 2024 (*Uradni list Republike Slovenije*, No. 46/2024, 5 June 2024, p. 4365).

⁷ CR 2024/12, 23 February 2024, p. 26, para. 4 (Hartman). See also National Assembly of the Republic of Slovenia, Declaration on the current situation in Palestine and Israel, 23 November 2023, point 14 (*Uradni list Republike Slovenije*, No. 119, 30 November 2023, p. 10343).

⁸ *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*, Advisory Opinion of 19 July 2024, p. 77, para. 283.

6. Slovenia, together with the great majority of United Nations Member States⁹, is within the ambit of the request for the advisory opinion deeply concerned about the prohibition of the presence in Israel and in the Occupied Palestinian Territory, including East Jerusalem, of the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA), the prohibition of contact with the Agency and of the facilitation of its operations. These measures further jeopardize the possibility of addressing the situation in Palestine in accordance with international law and the ability of the United Nations, its agencies and bodies, to fully implement their mandates in the Occupied Palestinian Territory, including East Jerusalem, effectively and without interference. It also undermines the insistence of the General Assembly which “[u]rge[d] all States, the United Nations and its specialized agencies and organizations, as well as regional organizations, to support and assist the Palestinian people in the early realization of its right to self-determination”¹⁰.

7. The questions raised by such measures require urgent clarification and guidance. The humanitarian situation in the Occupied Palestinian Territory, in particular in Gaza but also in the West Bank, remains unacceptable and concerning. UNRWA is and remains the backbone of United Nations humanitarian relief operations and, according to the Secretary-General, there are “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”¹¹. The cessation of or restrictions on its activities would leave Palestinians without the essential assistance that they require in line with the United Nations “permanent responsibility towards the question of Palestine until

⁹ United Nations General Assembly, Resolution 79/232, Request for an advisory opinion of the International Court of Justice on the obligations of Israel in relation to the presence and activities of the United Nations, other international organizations and third States, 19 December 2024 [Dossier No. 3].

¹⁰ United Nations General Assembly, Resolution ES-10/24, Advisory opinion of the International Court of Justice on the legal consequences arising from Israel’s policies and practices in the Occupied Palestinian Territory, including East Jerusalem, and from the illegality of Israel’s continued presence in the Occupied Palestinian Territory, 18 September 2024 [Dossier No. N218].

¹¹ Letter from the Secretary-General to the President of the General Assembly, 28 October 2024, A/79/558 [Dossier No. N65].

the question is resolved in all its aspects in a satisfactory manner in accordance with international legitimacy”¹².

I. The question submitted and the jurisdiction of the Court

8. Article 65, paragraph 1, of the Statute of the Court provides:

“The 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.”

9. The present request has been made pursuant to Article 96, paragraph 1, of the Charter of the United Nations, according to which the General Assembly may seek an advisory opinion of the Court on any legal question.

10. The question asked by the General Assembly as contained in resolution 79/232 is the following:

“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?”¹³

The General Assembly further deemed it appropriate to indicate in paragraph 10 of resolution 79/232 that, for responding to this question, it is necessary to consider:

“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

¹² United Nations General Assembly, Resolution 57/101, Committee on the Exercise of the Inalienable Rights of the Palestinian People, 3 December 2002 [Dossier No. 417]. See also *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, I.C.J. Reports 2004 (I)*, p. 159, para. 49; *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem, Advisory Opinion of 19 July 2024*, p. 65, para. 35.

¹³ United Nations General Assembly, Resolution 79/232, Request for an advisory opinion of the International Court of Justice on the obligations of Israel in relation to the presence and activities of the United Nations, other international organizations and third States, 19 December 2024, para. 10 [Dossier No. 3].

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, in which the Court reaffirmed the duty of an occupying Power to administer occupied territory for the benefit of the local population and affirmed that Israel is not entitled to sovereignty over or to exercise sovereign powers in any part of the Occupied Palestinian Territory on account of its occupation”¹⁴.

11. The question submitted to the Court is a question of law; the indications provided by the General Assembly as to the rules that might be considered in particular confirm that the question is susceptible of a reply on the basis of law. The position of the permanent representatives of Israel further confirms that the question asked implies the application and interpretation of law¹⁵. The legal principles and rules upon which the Court is asked to provide an advisory opinion constitute some of the most basic foundations for a peaceful, just, lasting and comprehensive solution to the question of Palestine and constitute some of the most fundamental principles ensuring a consolidated multilateral system based on an effective United Nations Organization, collective security, the peaceful settlement of disputes, the self-determination of peoples, high human rights standards and a powerful role of international law to which Slovenia is fully committed¹⁶.

12. Moreover, there are no compelling reasons that should lead the Court to refuse to give its opinion in response to the request that falls within its jurisdiction¹⁷. The question is general in nature and aims at clarifying the existing legal obligations of Israel under international law vis-à-vis the United Nations Organization, other international organizations and third States. The question is not of a purely bilateral nature and concerns issues of particular interest to the United Nations, other international organizations and third

¹⁴ United Nations General Assembly, Resolution 79/232, Request for an advisory opinion of the International Court of Justice on the obligations of Israel in relation to the presence and activities of the United Nations, other international organizations and third States, 19 December 2024, para. 10 [Dossier No. 3].

¹⁵ See, for instance, Letter from the Permanent Representative of Israel to the United Nations, 18 December 2024, A/79/710-S/2024/940, p. 5 [Dossier No. N67].

¹⁶ National Assembly of the Republic of Slovenia, Declaration of Foreign Policy of the Republic of Slovenia, 10 July 2015, point II [*Official Journal of the Republic of Slovenia*], No. 53, 17 July 2015, p. 6085).

¹⁷ *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*, Advisory Opinion of 19 July 2024, p. 16, paras. 30-31; *Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965*, Advisory Opinion, I.C.J. Reports 2019 (I), p. 113, para. 65.

States concerning the question of Palestine¹⁸. Moreover, allegations according to which the opinion requested would undermine the negotiation process concerning the Palestine question do not constitute compelling reasons to refuse to give an opinion either, as the Court confirmed recently in similar circumstances¹⁹.

II. General considerations relevant to the question posed to the Court

13. At the core of the question posed to the Court stands the right of the Palestinian people to self-determination, which had been consistently recognised, most importantly by the General Assembly²⁰, the Security Council²¹, the Human Rights Council²², United Nations experts²³, and by this Court²⁴.

14. In its Advisory Opinion on the *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, the Court concluded that Israel is the occupying

¹⁸ *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*, Advisory Opinion of 19 July 2024, p. 17, para. 35; *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion*, I.C.J. Reports 2004 (I), p. 159, para. 50.

¹⁹ *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*, Advisory Opinion of 19 July 2024, pp. 18-19, para. 40.

²⁰ See, for instance, United Nations General Assembly, Resolution 181 (II), Future government of Palestine, 29 November 1947; Resolution 3236 (XXIX), Question of Palestine, 22 November 1974, para. 1 [Dossier No. 382]; Resolution 58/163, The right of the Palestinian people to self-determination, 22 December 2003, para. 1 [Dossier No. 362]; Resolution 66/146, The right of the Palestinian people to self-determination, 19 December 2011, para. 1 [Dossier No. 370]; Resolution 67/19, Status of Palestine in the United Nations, 29 November 2012, para. 1; Resolution ES-10/23, Admission of new Members to the United Nations, para. 1 [Dossier No. N217]; Resolution ES-10/24, Advisory opinion of the International Court of Justice on the legal consequences arising from Israel's policies and practices in the Occupied Palestinian Territory, including East Jerusalem, and from the illegality of Israel's continued presence in the Occupied Palestinian Territory, 18 September 2024 [Dossier No. N218].

²¹ See, for instance, United Nations Security Council, Resolution 1397 (2002), 12 March 2002 [Dossier No. 1316]; Resolution 2334 (2016), 23 December 2016, para. 1 [Dossier No. 1372]; Resolution 2735 (2024), 10 June 2024, para. 6 [Dossier No. N233].

²² United Nations Human Rights Council, Resolution 55/30, Right of the Palestinian people to self-determination, 5 April 2024, para. 1 [Dossier No. N268].

²³ United Nations, Office of the United Nations High Commissioner for Human Rights, UN experts urge all States to recognise State of Palestine, 3 June 2024 (<https://www.ohchr.org/en/press-releases/2024/06/un-experts-urge-all-states-recognise-state-palestine>).

²⁴ *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*, Advisory Opinion of 19 July 2024, para. 102, and 230-243; *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion*, I.C.J. Reports 2004 (I), p. 182-184, paras. 118-120. See also above, para. 4.

power in the Occupied Palestinian Territory (including East Jerusalem), and that this occupation has been maintained by Israel since 1967²⁵. This was confirmed in the recent Advisory Opinion on *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*, rendered in 2024²⁶. In the same Opinion, the Court also acknowledged in respect of the situation and legal status of the Gaza Strip, which remains an integral part of the Occupied Palestinian Territory, that:

“Israel remained capable of exercising, and continued to exercise, certain key elements of authority over the Gaza Strip, including control of the land, sea and air borders, restrictions on movement of people and goods, collection of import and export taxes, and military control over the buffer zone, despite the withdrawal of its military presence in 2005. This is even more so since 7 October 2023.”²⁷

15. This was also confirmed by the Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem and Israel²⁸.

16. The Court in 2024 further opined that Israel’s withdrawal from the Gaza Strip in 2004-2005 “has not entirely released it of its obligations under the law of occupation”, and importantly, that Israel’s obligations have remained “commensurate with the degree of its effective control over the Gaza Strip”²⁹. The Court also indicated that Israel is not entitled to sovereignty over any part of the Occupied Palestinian Territory on account of its occupation, nor to exercise sovereign powers therein. Furthermore, Israel’s security concerns cannot override the principle of the prohibition of the acquisition of territory by force³⁰.

²⁵ *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Advisory Opinion, I.C.J. Reports 2004 (I), p. 167, para. 78.

²⁶ *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*, Advisory Opinion of 19 July 2024, para. 87.

²⁷ *Ibid.*, para. 93.

²⁸ Report of the Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel, A/77/328, 14 September 2022, para. 19 [Dossier No. 1408]. See also *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*, Advisory Opinion of 19 July 2024, para. 89.

²⁹ *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*, Advisory Opinion of 19 July 2024, para. 94.

³⁰ *Ibid.*, para. 254.

17. It is well-known to the Court that the humanitarian situation in the Occupied Palestinian Territory is dire and highly concerning. In January 2024, the Court considered that the civilian population in Gaza was extremely vulnerable, noting that many Palestinians in the Gaza Strip had “no access to the most basic foodstuffs, potable water, electricity, essential medicines or heating”³¹. In March 2024, the Court further noted that “the catastrophic living conditions of the Palestinians in the Gaza Strip have deteriorated further, in particular in view of the prolonged and widespread deprivation of food and other basic necessities to which the Palestinians in the Gaza Strip have been subjected”³². The Court recognised that the Palestinians in Gaza are not facing only a risk of famine, but that “famine is setting in”³³. In view of the “worsening conditions of life faced by Palestinians in Gaza, in particular the spread of famine and starvation” it unanimously ordered Israel to:

“[t]ake 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”³⁴.

