



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 BY THE UNITED NATIONS GENERAL ASSEMBLY FOR AN ADVISORY  
OPINION)

**WRITTEN STATEMENT OF THE STATE OF KUWAIT**

**28 FEBRUARY 2025**

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## I. INTRODUCTION – CONTEXT AND LEGAL FRAMEWORK OF THE ADVISORY OPINION REQUEST

1. In accordance with the Order of the International Court of Justice (the “**Court**” or the “**ICJ**”) dated 23 December 2024, the State of Kuwait (“**Kuwait**”) hereby submits this written statement addressing the questions set forth in the request of the United Nations (the “**UN**”) General Assembly for an advisory opinion.<sup>1</sup> This submission concerns the legal obligations of Israel, the **Occupying Power** (hereinafter referred to as the “**OP**”) with respect to the presence and activities of the UN, other international organizations, and third States in and in relation to the Occupied Palestinian Territory (the “**OPT**”).

2. The ongoing armed conflict in Gaza has led to significant civilian casualties and a worsening humanitarian crisis.<sup>2</sup> The OP has persistently impeded the delivery of humanitarian aid, targeted UN personnel and infrastructure, and enacted legislation restricting the operations of the UN Relief and Works Agency for Palestine Refugees in the Near East (the “**UNRWA**”). These actions have further aggravated the already critical conditions in Gaza and the West Bank, where the OP has expanded settlements and employed force to sustain its occupation.<sup>3</sup>

3. It is undeniable that the UNRWA has played a crucial role in providing essential services to Palestinian refugees since 1949.<sup>4</sup> The UNRWA’s presence in the OPT plays a

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<sup>1</sup> UN General Assembly, *Resolution 79/232*, UN Doc. A/RES/79/232 (19 December 2024).

<sup>2</sup> See UN Office for the Coordination of Humanitarian Affairs (OCHA), *Reported Impact Snapshot: Gaza Strip* (8 January 2025), available at <https://www.ochaopt.org/content/reported-impact-snapshot-gaza-strip-8-january-2025>. See also Al Jazeera, “*Deaths from Israeli attacks in Gaza undercounted by 41 percent, study finds*” (10 January 2025), available at <https://www.aljazeera.com/news/2025/1/10/deaths-from-israeli-attacks-in-gaza-undercounted-by-41-percent-study-finds>.

<sup>3</sup> See BBC, “*Gaza Strip in Maps: How a Year of War Has Drastically Changed Life in the Territory*” (7 October 2024), available at <https://www.bbc.com/news/world-middle-east-20415675>; and Haaretz, Yaniv Kubovich, “*No Civilians. Everyone’s a Terrorist’: IDF Soldiers Expose Arbitrary Killings and Rampant Lawlessness in Gaza’s Netzarim Corridor*” (18 December 2024), available at <https://www.haaretz.com/israel-news/2024-12-18/ty-article-magazine/premium/idf-soldiers-expose-arbitrary-killings-and-rampant-lawlessness-in-gazas-netzarim-corridor/00000193-da7f-de86-a9f3-feff2e50000>; OCHA, “*Data on casualties*,” <https://www.ochaopt.org/data/casualties>. See *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. 173, 179.

<sup>4</sup> See UN, *Letter dated 28 October 2024 from the Secretary-General addressed to the President of the General Assembly*, UN Doc. A/79/558 (29 October 2024), p. 3. See UNRWA, *Statement of Philippe Lazzarini, Commissioner-General of UNRWA, at the United Nations Security Council* (9 October 2024), available at <https://www.unrwa.org/newsroom/official-statements/statement-philippe-lazzarini-commissioner-general-unrwa-united-nations-security-council#block-menu-block-10>.

vital role in providing education, healthcare, and humanitarian aid to millions.<sup>5</sup> However, the OP's military operations, restrictive legislation, and blockade have significantly hindered the agency's ability to operate. In October 2024, the OP enacted legislation that came into force in January 2025, effectively banning the UNRWA's operations. These laws have severely restricted the UNRWA's ability to provide essential humanitarian aid, raising grave concerns about the well-being and survival of Palestinian civilians who rely on its assistance for basic needs.<sup>6</sup>

4. In light of the gravity of the humanitarian crisis and the profound legal ramifications of these events, the General Assembly has sought this advisory opinion to precisely delineate the OP's legal obligations concerning the presence and operations of the UN, other international organizations, and third States in and in relation to the OPT. Kuwait expresses its unwavering support for this initiative and its underlying principles.<sup>7</sup> This request is anchored in the Court's prior rulings, which have affirmed both the illegality of the OP's continued presence in the OPT and its binding responsibilities under the UN Charter, international humanitarian law ("**IHL**"), and international human rights law. The General Assembly's initiative underscores the urgent need for legal clarity and accountability, reaffirming the OP's duty to honor its international obligations and cease actions that violate fundamental principles of international law.<sup>8</sup>

5. Kuwait's written statement is structured thematically to provide the Court with a clear and systematic legal framework for addressing the specific questions presented in the request for an advisory opinion. To this end, it is pivotal to recall that the General Assembly, in its request, has already identified the specific areas of international law that the Court should examine in formulating its opinion. It has explicitly pointed to three key

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<sup>5</sup> See Kuwait News Agency, "*Kuwait Permanent Representative to UN: UNRWA lifeline to millions of Palestinians*" (18 October 2024), available at <https://www.kuna.net.kw/ArticleDetails.aspx?id=3188341&language=en>.

<sup>6</sup> Philippe Lazzarini (@UNLazzarini), *Post on X* (31 December 2024, 3:22 AM EST), available at <https://x.com/UNLazzarini/status/1874008188019732784>; and OCHA, *Reported Impact Snapshot: Gaza Strip* (8 January 2025), available at <https://www.ochaopt.org/content/reported-impact-snapshot-gaza-strip-8-january-2025>.

<sup>7</sup> See Kuwait News Agency, "*Kuwait welcomes UNGA resolution on UNRWA*" (21 December 2024), available at <https://www.kuna.net.kw/ArticleDetails.aspx?id=3211957&language=en>.

<sup>8</sup> *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. 155, 173, 179, 223, 229, 238-243, 261, 267.

legal frameworks as central to addressing the questions posed: (i) the law on privileges and immunities of the UN and other international organizations, (ii) IHL, and (iii) international human rights law. These legal domains provide the foundation for the Court's analysis and are essential to determining the OP's obligations under international law.<sup>9</sup>

6. Having duly considered the above, the following sections assess the legal issues at hand. Section II of Kuwait's written statement establishes that the Court has jurisdiction to render an advisory opinion. Section III analyzes the OP's obligations under the legal framework governing the privileges and immunities of the UN and other international organizations. Section IV examines the OP's duties under IHL, while Section V assesses its responsibilities under international human rights law, including the right to self-determination. Finally, Section VI presents a conclusive legal analysis of the obligations the Court should affirm in response to the General Assembly's request. This structured approach ensures a comprehensive and precise legal assessment, aiding the Court in its deliberations.

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<sup>9</sup> UN General Assembly, *Resolution 79/232*, UN Doc. A/RES/79/232 (19 December 2024), para. 10.

## II. JURISDICTION OF THE COURT

7. The Court has jurisdiction to issue the requested advisory opinion pursuant to Article 65(1) of its Statute and Article 96(1) of the UN Charter. The General Assembly is explicitly authorized to seek advisory opinions on legal questions, and the present request concerns legal obligations under international law. Article 96(1) of the UN Charter provides that the General Assembly may request the Court to issue an advisory opinion “on any legal question.” Similarly, Article 65(1) of the ICJ Statute grants the Court the authority to issue an advisory opinion upon the request of a duly authorized UN body.

8. The legal nature of this request is evident, as it seeks clarification on the OP’s obligations under various legal frameworks, including the law governing the privileges and immunities of the UN and other international organizations, IHL, and human rights law.<sup>10</sup> The Court has repeatedly determined that advisory opinions may be sought on complex legal issues with broad international implications, reinforcing its role in addressing significant matters of international law on multiple occasions.<sup>11</sup> The Court has consistently affirmed that it exercises advisory jurisdiction in the interest of promoting the rule of law and strengthening the international legal order, particularly where the interpretation of international treaties, customary international law, or the legal obligations of States and international organizations is at issue.