18. Due to the worsening conditions of life faced by civilians in the Rafah Governorate, the Court in May 2024 ordered Israel to immediately halt its military offensive and maintain open the Rafa crossing for unhindered provision at scale of urgently needed basic services and humanitarian assistance³⁵.

19. Even though this Court has specifically instructed Israel to take immediate and effective measures to enable the provision of urgently needed basic services and humanitarian assistance to address the adverse conditions of life faced by Palestinians in the

³¹ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)*, Provisional Measures, Order of 26 January 2024, para. 70.

³² *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)*, Order of 28 March 2024, para. 18.

³³ *Ibid.*, para. 21.

³⁴ *Ibid.*, para. 51 (2) (a).

³⁵ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)*, Order of 24 May 2024, para. 57 (2) (a)-(b).

Gaza Strip³⁶, and in spite of Security Council resolution 2417 (2018)³⁷ condemning the use of starvation of civilians as a method of warfare and the wilful denial of humanitarian access, Israel has continuously denied the provision of urgently needed supplies and humanitarian assistance essential to the survival of the Palestinian civilian population.

20. The Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem and Israel reported in June 2024 that Israel was cutting off essential resources and the movement of goods in Gaza, heavily restricted the population's access to food and water, fuel and electricity, and also sealed all the crossings between Israel and Gaza, thus blocking regular and humanitarian aid deliveries³⁸. On 9 July 2024, experts concluded that famine has spread in Gaza³⁹. On 1 October 2024, the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 stated in a report that the members of the Security and War Cabinets of Israel, as well as other ministers, issued statements and leveraged their ministerial responsibilities to authorize the starvation and obstruction of humanitarian assistance in Gaza⁴⁰. In September 2024, about 96 % of the population in the Gaza Strip faced high levels of acute food insecurity⁴¹.

21. On 1 November 2024, the Inter-Agency Standing Committee described the situation in North Gaza as “apocalyptic” and reported that “[t]he entire Palestinian

³⁶ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)*, Provisional Measures, Order of 26 January 2024, para. 86.

³⁷ United Nations Security Council, Resolution 2417 (2018), 24 May 2018, paras. 5-6.

³⁸ Report of the Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel, A/HRC/56/26, 14 June 2024, para. 48 [Dossier No. N261].

³⁹ Office of the United Nations High Commissioner for Human Rights, UN experts declare famine has spread throughout Gaza strip, 9 July 2024 (<https://www.ohchr.org/en/press-releases/2024/07/un-experts-declare-famine-has-spread-throughout-gaza-strip>).

⁴⁰ Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, Francesca Albanese, Genocide as colonial erasure, A/79/384, 1 October 2024, p. 29 [Dossier No. N257].

⁴¹ Gaza Strip: IPC Acute Food Insecurity Special Snapshot, 1 May – 30 September 2024, p. 1 (https://www.ipcinfo.org/fileadmin/user_upload/ipcinfo/docs/IPC_Gaza_Strip_Acute_Food_Insecurity_May_Sept2024_Special_Snapshot.pdf).

population in North Gaza is at imminent risk of dying from disease, famine and violence”⁴². On 8 November 2024, the Office of the United Nations High Commissioner for Human Rights concluded that the “severe restrictions imposed by Israel on the entry and distribution of goods and services necessary for the survival of the civilian population brought the risk of famine and starvation to Gaza”⁴³.

22. The State of Palestine has on numerous occasions called on the international community for the delivery of essential humanitarian aid to the occupied territory⁴⁴. International organizations, such as the United Nations⁴⁵ and the European Union⁴⁶, have reiterated their commitment to mobilising all possible means to ensure and facilitate the unhindered provision of urgently needed supplies essential to the survival of the Palestinian civilian population and have called for the establishment of humanitarian corridors. Despite intensive engagement by the international community, including through the Security Council via resolution 2735 (2024)⁴⁷, critical gaps in the humanitarian response persist⁴⁸.

23. On the other hand, and even before the Knesset passed legislation banning UNRWA, Israel launched, what the United Nations experts characterized as “an

⁴² 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 November 2024 (<https://interagencystandingcommittee.org/inter-agency-standing-committee/statement-principals-inter-agency-standing-committee-stop-assault-palestinians-gaza-and-those-trying>).

⁴³ Office of the United Nations High Commissioner for Human Rights, Six-month update report on the human rights situation in Gaza: 1 November 2023 to 30 April 2024, 8 November 2024, p. 17 (<https://www.ohchr.org/en/documents/reports/six-month-update-report-human-rights-situation-gaza-1-november-2023-30-april-2024>).

⁴⁴ See, for instance, “Palestinian President Calls for Full Israeli Withdrawal from Gaza, Enabling his Authority to Govern Territory”, *Anadolu Agency*, 13 December 2024 (<https://www.aa.com.tr/en/middle-east/palestinian-president-calls-for-full-israeli-withdrawal-from-gaza-enabling-his-authority-to-govern-territory/3423959>). See also “The Palestine Red Crescent Society calls on the international community to provide protection for its headquarters and medical and EMS teams in Khan Yunis”, Palestine Red Crescent Society, Press Release, 27 January 2024 (<https://www.palestinercs.org/public/files/image/2024/statements/en-PRCS-statement-26012024.pdf>).

⁴⁵ United Nations Security Council, Resolution 2712 (2023), 15 November 2023, para. 2 [Dossier No. N223].

⁴⁶ European Commission, EU makes major step forward in the delivery of 2024 humanitarian aid for Palestinians in Gaza, 7 March 2024 (https://ec.europa.eu/commission/presscorner/detail/en/ip_24_1330).

⁴⁷ United Nations Security Council, Resolution 2735 (2024), 10 June 2024 [Dossier No. N233].

⁴⁸ Letter from the Secretary-General addressed to the President of the General Assembly, 31 December 2024, p. 3 [Dossier No. N221].

unsubstantiated campaign against UNRWA, which jeopardized the fragile lifelines necessary for humanitarian assistance in Gaza”⁴⁹. Moreover, as reported by the United Nations Secretary-General, since October 2023, 363 aid workers have been killed⁵⁰. As of 7 February 2025, the number of killed UNRWA aid workers rose to 273, 205 UNRWA installations have been damaged, and only seven out of 27 UNRWA health centres remained operational⁵¹. Since October 2023, 665 incidents impacting UNRWA team members and installations have been reported⁵², 744 people sheltering in UNRWA premises have been killed and 2,346 injured⁵³.

24. Israel’s activities in the Occupied Palestinian Territory concerning the provision of urgently needed supplies essential to the survival of the affected civilian population and humanitarian assistance are primarily governed by international human rights law and international humanitarian law, which stipulate that the consent in such circumstances cannot be arbitrarily withheld⁵⁴.

25. In general, it is the primary responsibility of the State affected by the natural or man-made disasters occurring on its territory, or on the territory under its jurisdiction or *de*

⁴⁹ Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, Francesca Albanese: Genocide as colonial erasure, A/79/384, 1 October 2024, p. 28 [Dossier No. N257]; Office of the United Nations High Commissioner for Human Rights, States must reinstate and strengthen support to UNRWA amid unfolding genocide in Gaza: UN experts, 2 February 2024 (<https://www.ohchr.org/en/press-releases/2024/02/states-must-reinstate-and-strengthen-support-unrwa-amid-unfolding-genocide>).

⁵⁰ Letter from the Secretary-General addressed to the President of the General Assembly, 31 December 2024, p. 3 [Dossier No. N221].

⁵¹ UNRWA Situation Report #158 on the Humanitarian Crisis in the Gaza Strip and the West Bank, including East Jerusalem, 7 February 2025 (<https://www.unrwa.org/resources/reports/unrwa-situation-report-158-situation-gaza-strip-and-west-bank-including-east-jerusalem>).

⁵² *Ibid.*

⁵³ *Ibid.*

⁵⁴ Report of the Secretary-General on the protection of civilians in armed conflict, S/2013/689, 22 November 2013, para. 58; *Oxford Guidance on the Law Relating to Humanitarian Relief Operations in Situations of Armed Conflict* (2016), Section E; Institute of International Law, Resolution on Humanitarian Assistance, Bruges Session – 2003, 8 September 2003, para. VIII; International Law Commission, Draft articles on the protection of persons in the event of disasters, *Yearbook of the International Law Commission*, 2016, vol. II (2), Article 13 (2); D. Akande and E.-C. Gillard, “Arbitrary Withholding of Consent to Humanitarian Relief Operations in Armed Conflict”, *International Law Studies*, vol. 92, 2016, p. 489 ff; J.-M. Henckaerts and L. Doswald-Beck, *Customary International Humanitarian Law* (Cambridge University Press, 2015), vol. I (Rules), p. 197.

facto control, to ensure, organise, coordinate, and implement the protection of affected persons and provision of assistance⁵⁵. Thus, not only a “State or the territorial entity where humanitarian assistance is needed”⁵⁶, but also “any other authority exercising jurisdiction or *de facto* control over the victims of a disaster ... has the duty to provide the necessary humanitarian assistance, and also has all the other duties and rights of the affected State”⁵⁷. In cases where civilians in need are provided inadequately with essential supplies, the State exercising jurisdiction or *de facto* control over the victims of a disaster “shall seek”⁵⁸ or “has the duty to seek”⁵⁹ assistance from competent international organisations, including the United Nations, third States and other actors⁶⁰. Furthermore, States shall “cooperate among themselves, with the United Nations, with the components of the Red Cross and Red Crescent Movement, and with other assisting actors⁶¹ in the protection of persons and provision of disaster relief.

26. The assessment of arbitrariness, when consent is being withheld, depends on the circumstances of a concrete situation and has been understood to include elements of inappropriateness, injustice, necessity and proportionality⁶². In the context of humanitarian assistance, it is considered that consent is withheld arbitrarily in cases where it results in a violation of the State’s other international legal obligations⁶³. Of particular relevance in

⁵⁵ ILC Draft articles on the protection of persons in the event of disasters, *op. cit.* (note 54), Article 10; United Nations General Assembly, Resolution 46/182, Strengthening of the coordination of humanitarian emergency assistance of the United Nations, 19 December 1991, Annex, Guiding Principles, para. 4. See also Institute of International Law, Resolution on Humanitarian Assistance, *op. cit.* (note 54), p. 5.

⁵⁶ Institute of International Law, Resolution on Humanitarian Assistance, *op. cit.* (note 54), p. 4.

⁵⁷ *Ibid.*, p. 5.

⁵⁸ *Ibid.*, para. III (3).

⁵⁹ ILC Draft articles on the protection of persons in the event of disasters, *op. cit.* (note 54), Article 11.

⁶⁰ *Ibid.*

⁶¹ *Ibid.*, Article 7; Institute of International Law, Resolution on Humanitarian Assistance, *op. cit.* (note 54), p. 2.

⁶² United Nations Human Rights Committee, General comment No. 35, Article 9: Liberty and Security of Person, CCPR/C/GC/35, para. 12.