9. Although the Court retains discretion in rendering advisory opinions, it has consistently upheld the principle that such discretion should not be exercised to decline a request, unless there exists a compelling and exceptional justification. The Court has repeatedly emphasized its role in providing authoritative legal guidance and has refrained from rejecting advisory opinion requests without substantial legal or procedural grounds

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<sup>10</sup> *Ibid.*

<sup>11</sup> See *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Advisory Opinion, I.C.J. Reports 2004 (“**Wall Advisory Opinion**”), p. 153, para. 37; *Accordance with International Law of the Unilateral Declaration of Independence in Respect of Kosovo*, Advisory Opinion, I.C.J. Reports 2010, p. 403, para. 30; *Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965*, Advisory Opinion, I.C.J. Reports 2019 (“**Chagos Advisory Opinion**”), para. 65; *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. 30.

warranting such a refusal.<sup>12</sup> The present request directly concerns the UN and its agencies, as it relates to their operations and the protection of their personnel in and in relation to the OPT. In light of the pressing humanitarian situation and the legal ambiguities surrounding OP's actions, the Court's guidance is both necessary and urgent.

10. It should be underscored that the present request does not fall under Section 30 of the 1946 Convention on the Privileges and Immunities of the UN (the “**1946 Convention**”),<sup>13</sup> which provides for the settlement of disputes between the UN and its Member States. Indeed, the General Assembly's request for this advisory opinion does not mention at any point Section 30. Rather, it seeks to clarify the OP's broader obligations concerning the presence and activities of the UN and other international organizations in and in relation to the OPT. The Court has previously ruled that it can provide opinions on legal questions even when they overlap with bilateral disputes, as seen in the advisory opinion on the *Applicability of Article VI, Section 22, of the Convention on the Privileges and Immunities of the United Nations*.<sup>14</sup>

11. The aforementioned advisory opinion established that the Court is not limited by procedural technicalities when interpreting the obligations of States under international agreements. In that case, the Court held that the legal issues concerning privileges and immunities of UN representatives could be addressed through an advisory opinion, even in the absence of a formal dispute. This precedent underscores the Court's capacity to clarify legal principles that are essential for the proper functioning of the UN system.

12. By rendering the present opinion, the Court will ensure that international law continues to serve as a framework for upholding fundamental rights and humanitarian principles, thereby reinforcing the legal order established by the UN Charter.

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<sup>12</sup> *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. 31; *Chagos Advisory Opinion*, para. 65.

<sup>13</sup> *Convention on the Privileges and Immunities of the United Nations*, Feb. 13, 1946, 1 U.N.T.S. 15.

<sup>14</sup> *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, para. 42.

### III. OBLIGATIONS OF THE OP CONCERNING THE PRIVILEGES AND IMMUNITIES OF THE UN

13. The basis for the UN's privileges and immunities is rooted in Article 105 of the UN Charter. These privileges and immunities ensure that the UN can operate effectively within Member States without interference. These protections extend to UN representatives, officials, and personnel, safeguarding their independence in carrying out official duties. This framework upholds the UN's ability to function autonomously and fulfill its mandate globally.

14. All UN Member States are thus obligated to extend necessary privileges and immunities to the UN to enable the fulfillment of its functions. The scope and application of these privileges were further detailed in the 1946 Convention. The OP remains bound by the 1946 Convention as long as it retains its status as a UN Member.<sup>15</sup>

15. The 1946 Convention grants various protections to the UN and its personnel. It safeguards UN property, funds, and assets from interference, ensures immunity for representatives of Member States, and protects UN officials and experts on missions. These privileges also apply to the UN's affiliated agencies and programs, including the UNRWA.<sup>16</sup> An agreement signed in 1967 between the UNRWA and the OP (the **"1967 Exchange of Letters"**) provided specific guarantees concerning the operation of the UNRWA in the West Bank and Gaza Strip areas.<sup>17</sup> This agreement mandated full cooperation with the UNRWA's humanitarian efforts.<sup>18</sup>

16. These privileges and immunities afforded to the UN are not mere formalities; they impose concrete obligations on UN Member States. Comparable privileges and immunities

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<sup>15</sup> 1946 Convention, Section 35.

<sup>16</sup> The key legal principles of the 1946 Convention broadly apply to other international organizations. See Rosalyn Higgins, *Problems and Process: International Law and How We Use It* (Oxford University Press, 1995), pp. 90-91.

<sup>17</sup> See Report of the Commissioner-General of the UNRWA, *1 July 1966 – 30 June 1967, General Assembly Supplement No. 13 (A/6713), Annex III, Agreement Between UNRWA and the Government of Israel Embodied in an Exchange of Letters Dated 14 June 1967 for the Purpose of Enabling UNRWA to Continue to Provide Services to Refugees in Areas under the Control of the Government of Israel*.

<sup>18</sup> Kuwait submits that, despite the OP's unilateral legislative action in 2024 to terminate the 1967 Exchange of Letters, such an action holds no legal validity. The agreement does not include provisions for withdrawal. In addition, the 1946 Convention remains applicable regardless of any attempt to withdraw from supplementary agreements.



are also conferred upon other international organizations through their respective founding treaties and applicable host country agreements.<sup>19</sup> The analysis that follows is therefore not limited to the UN but extends to other international organizations operating under similar legal frameworks, ensuring their ability to function independently and effectively within the territories of Member States.

17. The following sections will succinctly examine the OP's failures to uphold these obligations and the risks of further breaches, emphasizing Kuwait's most pressing concerns regarding the OP's non-compliance with international legal standards.

### **1. Obligation to Respect and Not Interfere with UN Operations**

18. Section 3 of the 1946 Convention affirms that UN property and assets, irrespective of location, are immune from search, seizure, and any form of interference. The principle enshrined in this provision prohibits Member States from obstructing UN activities through legislative, administrative, or judicial actions.<sup>20</sup>

19. Furthermore, under the 1967 Exchange of Letters, the OP explicitly committed to facilitating the free movement of the UNRWA vehicles and personnel within its jurisdiction.<sup>21</sup> Despite these obligations, the OP has enacted several legislative and administrative measures that have severely restricted the ability of UN entities to function effectively. In October 2024, the OP passed legislation prohibiting the UNRWA operations within its territory and banning official engagement with the agency.<sup>22</sup> Kuwait vehemently denounces this action,<sup>23</sup> the legal ramifications of which include:

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<sup>19</sup> See for instance the Constitution of the World Health Organization and the Constitution of the UN Educational, Scientific and Cultural Organization.

<sup>20</sup> See Anthony J. Miller, "The Privileges and Immunities of the United Nations," *International Organizations Law Review* 6 (2009), p. 45.

<sup>21</sup> 1967 Exchange of Letters, paras. (b), (c), and (d).

<sup>22</sup> UN, *Letter dated 28 October 2024 from the Secretary-General addressed to the President of the General Assembly*, UN Doc. A/79/558 (29 October 2024), p. 2.

<sup>23</sup> See Kuwait News Agency, "Kuwait condemns, denounces legislations by Israeli occupation to ban UNRWA" (29 October 2024), available at <https://www.kuna.net.kw/ArticleDetails.aspx?id=3192087&language=en>.

- a. Confiscation and Expropriation: The prohibition on the UNRWA's presence within OP's borders constitutes an unlawful expropriation of UN property, directly contravening Section 3 of the 1946 Convention.<sup>24</sup>
- b. Restrictions on Humanitarian Aid Coordination and Obstruction of UN Function: The legislation has resulted in the denial of permits necessary for the movement of aid personnel and supplies, severely hampering relief operations.<sup>25</sup> In addition, the prohibition against any UNRWA activity in the territory of the OP impairs the agency's ability to fulfill its UN-mandated humanitarian objectives.<sup>26</sup>

## 2. **Obligation to Protect UN Premises and Personnel**

20. Section 3 of the 1946 Convention guarantees the inviolability of UN premises, prohibiting any forced entry or interference. This principle is essential to maintaining the independence and neutrality of the UN, allowing it to function without undue influence from host States or occupying powers. The inviolability of UN premises extends beyond mere physical protection—it encompasses legal immunity from domestic jurisdiction, reinforcing the organization's autonomy. This imposes both a duty to refrain from unlawful intrusion and an obligation to actively safeguard UN facilities and personnel.<sup>27</sup> Attacks on UN property or personnel during hostilities violate the inviolability of UN premises, a protection established under Article 105 of the UN Charter. As Article 103 ensures that UN Charter obligations take precedence over conflicting international rules, this inviolability – and the broader privileges and immunities of the UN – prevail over any wartime justifications.

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<sup>24</sup> See The Jerusalem Post, "Israel Land Authority to Transform UNRWA Complex into Major Housing Development" (11 October 2024), available at <https://www.jpost.com/israel-news/article-824191>.

<sup>25</sup> See Ruth Michaelson and Kaamil Ahmed, "UNRWA Accuses Israel of Frequently Preventing Aid Deliveries to Gaza," The Guardian (13 June 2024), available at <https://www.theguardian.com/world/article/2024/jun/13/unrwa-israel-frequently-preventing-aid-deliveries-gaza>.

<sup>26</sup> See The Guardian, "Israel Will No Longer Approve UNRWA Food Aid to Northern Gaza, Agency Says" (24 March 2024), available at <https://www.theguardian.com/world/2024/mar/24/israel-reportedly-blocking-un-food-aid-to-northern-gaza-despite-high-famine-risk>.