⁶³ D. Akande and E.-C. Gillard, “Arbitrary Withholding of Consent to Humanitarian Relief Operations in Armed Conflict”, *op. cit.* (note 54), p. 494.

determining whether consent has been withheld arbitrarily are the obligations with respect to the civilian population in need of assistance:

“Affected States are under the obligation not arbitrarily and unjustifiably to reject a *bona fide* offer exclusively intended to provide humanitarian assistance or to refuse access to the victims. In particular, they may not reject an offer nor refuse access if such refusal is likely to endanger the fundamental human rights of the victims.”⁶⁴

27. Under international humanitarian law, a denial of humanitarian assistance to cause, contribute, or perpetuate starvation would amount to a violation of the prohibition of starvation of the civilian population as a method of warfare⁶⁵ and could also amount to a war crime under international criminal law⁶⁶. As noted by the Special Rapporteur on the right to food, the restriction and blocking of humanitarian aid is being recognized as a starvation act⁶⁷. Moreover, intentional inflictions of inhuman conditions of life, *inter alia*, the deprivation of access to food and medicine, calculated to bring about the destruction of part of a population may amount to extermination as a crime against humanity⁶⁸. Similarly, systematic rejection of humanitarian assistance in areas populated by a particular ethnic group amounts to a violation of the rule prohibiting adverse distinction under international humanitarian law⁶⁹ and the prohibition of discrimination under international human rights law⁷⁰.

⁶⁴ Institute of International Law, Resolution on Humanitarian Assistance, *op. cit.* (note 54), para. VIII (1).

⁶⁵ Protocol Additional to the Geneva Conventions and relating to the Protection of Victims of International Armed Conflicts (hereafter “Addition Protocol I”), Article 54 (1) (United Nations, *Treaty Series*, vol. 1125, p. 3).

⁶⁶ Rome Statute of the International Criminal Court, 17 July 1998, Article 8 (2) (b) (xxv) (United Nations, *Treaty Series*, vol. 2187, p. 3).

⁶⁷ Report of the Special Rapporteur on the right to food, Michael Fakhri, Starvation and the right to food, with an emphasis on the Palestinian people’s food sovereignty, A/79/171, para. 31.

⁶⁸ Rome Statute of the International Criminal Court, Articles 7 (1) (b) and 7 (2) (b); International Law Commission, Draft articles on Prevention and Punishment of Crimes Against Humanity, *Yearbook of the International Law Commission*, 2019, vol. II (2), p. 28.

⁶⁹ Common Article 3 of the Geneva Conventions. See also Geneva Convention (III) relative to the treatment of prisoners of war, 12 August 1949, Article 16 (United Nations, *Treaty Series*, vol. 75, p. 135); Geneva Convention (IV) relative to the Protection of Civilian Persons in Time of War (hereafter “Fourth Geneva Convention”), 12 August 1949, Article 13 (United Nations, *Treaty Series*, vol. 75, p. 287); Additional Protocol I, Article 75 (1).

⁷⁰ See, e.g., International Covenant on Civil and Political Rights (ICCPR), New York,

28. The claim of the right of self-defence under Article 51 of the United Nations Charter cannot justify the denial of urgently needed supplies essential to the survival of the Palestinian civilian population and humanitarian assistance. A State may only rely on the lawful exercise of the right of self-defence under international law, as an exception to the prohibition of the use of force⁷¹ and as a circumstance precluding wrongfulness⁷², under certain established conditions of the *ius ad bellum*, but can never justify violations of the international human rights law nor international humanitarian law (*ius in bello*). In any event, as confirmed in the 2004 Advisory Opinion, the *ius ad bellum* “has no relevance” in cases where attacks against a State originate from the occupied territory over which this same State exercises control⁷³. Rather, activities of Israel on the Occupied Palestinian Territory and its obligations concerning the facilitation of 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, are governed by international human rights law and international humanitarian law, and not *ius ad bellum*.

29. Since its inception, Slovenia has been an avid supporter of the principle of Responsibility to Protect (R2P), which calls on States to safeguard their populations from genocide, war crimes, ethnic cleansing, and crimes against humanity, as endorsed by the 2005 World Summit Outcome Document⁷⁴. Under the R2P, States have a primary responsibility to, among others, prevent the violations of the right to life and other rights necessary for human survival when otherwise the population would suffer from any of the crimes covered by the R2P, through legal, institutional, and policy measures. Secondly, they

16 December 1966, Article 26 (United Nations, *Treaty Series*, vol. 999, p. 171).

⁷¹ D. Randzelhofer and G. Nolte, Commentary to Article 51, in B. Simma *et al.* (eds.), *The Charter of the United Nations: A Commentary* (3rd edn., Oxford University Press, 2012), p. 1400.

⁷² Articles on the Responsibility of States for Internationally Wrongful Acts, Article 21 (“The wrongfulness of an act of a State is precluded if the act constitutes a lawful measure of self-defence taken in conformity with the Charter of the United Nations.”), United Nations General Assembly, Resolution 56/83, Responsibility of States for internationally wrongful acts, 12 December 2001, Annex.

⁷³ *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, I.C.J. Reports 2004 (I)*, p. 194, para. 139.

⁷⁴ United Nations General Assembly, Resolution 60/1, 2005 World Summit Outcome, 24 October 2005, paras. 138-139.

are to accept the international community's assistance in fulfilling their responsibilities, including when the non-realization of the right to life and other rights necessary for human survival may otherwise amount to crimes under the R2P. Thirdly, when a State is manifestly failing to protect the population under its control, the international community can take collective action, including humanitarian assistance to ensure and facilitate the unhindered provision of urgently needed supplies essential to the survival of the population.

III. The obligations of Israel 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

A. OBLIGATION OF ASSISTANCE TO THE UNITED NATIONS AND ITS ACTIONS

30. Israel has been admitted as a Member of the United Nations Organization by General Assembly resolution 273 (III) of 11 May 1949⁷⁵. It has accepted “unreservedly ... the obligations of the United Nations Charter and undert[ook] to honour them from the day when it bec[a]me[] a member of the United Nations”⁷⁶.

31. Article 2 of the United Nations Charter sets out some of the most fundamental principles that the Organization and its Member States must respect in pursuit of the purposes of the Organization. In particular, pursuant to Article 2, paragraph 2:

“All Members, in order to ensure to all of them the rights and benefits resulting from membership, shall fulfill in good faith the obligations assumed by them in accordance with the present Charter.”

Article 2, paragraph 5, provides that:

“All Members shall give the United Nations every assistance in any action it takes in accordance with the present Charter”

32. The obligation of assistance owed by the Member States to the Organization is an essential element of the operation and effectiveness of the Organization which, specifically,

⁷⁵ United Nations General Assembly, Resolution 273 (III), Admission of Israel to membership in the United Nations, 11 May 1949 (<https://docs.un.org/en/A/RES/273> (III)).

⁷⁶ Declaration of Acceptance of the Obligations contained in the Charter of the United Nations by the Provision Government of Israel, 29 November 1948 (United Nations, *Treaty Series*, vol. 30, p. 53).

has been entrusted by its Member States with important and far-reaching competencies. In 1949, the Court found in this respect:

“For this purpose, the Members of the Organization have entered into certain undertakings, some of which are in the Charter and others in complementary agreements. The content of these undertakings need not be described here; but the Court must stress the importance of the duty to render to the Organization ‘every assistance’ which is accepted by the Members in Article 2, paragraph 5, of the Charter. It must be noted that the effective working of the Organization — the accomplishment of its task, and the independence and effectiveness of the work of its agents — require that these undertakings should be strictly observed.”⁷⁷

33. The obligation to assist the Organization and to cooperate with the Organization remains of particular importance in respect of the purpose aimed at developing friendly relations “based on respect for the principle of equal rights and self-determination of peoples” and the “respect for human rights and for fundamental freedoms for all”⁷⁸. The Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations recalls unmistakably that:

“[e]very State has the duty to promote, through joint and separate action, realization of the principle of equal rights and self-determination of peoples, in accordance with the provisions of the Charter, and *to render assistance to the United Nations in carrying out the responsibilities entrusted to it by the Charter regarding the implementation of the principle*”⁷⁹.

In respect of the specific context of the realization of the right to self-determination of the Palestinian people, the Human Rights Council:

“[u]rges all States to adopt measures as required to promote the realization of the right to self-determination of the Palestinian people, *and to render assistance*

⁷⁷ *Reparation for injuries suffered in the service of the United Nations*, Advisory Opinion, I.C.J. Reports 1949, p. 183.

⁷⁸ Charter of the United Nations, Article 1 (2) and (3). See also *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*, Advisory Opinion of 19 July 2024, para. 231.

⁷⁹ United Nations General Assembly, Resolution 2625 (XXV), Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, 24 October 1970, Annex (emphasis added).

to the United Nations in carrying out the responsibilities entrusted to it by the Charter regarding the implementation of this right”⁸⁰.

Relying on the text of this resolution, the Court found that:

“With regard to the right to self-determination, the Court considers that, while it is for the General Assembly and the Security Council to pronounce on the modalities required to ensure an end to Israel’s illegal presence in the Occupied Palestinian Territory and the full realization of the right of the Palestinian people to self-determination, *all States must co-operate with the United Nations to put those modalities into effect.*”⁸¹

The obligation to assist the Organization and to cooperate with the Organization, in particular in light of the realization of the right of the Palestinian people to self-determination, applies to all Member States of the United Nations Organization, including, and most importantly, to Israel.

34. As recognized by the General Assembly, the United Nations have a “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”⁸². The Court confirmed that:

“Within the institutional framework of the Organization, this responsibility has been manifested by the adoption of many Security Council and General Assembly resolutions, and by the creation of several subsidiary bodies specifically established to assist in the realization of the inalienable rights of the Palestinian people.”⁸³

35. This does include UNRWA, being a subsidiary body established by the General Assembly in 1948⁸⁴ and an integral part of the United Nations Organization. The Agency

⁸⁰ United Nations Human Rights Council, Resolution 55/30, Right of the Palestinian people to self-determination, 5 April 2024, para. 8 [Dossier No. N268] (emphasis added).

⁸¹ *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*, Advisory Opinion of 19 July 2024, para. 275 (emphasis added).

⁸² United Nations General Assembly, Resolution 57/107, Committee on the Exercise of the Inalienable Rights of the Palestinian People, 3 December 2002 [Dossier No. 417]. See also United Nations General Assembly, Resolution 77/22, Committee on the Exercise of the Inalienable Rights of the Palestinian People, 30 November 2022 [Dossier No. 436].

⁸³ *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Advisory Opinion, I.C.J. Reports 2004 (I), p. 159, para. 49.

⁸⁴ United Nations General Assembly, Resolution 302 (IV), Assistance to Palestine refugees, 8 December 1949 ([https://docs.un.org/en/A/RES/302 \(IV\)](https://docs.un.org/en/A/RES/302%20(IV))).

remains the Organization's backbone of all humanitarian response and relief in the Occupied Palestinian Territory, including East-Jerusalem, and most importantly today, Gaza.

36. The organs of the Organization have recognized the vital role of the Agency⁸⁵ for the Palestinian people and its sheer existence as an indispensable and essential element of the right to self-determination. They are mindful of the fact that 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"⁸⁶. Members of the Security Council

"demanded to all parties to enable UNRWA to carry out its mandate, as adopted by the General Assembly, in all areas of operation, with full respect for the humanitarian principles of humanity, neutrality, impartiality and independence, and to respect international humanitarian law including the protection of UN and humanitarian facilities"⁸⁷.

37. Therefore, Israel has an obligation, by virtue of its membership to the United Nations Organization, to assist the Organization, and in particular UNRWA, in the fulfillment of its mandate concerning the question of Palestine.

⁸⁵ Letter from the Secretary-General to the President of the General Assembly, A/79/558, 28 October 2024 [Dossier No. N65]; Letters from the Secretary-General to the President of the General Assembly and the President of the Security Council, A/79/684-S/2024/892, 9 December 2024 [Dossier No. N67]; Letters from the Secretary-General addressed to the President of the General Assembly and the President of the Security Council, A/79/716-S/2025/18, 8 January 2025 [Dossier No. N68]; United Nations Security Council, Press Statement on United Nations Relief and Works Agency for Palestine Refugees in Near East (UNRWA), SC/15874, 30 October 2024 [Dossier No. N239]; United Nations General Assembly, Resolution ES-10/25, Support for the mandate of the United Nations Relief and Works Agency for Palestine Refugees in the Near East, 16 December 2024 [Dossier No. N219].

⁸⁶ Letter from the Secretary-General to the President of the General Assembly, A/79/558, 28 October 2024 [Dossier No. N65]. See also United Nations General Assembly, Resolution 79/232, Request for an advisory opinion of the International Court of Justice on the obligations of Israel in relation to the presence and activities of the United Nations, other international organizations and third States, 19 December 2024 [Dossier No. 3]; United Nations Security Council, Press Statement on United Nations Relief and Works Agency for Palestine Refugees in Near East (UNRWA), SC/15874, 30 October 2024 [Dossier No. N239].

⁸⁷ United Nations Security Council, Press Statement on United Nations Relief and Works Agency for Palestine Refugees in Near East (UNRWA), SC/15874, 30 October 2024 [Dossier No. N239].

38. In 1956, Israel specifically confirmed that “it [would] afford all the facilities required in order that UNRWA shall be enabled to carry out its task”⁸⁸. Again, in 1967, the Israeli authorities confirmed the “agreement that, at the request of the Israel Government, UNRWA would continue its assistance to the Palestine refugees, with the full co-operation of the Israel authorities, in the West Bank and Gaza Strip areas” and that “[f]or its part, the Israel Government will facilitate the task of UNRWA to the best of its ability”⁸⁹. Whatever might have been the reasons to specifically recall these obligations in these documents, they have not been established by these bilateral agreements between UNRWA and Israel. They exist and bind Israel as a Member State of the United Nations Organization and a party to the Charter of the United Nations. Even the purported denunciation of the 1967 Exchange of letters⁹⁰, and independently of the validity of such a denunciation under general principles of international law, Israel remains bound by its commitment and undertaking to “unreservedly” accept and honor its obligations of the United Nations Charter⁹¹.

39. It is also worth recalling that, in light of the devastating situation prevailing in Gaza, the Court has unanimously ordered Israel to:

“[t]ake 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”⁹².

⁸⁸ Exchange of Letters constituting an Agreement between Israel and the United Nations Relief and Works Agency for Palestine Refugees concerning assistance to Palestine Refugees in the Gaza Strip, Israel and Beirut, 9 November 1956 (United Nations, *Treaty Series*, vol. 280, p. 261).

⁸⁹ Exchange of letters constituting a provisional agreement concerning assistance to Palestine Refugees, Jerusalem, 14 June 1967 (United Nations, *Treaty Series*, vol. 8955, p. 183) [Dossier No. N283].

⁹⁰ See Letter from the Director General of the Ministry of Foreign Affairs of Israel to the President of the General Assembly, 3 November 2024 [Dossier No. N302].

⁹¹ See above, para. 30.

⁹² *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)*, *Provisional Measures*, Order of 28 March 2024, para. 51 (2) (a) (emphasis added). See also above, para. 17.

This order on provisional measures remains binding for Israel under Article 41 of the Statute of the Court⁹³.

B. OBLIGATION TO ACCORD PROTECTION, PRIVILEGES AND IMMUNITIES

40. Article 105 of the Charter of the United Nations provides:

“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.”

41. Pursuant to paragraph 3 of that provision, the United Nations General Assembly approved, in 1946, the Convention on the Privileges and Immunities of the United Nations (hereafter the “General Convention”)⁹⁴ and proposed it for accession by the Member States of the Organization⁹⁵. Israel has acceded to the Convention on 21 September 1949⁹⁶.

42. Under Article 105 of the Charter and under the General Convention, Israel as a Member of the Organization has the obligation to accord and guarantee to the Organization and its officials those privileges and immunities that are necessary for the fulfillment of their purposes and functions. As a subsidiary organ of the General Assembly and an integral part of the United Nations Organization, UNRWA and its officials enjoy the privileges and immunities in accordance with Article 105 of the Charter and the General Convention.

⁹³ *LaGrand (Germany v. United States of America)*, Judgment, *I.C.J. Reports 2001*, p. 506, para. 109.

⁹⁴ United Nations, *Treaty Series*, vol. 1, p. 15.

⁹⁵ United Nations General Assembly, Resolution 22 (I) (A), Privileges and Immunities of the United Nations, 13 February 1946.

⁹⁶ United Nations, *Treaty Series*, vol. 42, p. 354.

43. It must be underlined that as far as the presence of the United Nations and its subsidiary organs or agencies in the Occupied Palestinian Territory is concerned, Israel does not enjoy any sovereign rights within this territory. Nevertheless, it would run against the object and purpose of Article 105 of the Charter if Israel would not be bound by an obligation to accord and protect privileges and immunities to the United Nations and its subsidiary organs or agencies within the territories under its occupation and control. Indeed, Israel recognized in 1967 that “the Convention on the Privileges and Immunities of the United Nations of 13 February 1946, to which Israel is a party, shall govern the relations between the Government and UNRWA in all that concerns UNRWA’s functions”⁹⁷.

44. This is further confirmed by the text of the General Convention. For instance, Article II, Section 2, established immunity from legal process for “the United Nations, its property and assets wherever located and by whomsoever held”. Section 4 protects archives of the Organization and documents belonging to it “wherever located”.

45. Therefore, as a Member of the United Nations and in its capacity of a contracting party to the General Convention, Israel has the obligation to accord, guarantee and respect the privileges and immunities of the Organization, its subsidiary organs and agencies, and their agents, including those who are present in the Occupied Palestinian Territory. This does comprise, first and foremost, the obligation to protect and to guarantee the inviolability of the Organization, its premises and its personnel wherever located in order to enable and implement the independence of the Organization warranted under Article 100 of the Charter of the United Nations⁹⁸. This also comprises, *inter alia*, immunity from legal process, inviolability of the premises and archives, exemption from taxation and duties, facilities of communication, as far as the Organization is concerned, and immunity from legal process in

⁹⁷ Exchange of letters constituting a provisional agreement concerning assistance to Palestine Refugees, Jerusalem, 14 June 1967 (United Nations, *Treaty Series*, vol. 8955, p. 183) [Dossier No. N283]. See also Exchange of Letters constituting an Agreement between Israel and the United Nations Relief and Works Agency for Palestine Refugees concerning assistance to Palestine Refugees in the Gaza Strip, Israel and Beirut, 9 November 1956 (United Nations, *Treaty Series*, vol. 280, p. 261).

⁹⁸ See also *Applicability of Article VI, Section 22, of the Convention on the Privileges and Immunities of the United Nations*, Advisory Opinion, I.C.J. Reports 1989, p. 195, para. 51.

respect of words spoken or written and all acts performed in official capacity, exemption from taxation; exemption from immigration and alien restrictions, as far as officials are concerned.

46. Furthermore, as a Member of the United Nations, and in accordance with its obligations set out in Article 2, paragraph 5, of the Charter, Israel bears obligations to protect the Organization and its personnel from any action that prevents them from discharging their mandate, and to assure their security and safety. These obligations, reflected in the Convention on the Safety of United Nations and Associated Personnel⁹⁹, have been recalled by the Security Council¹⁰⁰ and the General Assembly¹⁰¹ in numerous resolutions and statements. The International Law Commission considered in this regard that:

“Attacks against United Nations and associated personnel constitute violent crimes of exceptionally serious gravity which have serious consequences not only for the victims, but also for the international community. These crimes are of concern to the international community as a whole because they are committed against persons who represent the international community and risk their lives to protect its fundamental interest in maintaining the international peace and security of mankind. These personnel are taking part in, present in an official capacity in the area of or otherwise associated with a United Nations operation which is ‘conducted in the common interest of the international community and in accordance with the principles and purposes of the Charter of the United Nations’, as recognized in the preamble to the Convention on the Safety of United Nations and Associated Personnel. Attacks against such personnel are in effect directed against the international community and strike at the very heart of the international legal system”¹⁰²

The Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents¹⁰³, to which Israel is a party, further

⁹⁹ United Nations, *Treaty Series*, vol. 2051, p. 363.

¹⁰⁰ See, for instance, United Nations Security Council, Resolution 2730 (2024), 24 May 2024, para. 1 (“*Calls upon* all States to respect and protect humanitarian personnel and United Nations and associated personnel, including national and locally recruited personnel, in accordance with their obligations under international law”).

¹⁰¹ See, for instance, United Nations General Assembly, Resolution 79/138, Safety and security of humanitarian personnel and protection of United Nations personnel, 9 December 2024, para. 2 (“*Urges* all States to make every effort to ensure the full and effective implementation of the relevant principles and rules of international law, including international humanitarian law and human rights law, and refugee law as applicable, related to the safety and security of humanitarian personnel and United Nations personnel”).

¹⁰² *Yearbook of the International Law Commission*, 1996, vol. II (2), p. 51.

¹⁰³ United Nations, *Treaty Series*, vol. 1035, p. 167.

confirms the obligation to protect official or agents of an international organization entitled to protection pursuant to international law¹⁰⁴. In accordance with Article 4 of that Convention, State parties shall take all practicable measures to prevent the commission, within or outside their territories, of murder, kidnapping or other attacks upon the protected person or its liberty or of violent attacks upon the official premises, the private accommodation or the means of transport of an internationally protected person likely to endanger this person or his liberty¹⁰⁵.

47. The full respect of inviolabilities, privileges and immunities as the “most categorical obligations”¹⁰⁶ owed by all Member States, including Israel, to the Organization constitutes the cornerstone and an indispensable prerequisite for the Organization and its personnel to fulfill their mandate and mission independently.

48. The Court previously underlined that:

“there is no more fundamental prerequisite for the conduct of relations between States than the inviolability of diplomatic envoys and embassies, so that throughout history nations of all creeds and cultures have observed reciprocal obligations for that purpose”¹⁰⁷,

and that:

“the obligations thus assumed, notably those for assuring the personal safety of diplomats and their freedom from prosecution, are essential, unqualified, and inherent in their representative character and their diplomatic function”¹⁰⁸.