<sup>27</sup> See UN Secretariat, *1967 UN Secretariat Study*, p. 228, para. 96. See also UN General Assembly, *Resolution 69/88*, UN Doc. A/RES/69/88 (16 December 2014), para. 1.

21. Despite these obligations, the OP has engaged in multiple actions inconsistent with the inviolability of UN premises, including military strikes targeting UN humanitarian facilities.<sup>28</sup>

22. Under the 1946 Convention and customary international law, the inviolability of UN facilities is absolute and cannot be overridden by military necessity or other national security considerations.<sup>29</sup> The OP's repeated violations underscore a fundamental disregard for these legal principles.

### **3. Freedom of Movement for UN Personnel, Personnel of Other International Organizations, and Experts on Mission, into the OP's Territory and in the OPT**

23. Article 105(2) of the UN Charter guarantees freedom of movement for UN officials within the territory of Member States. This principle is reinforced by Section 18(d) of the 1946 Convention, which precludes the imposition of immigration restrictions that would impede the UN's work. This provision ensures the unrestricted movement of UN officials, experts on mission, and personnel, which is critical for the organization's ability to fulfill its mandate effectively. Under customary international law, the free movement of international organization personnel is a fundamental principle, which guarantees the UN the privileges and immunities necessary for the performance of its functions. Restrictions on entry, residency, or transit imposed by a State – particularly in situations of conflict or occupation – constitute a violation of treaty obligations and can amount to obstruction of UN operations. The OP has violated these principles by:

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<sup>28</sup> See, for instance, Philippe Lazzarini (@UNLazzarini), *Post on X* (31 October 2024, 5:54 PM EST), available at <https://x.com/UNLazzarini/status/1852106921878118733>; Laure Stephan, "UNRWA Headquarters in Gaza City in Ruins Following Recent Israeli Air Raid," *Le Monde* (17 July 2024), available at [https://www.lemonde.fr/en/international/article/2024/07/17/unrwa-headquarters-in-gaza-city-in-ruins-following-recent-israeli-air-raid\\_6687272\\_4.html](https://www.lemonde.fr/en/international/article/2024/07/17/unrwa-headquarters-in-gaza-city-in-ruins-following-recent-israeli-air-raid_6687272_4.html); and Cindy McCain (@WFPChief), *Post on X* (6 January 2025, 11:12 AM EST), available at <https://x.com/WFPChief/status/1876300870838874129>.

<sup>29</sup> See UN, *Note to the Under-Secretary-General of the Department of Peacekeeping Operations* (11 July 2003), UN Juridical Yearbook 2003, pp. 521-523, para. 11. See also Lance Bartholomeusz, "The Legal Framework for Protection of United Nations Humanitarian Premises during Armed Conflict," *Max Planck Yearbook of United Nations Law Online* 18(1), p. 131.

- a. Denying entry to UN personnel, including experts on mission;<sup>30</sup>
- b. Barring the UN Secretary General from entering the territory of the OP violating the UN Charter and UN rules on official access;<sup>31</sup> and
- c. Declaring UN officials, including the UN Secretary General, as *persona non grata*.<sup>32</sup>

24. Such restrictions fundamentally impair the ability of the UN to perform its functions and constitute breaches of the OP's obligations under the Charter and the 1946 Convention.

#### **4. Obligation to Respect the Immunity of UN Officials and Experts**

25. UN officials and experts on missions benefit from legal immunity concerning acts performed in their official capacity.<sup>33</sup> This immunity is essential to ensuring the independence and effectiveness of UN operations, preventing undue interference by national authorities. This protection extends to:

- a. Exemption from legal proceedings: UN officials cannot be subjected to domestic judicial processes in relation to their official functions.<sup>34</sup>
- b. Right to visitation and procedural fairness: Detained UN personnel must be granted access to UN representatives and afforded due process protections.<sup>35</sup>

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<sup>30</sup> Including the current and past UN Special Rapporteurs on human rights in the OPT. See UN News, "Gaza: Israel's Censure of Rights Expert Should Not Distract from Possible War Crimes" (15 February 2024), available at <https://news.un.org/en/story/2024/02/1146587>.

<sup>31</sup> This constitutes a clear violation of Article 105 of the UN Charter and Sections 18 and 19 of the 1946 Convention.