These considerations remain fully relevant in respect to the relations between States and international organizations of which they are members.

¹⁰⁴ See Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, Article 1 (1) (b).

¹⁰⁵ *Ibid.*, Article 4 (a).

¹⁰⁶ *United States Diplomatic and Consular Staff in Tehran (United States of America v. Islamic Republic of Iran)*, Judgment, *I.C.J. Reports* 1980, p. 30, para. 61.

¹⁰⁷ *United States Diplomatic and Consular Staff in Tehran (United States of America v. Islamic Republic of Iran)*, Provisional Measures, Order of 15 December 1979, *I.C.J. Reports* 1979, p. 19, para. 38.

¹⁰⁸ *Ibid.*

49. In line with the obligations of Israel as a Member of the United Nations, the General Assembly adopted resolution E-10/25 and:

“*demand*[ed] that Israel respect the mandate of the Agency and its privileges and immunities and act forthwith to enable its operations to proceed without impediment or restriction in the Gaza Strip and the West Bank, including East Jerusalem, including, inter alia, to allow and facilitate full, rapid, safe and unhindered humanitarian assistance in all its forms into and throughout the entire Gaza Strip in accordance with the mandate of the Agency and to alleviate the humanitarian catastrophe;

[r]eiterate[d] *its demand* that Israel comply without delay with all its legal obligations under international law, including, inter alia, to take all necessary and effective measures to ensure, in full cooperation 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 the Palestinian civilian population throughout the Gaza Strip; [and]

[c]alled 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 all aspects and to ensure the safety of the personnel of the Agency, the protection of its installations and the safeguarding of the security of its facilities in the Occupied Palestinian Territory, including East Jerusalem, at all times, to comply with international humanitarian law, and to cease obstructing the movement and access of the staff, vehicles and supplies of the Agency and levying taxes, extra fees and charges on the Agency”¹⁰⁹.

50. Recent information according to which Israel’s authorities forcefully entered premises of the United Nations and UNRWA¹¹⁰ are in this respect highly concerning.

51. Furthermore, it is well-established that a State cannot rely on its own legislation and municipal law in order to limit or affect the scope of its international obligations¹¹¹. This general principle remains fully applicable in the relations between an international

¹⁰⁹ United Nations General Assembly, Resolution ES-10/25, Support for the mandate of the United Nations Relief and Works Agency for Palestine Refugees in the Near East, 16 December 2024, paras. 12-14 [Dossier No. N219].

¹¹⁰ Children and young people in East Jerusalem denied of their right to education in UNRWA schools, UNRWA, Official Statement, 18 February 2025 (<https://www.unrwa.org/newsroom/official-statements/children-and-young-people-east-jerusalem-denied-their-right-education>).

¹¹¹ See, for instance, *Greco-Bulgarian “Communities”*, Advisory Opinion, 1930, P.C.I.J., Series B, No. 17, p. 32.

organization and States¹¹². Therefore, even if a State calls into question the operational activities of the United Nations Organization, its organs and their personnel, it cannot refuse to recognize and comply with its obligations owed to the Organization. The Charter and the General Convention make it clear that privileges and immunities are granted in the interests and for the benefit of the United Nations. This implies that it is for the Organization, and the Organization only, to decide whether its agents and personnel, or more largely its mission and subsidiary organs, need the necessary protection as required¹¹³. The Court explained in 1949 that:

“Having regard to its purposes and functions already referred to, the Organization may find it necessary, and has in fact found it necessary, to entrust its agents with important missions to be performed in disturbed parts of the world. Many missions, from their very nature, involve the agents in unusual dangers to which ordinary persons are not exposed. ... 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.

.....

In order that the agent may perform his duties satisfactorily, he must feel that this protection is assured to him by the Organization, and that he may count on it. To ensure the independence of the agent, and, consequently, the independent action of the Organization itself, it is essential that in performing his duties he need not have to rely on any other protection than that of the Organization”¹¹⁴

52. The Organization and in particular its Secretary-General have consistently supported the activities and operations of UNRWA. According to its own responsibility and duties, the Organization took steps in order to investigate and to address allegations related to the neutrality of Agency personnel, installations and operations and appointed an

¹¹² *Reparation for injuries suffered in the service of the United Nations*, Advisory Opinion, I.C.J. Reports 1949, p. 180.

¹¹³ *Difference Relating to Immunity from Legal Process of a Special Rapporteur of the Commission on Human Rights*, Advisory Opinion, I.C.J. Reports 1999, p. 84, para. 50 and p. 85, para. 51. See also *Applicability of Article VI, Section 22, of the Convention on the Privileges and Immunities of the United Nations*, Advisory Opinion, I.C.J. Reports 1989, p. 198, para. 59.

¹¹⁴ *Reparation for injuries suffered in the service of the United Nations*, Advisory Opinion, I.C.J. Reports 1949, p. 183.

Independent Review Group in February 2024¹¹⁵. In its Final Report issued in April 2024, the Independent Review Group found that:

“Since 2017 UNRWA has established and updated a significant number of policies, mechanisms and procedures to (a) ensure compliance with the obligation to uphold the principle of neutrality, including the provision of information and training for UNRWA staff to prevent breaches; (b) ensure rapid and adequate responses to allegations or indications of breaches, including reporting and investigation systems and routines; and (c) determine and implement disciplinary sanctions on personnel found to breach the neutrality principles.”¹¹⁶

The Independent Review Group identified “important areas for further strengthening” and addressed some recommendations¹¹⁷. The Organization and UNRWA are actively implementing these recommendations¹¹⁸.

53. It is thus apparent that the Organization took accusations against UNRWA and allegations of participation of its personnel in terrorist activities made by Israel very seriously and undertook the necessary and appropriate investigations. In any event, Israel cannot rely on its own assessment in order to free itself, through its own national legislation, of international obligations it owes to the Organization and shut down the operation of UNRWA in its own territory or in the Occupied Palestinian Territory.

¹¹⁵ See Final Report for the United Nations Secretary-General on the Independent Review of Mechanisms and Procedures to Ensure Adherence by UNRWA to the Humanitarian Principle of Neutrality, 20 April 2024, Annex A (Terms of Reference of the Group to Conduct an Independent Review of mechanisms and procedures to ensure adherence by UNRWA to the humanitarian principle of neutrality) [Dossier No. N297].

¹¹⁶ *Ibid.*, p. 36.

¹¹⁷ *Ibid.*

¹¹⁸ UNRWA, Implementation of Colonna Report: Quarterly Report, January 2025 (https://www.unrwa.org/sites/default/files/content/resources/ist_012025_progressreport_01202025.pdf).

IV. The obligations of Israel 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

A. OBLIGATIONS UNDER INTERNATIONAL HUMAN RIGHTS LAW

54. The Court has already discussed the impact of Israel's policies and practices on civil and political rights and some aspects of the economic, social and cultural life of Palestinians¹¹⁹. It confirmed that Israel's activities, as the occupying power, prevent the full realisation of the right to self-determination of the Palestinian people¹²⁰.

55. The obligations of States under international human rights law continue to apply in times of armed conflict¹²¹, including in times of occupation¹²². The respect for the right to self-determination constitutes the foundation for the protection and realization of all other human rights, as it ensures that people can freely determine their political status and pursue their economic, social, and cultural development without external interference¹²³.

¹¹⁹ *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Advisory Opinion, I.C.J. Reports 2004 (I), p. 192, para. 134; *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*, Advisory Opinion of 19 July 2024, paras. 206 and 241.

¹²⁰ *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Advisory Opinion, I.C.J. Reports 2004 (I), p. 182-184, paras. 118-122; *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*, Advisory Opinion of 19 July 2024, paras. 238-243.

¹²¹ *Legality of the Threat or Use of Nuclear Weapons*, Advisory Opinion, I.C.J. Reports 1996, p. 240, para. 25; *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Advisory Opinion, I.C.J. Reports 2004 (I), p. 178-181, paras. 106-113; *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*, Advisory Opinion of 19 July 2024, p. 32, para. 99.

¹²² *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Advisory Opinion, I.C.J. Reports 2004 (I), p. 178-181, paras. 106-113; *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda)*, Judgement, I.C.J. Reports 2005, p. 242-243, para. 216; *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*, Advisory Opinion of 19 July 2024, p. 32, para. 99. See also United Nations Human Right Committee, General comment No. 31, CCPR/C/Rev.1/Add.13 (2004), para. 10.

¹²³ ICCPR, Article 1; International Covenant on Economic, Social and Cultural Rights (ICESCR), Article 1 (United Nations, *Treaty Series*, vol. 993, p. 3); *Western Sahara*, Advisory Opinion, I.C.J. Reports 1975, p. 55 and 59; *East Timor (Portugal v. Australia)*, Judgment, I.C.J. Reports 1995, p. 102, para. 29; *Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965*, Advisory Opinion, I.C.J. Reports 2019, p. 132-135, paras. 150-161.

Restrictions on international aid for the provision of basic goods and services impair the enjoyment of fundamental rights¹²⁴, in particular the right to self-determination¹²⁵.

56. Among the core individual rights of relevance in the present proceedings, are the right to life deriving from Article 6 of the International Covenant on Civil and Political Rights (ICCPR)¹²⁶, the right to an adequate standard of living, including adequate food, clothing and housing, the right “to be free from hunger” as enshrined in Article 11 of the International Covenant on Economic, Social and Cultural Rights (ICESCR)¹²⁷, and the right of everyone to the enjoyment of the highest attainable standard of physical and mental health derived in Article 12 ICESCR.

57. All United Nations Member States have positive obligations to ensure respect for these rights of the civilian population on territories under their control and therefore to adopt appropriate measures and actively engage in providing urgently needed supplies essential to the survival of the civilian population. This includes an obligation to cooperate with relevant international actors,¹²⁸ in particular the UNRWA. Every United Nations Member State also has a negative obligation not to prevent the United Nations, including its agencies and bodies, other international organizations and third States, such as UNRWA, from facilitating the unhindered provision of urgently needed supplies essential to the survival of the civilian population.

¹²⁴ Economic and Social Commission for Western Asia, 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, 30 June 2023, A/78/127-E/2023/95, para. 130 [Dossier No. N06]; Human Rights Committee, Concluding observation on the fourth periodic report of Israel, CCPR/C/ISR/CO/4 (2014), para. 13 [Dossier No. 1790].

¹²⁵ *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*, Advisory Opinion of 19 July 2024, para. 241.

¹²⁶ ICCPR, Article 6.

¹²⁷ International Covenant on Economic, Social and Cultural Rights, 16 December 1966, Article 11 (United Nations, *Treaty Series*, vol. 993, p. 3).

¹²⁸ European Court of Human Rights, *L.C.B. v. United Kingdom*, Judgment of 9 June 1998, *Reports of Judgments and Decisions* 1998-III, p. 1403, para. 36.

58. States have an obligation to respect and above all to ensure respect for the right to life of all individuals within their territory and subject to their jurisdiction¹²⁹. The United Nations Human Rights Committee stated that the respect of the right to life “entails the duty to refrain from engaging in conduct resulting in arbitrary deprivation of life”¹³⁰. This right is non-derogable¹³¹ even in “time of public emergency which threatens the life of the nation”, which includes situations of armed conflict and other public emergencies¹³².

59. The Committee further confirmed that the right to life “should not be interpreted narrowly” and includes “the entitlement of individuals to be free from acts and omissions that are intended or may be expected to cause their unnatural or premature death, as well as to enjoy a life with dignity”¹³³. Moreover, it expressly recognised that the positive obligations of States (the duty to protect life) include taking “appropriate measures to address the general conditions in society that may give rise to direct threats to life or prevent individuals from enjoying their right to life with dignity”, including “widespread hunger and malnutrition and extreme poverty and homelessness”¹³⁴.

60. The prohibition of arbitrary deprivation of life is, as stated under Article 6 (1) of the ICCPR, an inherent element of the right to life¹³⁵. It also constitutes part of customary international law¹³⁶. As recognized by various United Nations bodies in their general

¹²⁹ *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, I.C.J. Reports 2004 (I)*, p. 180-181, paras. 111-112.

¹³⁰ United Nations, Human Rights Committee, General comment No. 36, Article 6 (Right to life), CCPR/C/GC/36, 3 September 2019, para. 7 (hereafter “General Comment No. 36”).

¹³¹ ICCPR, Article 4 (2). The obligation is also established in the following instruments, among others: Universal Declaration of Human Rights (Preamble); Convention on the Rights of the Child (Article 6); European Convention for the Protection of Human Rights and Fundamental Freedoms (Article 14); African Charter on Human and People’s Rights (Article 1); American Convention on Human Rights (Pact of San José) (Articles 1 and 2); ICESCR (Article 2).

¹³² ICCPR, Article 4 (2). See also United Nations, Human Rights Committee, General comment No. 29, Article 4: Derogations during a State of Emergency, CCPR/C/21/Rev.1/Add.11, 31 August 2001.

¹³³ General Comment No. 36, para. 3.

¹³⁴ *Ibid.*, para. 26.

¹³⁵ *Ibid.*, para. 11.

¹³⁶ African Commission on Human and Peoples’ Rights, General comment No. 3 on the African Charter on Human and Peoples’ Rights: The Right to Life (Article 4) (2015), para. 5.

comments and special procedures, the prohibition of arbitrary deprivation of life is a peremptory norm¹³⁷. The United Nations Human Rights Committee in its General Comment No. 36, which is to be ascribed great weight¹³⁸, points out that deprivation of life is, as a rule, arbitrary if it is inconsistent with international law, especially if “inconsistent with life-protecting laws and procedures”¹³⁹. The notion of “arbitrariness” includes elements of inappropriateness, injustice, lack of predictability and lack of due process of law¹⁴⁰. During a situation of armed conflict “practices inconsistent with international humanitarian law, entailing the risk to the lives of civilians and other persons protected by international humanitarian law ... would also violate Article 6 of the Covenant”¹⁴¹. The Committee also noted, that respecting the right to life and the peremptory norm prohibiting arbitrary deprivation of life includes taking all necessary “measures designed to ensure access without delay by individuals to essential goods and services such as food, water, shelter, health care, electricity and sanitation, and other measures designed to promote and facilitate adequate general conditions, such as the bolstering of effective emergency health services, emergency response operations”¹⁴².

61. Similarly, other international regional and national human rights bodies and courts have recognized the prohibition of arbitrary deprivation of life as a peremptory norm¹⁴³. No

¹³⁷ Committee on Civil and Political Rights, General comment No. 24: Issues Relating to Reservations Made upon Ratification or Accession to the Covenant or the Optional Protocols thereto, or in Relation to Declarations under Article 41 of the Covenant, 2 November 1994, CCPR/C/21/Rev.1/Add.6, para. 10; Fourth Report on peremptory norms of general international law (*jus cogens*), Dire Tladi, Special Rapporteur, 2019, A/CN.4/727, para. 128; United Nations Commission on Human Rights, Report of the Special Rapporteur on Religious Intolerance, Implementation of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Race, 1986, E/CN.4/1987/35, para. 73.

¹³⁸ *Ahmadou Sadio Diallo (Republic of Guinea v. Democratic Republic of the Congo)*, Merits, Judgment, I.C.J. Reports 2010, p. 664, para. 66.

¹³⁹ General Comment No. 36, para. 11.

¹⁴⁰ *Ibid.*, para. 12.

¹⁴¹ *Ibid.*, para. 64.

¹⁴² *Ibid.*, para. 26.

¹⁴³ African Commission on Human and Peoples’ Rights, General comment No. 3 on the African Charter on Human and Peoples’ Rights: The Right to Life (Article 4) (2015), para. 5; Inter-American Court of Human Rights, *Case of the ‘Street Children’ (Villagra-Morales) v. Guatemala*, Judgment, 19 November 1999, Series C No. 63, para. 139; Federal Supreme Court Switzerland, *Nada v. State Secretariat for Economic Affairs and Federal Department of Economic Affairs*, No. 1A 45/2007, ILDC 461, para. 7.3.

circumstances precluding wrongfulness can justify or excuse a breach of a State's obligations under a peremptory norm of general international law¹⁴⁴.

62. The peremptory nature of an international law norm further entails also special obligations of cooperation in putting an end to an unlawful situation¹⁴⁵, which arise as soon as a peremptory norm is breached, both for the State responsible for the breach and third States¹⁴⁶.

63. An obligation to ensure and facilitate the unhindered provision of urgently needed supplies essential to the survival of the Palestinian civilian population stems also from the ICESCR, to which Israel is a party since 3 January 1992¹⁴⁷, particular in respect to the right to adequate food, the right "to be free from hunger"¹⁴⁸, and the right to physical and mental health¹⁴⁹. As all economic, social and cultural rights, also the right to food and the right to physical and mental health may not be derogated from in times of emergency, which is compensated by the fact that they are subject to progressive realisation, *i.e.*, dependent on the available resources of States. Therefore, even In emergencies, which include armed conflicts or occupation, a State has to do its best to work towards the progressive realisation of these rights and guarantee the minimum content of the core obligations¹⁵⁰.

¹⁴⁴ Articles on the Responsibility of States for internationally wrongful acts, Article 26, United Nations General Assembly, Resolution 56/83, Responsibility of States for internationally wrongful acts, 12 December 2001, Annex. See also *Yearbook of the International Law Commission*, 2001, vol. II (2), p. 74, para. (3) of the commentary to Article 21.

¹⁴⁵ Articles on the Responsibility of States for internationally wrongful acts, Article 41 (*op. cit.* (note 144)); *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Advisory Opinion, *I.C.J. Reports 2004 (I)*, p. 200, para. 159.

¹⁴⁶ See *Yearbook of the International Law Commission*, 2001, vol. II (2), pp. 113-116.

¹⁴⁷ United Nations, *Treaty Series*, vol. 1651, p. 564.

¹⁴⁸ ICESCR, Article 11.

¹⁴⁹ *Ibid.*, Article 12.

¹⁵⁰ See Organization for Security and Co-operation in Europe Office for Democratic Institutions and Human Rights, Report on Violations of International Humanitarian and Human Rights Law, War Crimes And Crimes Against Humanity Committed in Ukraine (1 April – 25 June 2022), ODIHR.GAL/36/22/Corr.1, 14 July 2022, p. 83; Committee on Economic, Social and Cultural Rights, General comment No. 3: The Nature of States Parties Obligations, 14 December 1990, para. 10, in Committee on Economic, Social and Cultural Rights, Report of the Fifth Session (26 November – 14 December 1990), E/1991/23, pp. 85-86.

64. In this respect, the Committee on Economic, Social and Cultural Rights stressed the need to seek international assistance to secure available resources for the realisation of the right to food. For a State not to be in breach of the right to food or the right to health in natural or man-made disasters it has to “demonstrate that every effort has been made to use all the resources at its disposal in an effort to satisfy, as a matter of priority, those minimum obligations”, including that it has sought to obtain international aid¹⁵¹. It further stressed that violations of the right to food can occur through direct action of States, which includes also the “prevention of access to humanitarian food aid in internal conflicts”¹⁵². Similarly, the violation of the right to health occurs when the State fails “to take measures to ensure the distribution of health facilities, goods and services; to provide essential drugs; and to ensure equal access to health care and health services”, or when it limits “access to health services as a punitive measure, e.g., during armed conflicts in violation of international humanitarian law”¹⁵³. Finally, it added, that the obligation of all States to take steps also through international assistance and cooperation towards the full realization of the rights recognized in the Covenant includes also the obligation to accept resources available from the international community through international cooperation and assistance¹⁵⁴. This applies to both the right to food¹⁵⁵ and the right to health¹⁵⁶.

65. The obligations stemming from the right to life, in particular the peremptory norm prohibiting arbitrary deprivation of life, and the obligations to guarantee the respect of the

¹⁵¹ Committee on Economic, Social and Cultural Rights, General comment No. 12: The Right to Adequate Food (Art. 11 of the Covenant), 12 May 1999, E/C.12/1999/5, para. 17; Committee on Economic, Social and Cultural Rights, General comment No. 14: The right to the highest attainable standard of health (Article 12 of the Covenant), 11 August 2000, E/C.12/2000/4, para. 47.

¹⁵² Committee on Economic, Social and Cultural Rights, General comment No. 12, *op. cit.* (note 151), para. 19.

¹⁵³ Committee on Economic, Social and Cultural Rights, General comment No. 14:, *op. cit.* (note 151), para. 34.

¹⁵⁴ Committee on Economic, Social and Cultural Rights, General comment No. 3, *op. cit.* (note 151), para. 14.

¹⁵⁵ Committee on Economic, Social and Cultural Rights, General comment No. 12, *op. cit.* (note 151), para. 36.

¹⁵⁶ Committee on Economic, Social and Cultural Rights, General comment No. 14, *op. cit.* (note 151), para. 38.

right to food and right to health, therefore unequivocally demand ensuring and facilitating unhindered provision of urgently needed supplies essential to the survival of the Palestinian civilian population, by the occupying State. Where the latter is manifestly failing, the international community shall provide such urgently needed supplies, without obstructions by the occupying State.

B. OBLIGATIONS UNDER INTERNATIONAL HUMANITARIAN LAW

1. Obligation to ensure and facilitate the unhindered provision of urgently needed supplies

66. Every occupying power has an obligation under international humanitarian law to make sure that the civilian population has access to their means of subsistence as well as to ensure and facilitate the unhindered provision of urgently needed supplies essential to their survival, as well as allow for unimpeded external humanitarian assistance in areas under its control¹⁵⁷.

67. Between 1 and 13 January 2025, only 41 % of planned aid movements requiring coordination with Israeli authorities were facilitated, and 15 out of 22 planned movements submitted to the Israeli authorities to access Rafah governorate were denied¹⁵⁸. As noted by the International Criminal Court in November 2024, humanitarian assistance reaching Gaza was “not sufficient to improve the population’s access to essential goods”¹⁵⁹.