<sup>32</sup> See Seb Starcevic, "Israel Bans UN Chief Guterres from Entering the Country," Politico, available at <https://www.politico.eu/article/ban-united-nations-chief-antonio-guterres-enter-israel-katz/>.

<sup>33</sup> See Section 18 of the 1946 Convention: "Officials of the United Nations shall [...] be exempt from legal proceedings in relation to statements made, documents written, and actions taken in their official duties."

<sup>34</sup> UNRWA, "Scope and Effect of the Privileges and Immunities Required Under the 1946 Convention on the Privileges and Immunities of the United Nations for Locally Recruited Staff," Memorandum from the General Counsel of UNRWA, UN Juridical Yearbook 1968, p. 213.

<sup>35</sup> UN, *Respect for the Privileges and Immunities of Officials of the United Nations and the Specialized Agencies, Report of the Secretary-General*, UN Doc. A/C.5/36/31 (4 November 1981), para. 6.

26. Recent actions by OP, including the detention and reported mistreatment of UN employees – without the UNRWA being able to visit them or ascertain the reasons for their detention – have contravened these immunities.<sup>36</sup>

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<sup>36</sup> See UNRWA, “*Detention and Alleged Ill-Treatment of Detainees from Gaza During Israel-Hamas War*,” UNRWA Report (16 April 2024), available at [https://www.unrwa.org/sites/default/files/content/resources/summary\\_on\\_detention\\_and\\_alleged\\_ill-treatmentupdated.pdf](https://www.unrwa.org/sites/default/files/content/resources/summary_on_detention_and_alleged_ill-treatmentupdated.pdf), pp. 2-3.

#### IV. OBLIGATIONS OF THE OP UNDER IHL

27. The Court has reaffirmed the applicability of IHL to the OPT, including Gaza, in its advisory opinion on the *Legal Consequences of Israel's Policies and Practices in the Occupied Palestinian Territory*. More specifically, the Court confirmed that the Geneva Convention Relative to the Protection of Civilian Persons in Time of War (the “**Fourth Geneva Convention**”)<sup>37</sup> applies to the OPT.<sup>38</sup> The Court also affirmed that the Regulations annexed to the Fourth Hague Convention of 1907 are binding on the OP as customary international law.<sup>39</sup>

28. Given the OP's ongoing military presence and its control over the Gaza Strip<sup>40</sup> and the West Bank, its obligations under IHL remain intact. The OP is bound to apply the provisions of the Geneva Convention for the amelioration of the condition of the wounded and sick in armed forces in the field,<sup>41</sup> the Fourth Geneva Convention and other relevant customary rules of IHL in proportion to its effective control over the OPT.

##### 1. Obligation to Ensure Proper Functioning of Educational Institutions

29. Under Article 50 of the Fourth Geneva Convention, the OP is responsible for ensuring the proper functioning of educational institutions, particularly for children affected by conflict. The OP's systematic targeting of UNRWA schools severely undermines the right to education.<sup>42</sup> Moreover, military actions have led to the forced displacement of students, causing severe disruption to education. The OP must uphold its

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<sup>37</sup> *Geneva Convention (IV) Relative to the Protection of Civilian Persons in Time of War*, Aug. 12, 1949, 75 U.N.T.S. 287.

<sup>38</sup> *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. 96; *Wall Advisory Opinion*, para. 101.

<sup>39</sup> *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. 96 and 89.

<sup>40</sup> *Id.*, paras. 88 and 93.

<sup>41</sup> *Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field*, Aug. 12, 1949, 75 U.N.T.S. 31.

<sup>42</sup> See, for instance, UN News, “Gaza: Six UNRWA Staff Killed in Strikes on School Sheltering Displaced People” (11 September 2024), available at <https://news.un.org/en/story/2024/09/1154206>.

duty to safeguard educational institutions and ensure Palestinian children have uninterrupted access to education.

## **2. Obligation to Ensure and Facilitate Humanitarian Relief Operations**

30. Pursuant to Article 59 of the Fourth Geneva Convention, the OP bears a legal obligation to enable the implementation of humanitarian relief initiatives and to ensure the adequate provision of essential supplies, including food, medical aid, and shelter, to the civilian population under its control. In situations where these necessities are insufficient, the OP is required to permit and facilitate, rather than arbitrarily obstruct, the operations of impartial humanitarian organizations, including the International Committee of the Red Cross and UN entities such as the UNRWA, the UN International Children's Emergency Fund, and the World Food Program. The deliberate obstruction of humanitarian aid not only constitutes a violation of these obligations but may also amount to a form of collective punishment prohibited under Article 33 of the Fourth Geneva Convention, as it effectively penalizes an entire population for circumstances beyond their control.

31. Building on these legal obligations, Article 63 of the Fourth Geneva Convention ensures the protection of humanitarian organizations, requiring the OP to respect their work and personnel without interference. Legislative and military restrictions on the UNRWA and other relief organizations violate these duties.<sup>43</sup> In light of these violations and the flagrant denial of humanitarian aid, the OP's deliberate obstruction of essential relief to Palestinians constitutes a prohibited act under the Convention on the Prevention and Punishment of the Crime of Genocide<sup>44</sup> by intentionally creating conditions aimed at their complete destruction.

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<sup>43</sup> See World Food Program, "Statement on shooting at a WFP convoy in Gaza" (6 January 2025), available at <https://www.wfp.org/news/statement-shooting-wfp-convoy-gaza>; Statement by Principals of the Inter-Agency Standing Committee (UNICEF), "Stop the assault on Palestinians in Gaza and on those trying to help them" (1 November 2024), available at <https://www.unicef.org/press-releases/stop-assault-palestinians-gaza-and-those-trying-help-them>.

<sup>44</sup> *Convention on the Prevention and Punishment of the Crime of Genocide*, Dec. 9, 1948, 78 U.N.T.S. 277. See Amnesty International, "Israel defying ICJ ruling to prevent genocide by failing to allow adequate humanitarian aid to reach Gaza" (26 February 2024), available at <https://www.amnesty.org/en/latest/news/2024/02/israel-defying-icj-ruling-to-prevent-genocide-by-failing-to-allow-adequate-humanitarian-aid-to-reach-gaza/>; and Kuwait News Agency, "Kuwait Amir's Rep. lashes out at world inaction on Gaza genocide" (3 October 2024), available at <https://www.kuna.net.kw/ArticleDetails.aspx?id=3185150&language=en>.

### 3. Prohibition of Starvation as a Method of Warfare

32. As affirmed by the Court, the OP is under a continuing obligation to ensure that the civilian population has access to adequate food and water in accordance with Article 55 of the Fourth Geneva Convention.<sup>45</sup> When internal resources are inadequate, Article 59 of the Fourth Geneva Convention obligates the OP to approve and facilitate humanitarian relief efforts. Additionally, it mandates that all Contracting Parties, including the OP, must ensure the unobstructed passage of humanitarian aid, including food, medical supplies, and clothing, while guaranteeing their protection. Such initiatives must be supported through all available means, including cooperation with States and humanitarian organizations, to ensure the provision of essential supplies like food, medicine, and clothing. However, under Article 55, the OP retains the primary duty to directly secure access to food and water.<sup>46</sup> Starvation of civilians as a method of warfare is strictly prohibited under international law and recognized as a war crime under customary international law. Established through State practice and *opinio juris*, this norm forbids the deliberate deprivation of essential survival needs—such as food, water, shelter, and clothing—including the obstruction of humanitarian aid.

33. Furthermore, Article 23 of the Fourth Geneva Convention explicitly requires the OP to allow the transport of medical and hospital supplies, as well as items essential for religious practices, provided they are exclusively for civilian use. Moreover, Article 61 imposes a duty on the OP to facilitate the transit and delivery of humanitarian consignments, ensuring that such relief efforts are not subjected to unnecessary delays, restrictions, or financial impediments.<sup>47</sup>

34. Regrettably, the OP has systematically violated the obligations concerning the UN and other international organizations.<sup>48</sup> Most notably, as previously discussed, it enacted

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<sup>45</sup> *Id.*, para. 124. See also Fourth Geneva Convention, Article 55.

<sup>46</sup> Fourth Geneva Convention, Article 60.

<sup>47</sup> See Oxford Guidance on the Law Relating to Humanitarian Relief Operations in Situations of Armed Conflict (2016), available at <https://www.elac.ox.ac.uk/wp-content/uploads/2022/06/oxfordguidancepdfpdf.pdf>, p. 26, paras. 56 and 82.

<sup>48</sup> Anadolu Ajansi, “Kuwait calls on UN to prevent use of starvation as weapon in Gaza” (25 October 2023), available at <https://www.aa.com.tr/en/middle-east/kuwait-calls-on-un-to-prevent-use-of-starvation-as-weapon-in->



legislation prohibiting the UNRWA's operations, effectively dismantling its ability to function within the OPT.