¹⁵⁷ Fourth Geneva Convention, Articles 23, 55, 59, and 69; Addition Protocol I, Article 70 (2) and 71 (3); ICRC’s study on customary international humanitarian law, Online database (<https://ihl-databases.icrc.org/en/customary-ihl/rules>), Rules 55 and 56; Declaration adopted by the Conference of High Contracting Parties to the Fourth Geneva Convention, 17 December 2014, para. 5, A/69/711-S/2015/1, Annex (<https://docs.un.org/en/A/69/711>); Letter from the Secretary-General addressed to the President of the Security Council, 22 November 2024, S/2024/852, p. 4 [Dossier No. N253].

¹⁵⁸ United Nations, Office for the Coordination of Humanitarian Affairs, Humanitarian Situation Update #255/Gaza Strip (<https://www.ochaopt.org/content/humanitarian-situation-update-255-gaza-strip>).

¹⁵⁹ International Criminal Court, Situation in the State of Palestine: ICC Pre-Trial Chamber I rejects the State of Israel’s challenges to jurisdiction and issues warrants of arrest for Benjamin Netanyahu and Yoav Gallant, Press Release, 21 November 2024 (<https://www.icc-cpi.int/news/situation-state-palestine-icc-pre-trial-chamber-i-rejects-state-israels-challenges>).

68. The obligation to provide humanitarian assistance to the civilian population in times of armed conflict is one of the central aspects of international humanitarian law¹⁶⁰. The International Committee of the Red Cross emphasised on numerous occasions the importance of unimpeded access to humanitarian assistance by civilian populations in times of armed conflict in accordance with the applicable rules of international humanitarian law¹⁶¹.

69. Every occupying power and each belligerent party, has an obligation to ensure and facilitate urgently needed supplies essential to the survival of the civilian population as well as basic services and humanitarian aid in the occupied territories¹⁶². In case it is not in a position to do so, it is obligated to ensure and facilitate such assistance by relevant international actors, including the United Nations, its agencies and bodies. Article 23 of the Fourth Geneva Convention, to which Israel is a party, obliges States to allow for “the free passage of all consignments of essential foodstuffs”¹⁶³. Additional Protocol I, considered as reflective of customary law, and relevant for the territory in question as recognized by Israel’s Supreme Court¹⁶⁴, broadens this obligation to the “rapid and unimpeded passage of all relief consignments, equipment and personnel”¹⁶⁵.

70. According to Article 55 of the Fourth Geneva Convention, the occupying power has, to the fullest extent of the means available to it, 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”. This was confirmed by the Court in its 2024 Advisory Opinion, stressing that “the occupying

¹⁶⁰ Fourth Geneva Convention, Articles 23 and 59; Addition Protocol I, Articles 69 to 71.

¹⁶¹ ICRC’s study on customary international humanitarian law, Online database (<https://ihl-databases.icrc.org/en/customary-ihl/rules>), Rules 55.

¹⁶² Fourth Geneva Convention, Articles 55, 59, and 69; United Nations Security Council, Resolution 2730 (2024), 24 May 2024, paras. 8-9 [Dossier No. N252].

¹⁶³ Fourth Geneva Convention, Article 23.

¹⁶⁴ Israel, High Court of Justice, *Jaber Al-Bassiouni Ahmed and others v. Prime Minister and Minister of Defence* (HCJ 9132/07), Judgment, 30 January 2008, paras. 13-15 and 22 ([https://versa.cardozo.yu.edu/sites/default/files/upload/opinions/Ahmed v. Prime Minister.pdf](https://versa.cardozo.yu.edu/sites/default/files/upload/opinions/Ahmed%20v.%20Prime%20Minister.pdf)).

¹⁶⁵ Additional Protocol I, Article 70 (2).

Power has the continuing duty to ensure that the local population has an adequate supply of foodstuffs, including water”¹⁶⁶. Moreover, according to Article 59 of the Fourth Geneva Convention, the occupying power “shall agree to relief schemes on behalf of the respective population and shall facilitate them by all the means at its disposal.”¹⁶⁷ The Conference of the High Contracting Parties to the Fourth Geneva Convention specifically recalled in 2014:

“the primary obligation of the occupying Power to ensure adequate supplies of the population of the occupied territory and that whenever it is not in a position to do so, it is under the obligation to allow and facilitate relief schemes”¹⁶⁸.

The participating High Contracting Parties further reiterated:

“their support to the activities of the International Committee of the Red Cross, within its particular role conferred upon it by the Geneva Conventions, of the United Nations Relief and Works Agency for Palestine Refugees in the Near East, and of other impartial humanitarian organizations, to assess and alleviate the humanitarian situation in the field”¹⁶⁹.

71. In any event, any relief consignments provided by third States or international organizations do not relieve an Occupying Power of any of its responsibilities under Articles 55, 56, and 59 of the Fourth Geneva Convention¹⁷⁰.

72. At the operational level parties to a conflict have a right of control over the relief action¹⁷¹ and have the right to “prescribe the technical arrangements” of the humanitarian assistance and may make its permission “conditional on the distribution of this assistance being made under the local supervision”¹⁷². However, operational consent and technical arrangements have to be applied in good faith, whereby their imposition or effect must not

¹⁶⁶ *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*, Advisory Opinion of 19 July 2024, para. 124.

¹⁶⁷ Fourth Geneva Convention, Article 59. See also *ibid.*, Article 62.

¹⁶⁸ Declaration adopted by the Conference of High Contracting Parties to the Fourth Geneva Convention, 17 December 2014, A/69/711-S/2015/1, Annex (<https://docs.un.org/en/A/69/711>).

¹⁶⁹ *Ibid.*

¹⁷⁰ Fourth Geneva Convention, Article 60.

¹⁷¹ See, for instance, Fourth Geneva Convention, Article 23; Additional Protocol I, Article 70 (3); ICRC’s study on customary international humanitarian law, Online database (<https://ihl-databases.icrc.org/en/customary-ihl/rules>), Rule 55.

¹⁷² *Oxford Guidance on the Law Relating to Humanitarian Relief Operations in Situations of Armed Conflict* (2016), paras. 65-72; Fourth Geneva Convention, Article 23; Additional Protocol I, Article 70 (3).

be arbitrary¹⁷³. According to the International Committee of the Red Cross, military necessity can only “be invoked in exceptional circumstances in order to regulate — but not prohibit — humanitarian access, and can only temporarily and geographically restrict the freedom of movement of humanitarian personnel”¹⁷⁴. In this respect, parties to a conflict may only regulate the operational aspects of the delivery of humanitarian assistance but not prohibit it *per se*. In any event, in November 2024, the Pre-Trial Chamber of the International Criminal Court “found reasonable grounds to believe that no clear military need or other justification under international humanitarian law could be identified for the restrictions placed on access for humanitarian relief operations”¹⁷⁵.

73. The obligation to ensure and facilitate access of humanitarian relief to civilians in need in times of an armed conflict is also enshrined in customary international law, national military manuals, and is supported by State practice¹⁷⁶.

74. The United Nations Security Council consistently called for unimpeded access to humanitarian assistance in conflict situations¹⁷⁷, and reiterated that “arbitrary denial of humanitarian access and depriving civilians of objects indispensable to their survival, including wilfully impeding relief supply and access, may constitute a violation of international humanitarian law”¹⁷⁸. It urged all parties in a particular situation to facilitate the delivery of humanitarian assistance in accordance with international humanitarian law¹⁷⁹.

¹⁷³ *Oxford Guidance on the Law Relating to Humanitarian Relief Operations in Situations of Armed Conflict* (2016), para. 71.

¹⁷⁴ ICRC, Q&A and lexicon on humanitarian access, *International Review of the Red Cross*, vol. 96, 2014, no. 893, p. 364.

¹⁷⁵ International Criminal Court, Situation in the State of Palestine: ICC Pre-Trial Chamber I rejects the State of Israel’s challenges to jurisdiction and issues warrants of arrest for Benjamin Netanyahu and Yoav Gallant, Press Release, 21 November 2024 (<https://www.icc-cpi.int/news/situation-state-palestine-icc-pre-trial-chamber-i-rejects-state-israels-challenges>).

¹⁷⁶ ICRC’s study on customary international humanitarian law, Online database (<https://ihl-databases.icrc.org/en/customary-ihl/rules>), Rule 55.

¹⁷⁷ See, e.g., United Nations Security Council, Resolution 853 (1993), 29 July 1993. For other relevant United Nations Security Council resolutions, see ICRC’s study on customary international humanitarian law, Online database (<https://ihl-databases.icrc.org/en/customary-ihl/rules>), Rule 55.

¹⁷⁸ United Nations Security Council, Resolution 2216 (2015), 14 April 2015, preamble.

¹⁷⁹ *Ibid.*, para. 9.

In relation to the situation in Gaza, the Security Council expressed deep concern about the catastrophic humanitarian situation¹⁸⁰. In its resolution 2728 (2024), co-sponsored by Slovenia¹⁸¹ and demonstrating, again, Slovenia's strong commitment to bring peace to the region and normalization of the situation in conformity with international law¹⁸², the Council emphasized "the urgent need to expand the flow of humanitarian assistance to and reinforce the protection of civilians in the entire Gaza Strip", and "demand[ed] for the lifting of all barriers to the provision of humanitarian assistance at scale, in line with international humanitarian law"¹⁸³.

75. The United Nations General Assembly likewise expressed grave concerns over the humanitarian situation in Gaza and demanded Israel to:

"comply without delay with all its legal obligations under international law, including, inter alia, to take all necessary and effective measures to ensure, in full cooperation 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 the Palestinian civilian population throughout the Gaza Strip"¹⁸⁴,

and facilitate the work of humanitarian organisations, UNRWA in particular¹⁸⁵.

76. The obligation of Israel, as a belligerent party, to allow passage of basic humanitarian relief to the Palestinian civilian population in Gaza was confirmed by the High Court of Justice of Israel in the *Al-Bassiouni case*:

"The state's pleadings in this regard are based upon norms that are part of customary international law, which set out basic obligations that govern

¹⁸⁰ See United Nations Security Council, Resolution 2712 (2023), 15 November 2023 [Dossier No N223]; United Nations Security Council, Resolution 2720 (2023), 22 December 2023 [Dossier No. N226].

¹⁸¹ See Draft resolution, S/2024/254, 25 March 2024.

¹⁸² United Nations Security Council, 9586th meeting, 25 March 2024, Verbatim record, S/PV.9586, p. 5 (Žbogar) (<https://docs.un.org/en/S/PV.9586>).

¹⁸³ United Nations Security Council, Resolution 2728 (2024), 25 March 2024, para. 2 [Dossier No. N229].

¹⁸⁴ United Nations General Assembly, Resolution ES-10/25, 11 December 2024, para. 13 [Dossier No. N219].

¹⁸⁵ *Ibid.*

combatants engaged armed conflict, and require them to ensure the welfare of the civilian population and respect its dignity and basic rights. It should also be noted that under the rules of customary international humanitarian law, each party to a conflict is obliged to refrain from disrupting the passage of basic humanitarian relief to populations in need of such relief in areas under its control In the commentary to art. 70 of the First Protocol, too, it is stated that arts. 54 and 70 of the First Protocol should be read together, to the effect that a party to a conflict may not refuse to allow the passage of foodstuffs and basic humanitarian equipment necessary for the survival of the civilian population.”¹⁸⁶

77. In its judgment in *Physicians for Human Rights v. Prime Minister of Israel* rendered in 2009, Israel’s High Court of Justice addressed the humanitarian situation in Gaza and stressed the duty to ensure the needs of the Palestinian civilian population:

“*Inter alia*, the protections given to the civilian population of all of the parties to the conflict also include the duty to allow free passage of humanitarian medical supplies, as well as consignments of essential foodstuffs and clothing for children, pregnant women and mothers at the earliest opportunity, subject to several restrictions (art. 23 of the Fourth Geneva Convention). Article 70 of the First Protocol provides a more general and broader duty, whereby parties to a conflict are obliged to allow the passage of articles that are essential for the civilian population, at the earliest opportunity and without delay. Article 30 of the Fourth Geneva Convention requires parties to a conflict to allow citizens to contact the Red Cross or similar international organizations, in order to receive assistance.”¹⁸⁷

78. In light of the above, the occupying power has an obligation not to arbitrarily withhold consent for the provision and facilitation of the needed supplies essential to the survival of the civilian population by the United Nations, including its agencies and bodies, other international organizations and third States.

2. *Obligation to protect humanitarian relief personnel, objects, installations and facilities*

79. As already explained above, Israel is and remains bound by its obligations as occupying power over the Occupied Palestinian Territory under international humanitarian

¹⁸⁶ Israel, High Court of Justice, *Jaber Al-Bassiouni Ahmed and others v. Prime Minister and Minister of Defence* (HCJ 9132/07), Judgment, 30 January 2008, paras. 13-15 ([https://versa.cardozo.yu.edu/sites/default/files/upload/opinions/Ahmed v. Prime Minister.pdf](https://versa.cardozo.yu.edu/sites/default/files/upload/opinions/Ahmed%20v.%20Prime%20Minister.pdf)).

¹⁸⁷ Israel, High Court of Justice, *Physicians for Human Rights v. Prime Minister of Israel* (HCJ 201/09), Judgment, 19 January 2009, para. 21 (https://www.asser.nl/upload/documents/DomCLIC/Docs/NLP/Israel/Physicians_v_PM_SC_Judgment_19-1-09_EN.pdf).

law. These obligations do not only concern ensuring and facilitating the unhindered provision of supplies to the civilian population. The relevant rules and principles of international humanitarian law, applicable to the situation in the Occupied Palestinian Territory, also impose obligations to the parties to the conflict, and most importantly to the occupying power, concerning the protection of the humanitarian relief personnel and the protection of the means used and employed for humanitarian relief operations.

80. The principle of distinction as an essential basis of international humanitarian law¹⁸⁸, including the prohibition of attacks against civilians and civilian objects, entails the prohibition of attacks against humanitarian relief personnel, objects, installations and facilities. By their very nature and destination, they are not participating in hostilities but aim to assist the civilian population or, more largely, protected persons.

81. The protection of humanitarian relief personnel, objects, installations and facilities is further a necessary corollary of the obligation of an occupying power to guarantee and to facilitate the delivery of humanitarian relief to civilian populations in need. Article 59 of the Fourth Geneva Convention¹⁸⁹ does not only establish that an Occupying Power shall agree to relief schemes on behalf of the population of an occupied territory which is inadequately supplied. It also provides, in its paragraph 3, that:

“All Contracting Parties shall permit the free passage of these consignments and shall guarantee their protection.”

Article 69 of the Additional Protocol I¹⁹⁰ reiterates this essential obligation in respect of the provision of humanitarian relief to the population in occupied territories and refers back to Article 59 of the Fourth Geneva Convention:

“Relief actions for the benefit of the civilian population of occupied territories are governed by Articles 59, 60, 61, 62, 108, 109, 110 and 111 of the Fourth

¹⁸⁸ See *Commentary on the Additional Protocols of 8 June 1977 to the Geneva Conventions of 12 August 1949*, International Committee of the Red Cross, 1987, p. 598.

¹⁸⁹ United Nations, *Treaty Series*, vol. 75, p. 287.

¹⁹⁰ United Nations, *Treaty Series*, vol. 1125, p. 3.

Convention, and by Article 71 of this Protocol, and shall be implemented without delay.”

82. Although the Fourth Geneva Convention does not specifically address or establish an obligation concerning the protection of humanitarian relief personnel, this obligation is also considered to be a corollary of the obligation to ensure and to facilitate the delivery of humanitarian relief to civilian populations in need. Indeed, the safety and security of humanitarian relief personnel is an indispensable condition for the fulfilment of these other obligations, on the one hand, and the possibility of the humanitarian relief personnel to realize its mandate, on the other hand. Article 71, paragraph 2, of the 1977 Additional Protocol I recalls that relief personnel that form part of the assistance provided in any relief action “shall be respected and protected”.

83. The Study on customary international humanitarian law established by the International Committee of the Red Cross¹⁹¹ recognizes the customary international law nature of the obligation to respect and to protect humanitarian relief personnel and humanitarian relief objects.¹⁹²

84. The obligation to assure the safety, to protect, and to facilitate the work of humanitarian relief personnel, including the United Nations and its agencies, has been recalled numerous times by the Security Council in relation to specific conflicts, but also more generally. In its resolution 1296, the Security Council:

“[r]eiterate[d] its call to all parties concerned, including non-State parties, to ensure the safety, security and freedom of movement of United Nations and associated personnel, as well as personnel of humanitarian organizations”¹⁹³.

In its resolution 1674, the Security Council again:

“[u]rge[d] all those concerned as set forth in international humanitarian law, including the Geneva Conventions and the Hague Regulations, to allow full

¹⁹¹ ICRC’s study on customary international humanitarian law, Online database (<https://ihl-databases.icrc.org/en/customary-ihl/rules>).

¹⁹² *Ibid.*, Rules 31 and 32.

¹⁹³ United Nations Security Council, Resolution 1296 (2000), 19 April 2000, para. 12 ([https://docs.un.org/en/S/RES/1296 \(2000\)](https://docs.un.org/en/S/RES/1296%20(2000))).

unimpeded access by humanitarian personnel to civilians in need of assistance in situations of armed conflict, and to make available, as far as possible, all necessary facilities for their operations, and to promote the safety, security and freedom of movement of humanitarian personnel and United Nations and its associated personnel and their assets.”¹⁹⁴

85. Since 1997, the United Nations General Assembly equally recalls the relevant obligations of States under international law concerning the protection of humanitarian relief personnel and their missions. In its resolution 52/167, the General Assembly:

“[s]trongly *stresse[d]* the urgent need to ensure respect for and promotion of principles and norms of international humanitarian law, including those related to the safety and security of humanitarian personnel, both international and local;

[s]trongly *condemn[ed]* any act or failure to act which obstructs or prevents humanitarian personnel from discharging their humanitarian functions, or which entails their being subjected to threats, the use of force or physical attack frequently resulting in injury or death;

[c]all[ed] *upon* all Governments and parties in complex humanitarian emergencies, in particular armed conflicts and post-conflict situations, in countries where humanitarian personnel are operating, in conformity with the relevant provisions of international law and national laws, to cooperate fully with the United Nations and other humanitarian agencies and organizations and to ensure the safe and unhindered access of humanitarian personnel in order to allow them to perform efficiently their task of assisting the affected civilian population, including refugees and internally displaced persons; [and]

[c]all[ed] *upon* all Governments and parties in countries where humanitarian personnel are operating to take all possible measures to ensure that the lives and well-being of humanitarian personnel are respected and protected”¹⁹⁵.

86. The customary nature of the obligation to protect humanitarian personnel has been further confirmed by the Statute of the International Criminal Court, in which the offence of attacking personnel or objects involved in a humanitarian mission was explicitly identified as a war crime¹⁹⁶. The Special Court for Sierra Leone confirmed this view according to which “this offence is a particularisation of the general and fundamental prohibition in international humanitarian law, in both international and internal conflicts, against attacking civilians and

¹⁹⁴ United Nations Security Council, Resolution 1674 (2006), 28 April 2006, para. 22 ([https://docs.un.org/en/S/RES/1674 \(2006\)](https://docs.un.org/en/S/RES/1674%20(2006))).

¹⁹⁵ United Nations General Assembly, Resolution 54/192, Safety and security of humanitarian personnel, 17 December 1999, paras. 1-4 [Dossier No. N160].

¹⁹⁶ Statute of the International Criminal Court, Article 8 (2) (b) (iii) and (e) (iii).

civilian property” and was satisfied that “this offence existed in customary international law”¹⁹⁷.

87. Being the occupying power in relation to the Occupied Palestinian Territory, it is thus established that Israel has an obligation vis-à-vis the organizations and agencies present for humanitarian purposes, including UNRWA, to protect their activities, the relief personnel and the relief objects. Israel has itself recognized that:

“It is the IDF’s [Israel Defense Forces’] policy to cooperate with international humanitarian agencies and organizations, both in time of peace and in time of war. In times of hostilities, members of such agencies and organizations would naturally not be the subject of any attack or capture, and would be allowed to continue to execute their mandate, inasmuch as their activities do not directly conflict with military operations.”¹⁹⁸

88. Finally, the position of Slovenia expressed before the United Nations Security Council 25 years ago remains fully valid:

“The issue of protecting the protectors deserves a prominent place on the agenda of the Security Council. The nature of armed conflicts has changed, and civilians are often deliberate targets of attacks. Consequently, humanitarian workers are perceived as an impediment to achieving political or military objectives of the parties to a conflict. Arrests, criminality, hostage-taking, attacks, injuries, killings and prosecution on espionage charges are no coincidence but are rather the reaction of belligerent parties to the presence of undesirable witnesses to grave violations of human rights and international humanitarian law.

.....

States have the primary responsibility to ensure the safety and security of all personnel. The Security Council for its part should insist on the responsibility of all parties to a conflict to respect international humanitarian law, and should take appropriate action in that regard. Attacks against such personnel clearly represent breaches of norms of international law.”¹⁹⁹

¹⁹⁷ Special Court for Sierra Leone, *Sesay case*, Judgment, 2 March 2009, para. 218.

¹⁹⁸ ICRC’s study on customary international humanitarian law, Online database (<https://ihl-databases.icrc.org/en/customary-ihl/v2/rule31?country=il>).

¹⁹⁹ United Nations Security Council, 4100th meeting (Resumption 1), 9 February 2000, p. 8 (Žbogar) ([https://docs.un.org/en/S/PV.4100\(Resumption1\)](https://docs.un.org/en/S/PV.4100(Resumption1))).

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Dr. Marko Rakovec

Director-General of the Directorate for International
Law and Protection of Interest of the Ministry of Foreign
and European Affairs of the Republic of Slovenia