#### **4. Obligation to Protect Humanitarian Personnel and Facilities**

35. Customary IHL mandates that the OP respect and protect humanitarian personnel and objects, including UN installations and convoys. Article 71(2) of Additional Protocol I to the Geneva Conventions of 12 August 1949 – which is reflective of customary IHL – establishes that humanitarian relief personnel must not be subjected to attacks, harassment, or arbitrary detention, ensuring that they can carry out their critical functions without interference. This protection is fundamental to the effective delivery of humanitarian aid, particularly in armed conflicts where access to civilian populations is often restricted. The prohibition against targeting relief workers is reinforced by customary international humanitarian law, which recognizes the inviolability of those engaged in humanitarian missions. Any deliberate attack or obstruction against such personnel constitutes a grave breach of international law and amounts to a war crime under customary international law. The OP is therefore obligated to respect, safeguard, and facilitate the work of humanitarian relief personnel, ensuring that aid reaches those in need without undue hindrance.<sup>49</sup>

36. The OP's repeated targeting of the UNRWA premises, aid convoys, and medical staff, as well as the detention of humanitarian workers, constitutes a breach of these obligations.<sup>50</sup>

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gaza/3031676#; Julia Frankel, “Israel is holding up food for 1.1 million Palestinians in Gaza, the main UN aid agency there says,” *AP News* (9 February 2024), available at <https://apnews.com/article/israel-palestinians-gaza-unwra-bank-aid-4ed5e0652dd81b875055679a01a19371>; The Guardian, “Israel will no longer approve UNRWA food aid to northern Gaza, agency says” (24 March 2024), available at <https://www.theguardian.com/world/2024/mar/24/israel-reportedly-blocking-un-food-aid-to-northern-gaza-despite-high-famine-risk>; and UNRWA, “We are pausing the delivery of aid through Kerem Shalom” (1 December 2024), available at <https://www.unrwa.org/newsroom/official-statements/breaking-we-are-pausing-delivery-aid-through-kerem-shalom>.

<sup>49</sup> *Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I)*, 8 June 1977, 1125 U.N.T.S. 3.

<sup>50</sup> Kuwait News Agency, “Kuwait condemns Israeli occupation's attacks on hospitals, UN agencies in Palestine” (26 June 2024), available at <https://www.kuna.net.kw/ArticleDetails.aspx?id=3162832&language=en>; Le Monde, “UNRWA headquarters in Gaza City in ruins following recent Israeli air raid” (17 July 2024), available at [https://www.lemonde.fr/en/international/article/2024/07/17/unrwa-headquarters-in-gaza-city-in-ruins-following-recent-israeli-air-raid\\_6687272\\_4.html](https://www.lemonde.fr/en/international/article/2024/07/17/unrwa-headquarters-in-gaza-city-in-ruins-following-recent-israeli-air-raid_6687272_4.html);

## **5. Protection of Medical Facilities, Personnel, and Transport**

37. The OP is obligated under Articles 18, 20, and 56 of the Fourth Geneva Convention to ensure the protection, functioning, and continued operation of medical institutions within the OPT. Hospitals, medical units, and healthcare personnel are granted special protections under IHL to ensure that the civilian population has access to essential medical services, even during armed conflict.

38. Article 18 mandates that civilian hospitals may in no circumstances be the object of attack, and parties to the conflict must take all necessary measures to avoid harm to these facilities. Article 20 extends protection to medical personnel, ensuring they are not impeded or targeted in the execution of their duties. Article 56 further imposes a positive obligation on the OP to maintain medical services, including ensuring adequate supplies, personnel, and operational infrastructure for public health and hygiene. Any deliberate attack or obstruction of medical facilities constitutes a grave breach of the Geneva Conventions.

39. The OP's failure to uphold these obligations must result in international legal consequences, including State responsibility and individual criminal liability before international courts and tribunals. Since the onset of the current hostilities, extensive reports have documented repeated attacks on hospitals, medical personnel, and transportation, severely obstructing the delivery of urgent medical care.<sup>51</sup> The deliberate destruction of the UNRWA-operated health centers, along with stringent restrictions on medical evacuations, has further deteriorated Gaza's already critical healthcare system.

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<sup>51</sup> See International Committee of the Red Cross (ICRC), *"Israel and the occupied territories: Obliteration of health-care system in northern Gaza puts civilians at grave risk"* (30 December 2024), available at <https://www.icrc.org/en/news-release/israel-and-occupied-territories-obliteration-health-care-system-northern-gaza-puts>; UN News, *"Last Hospital in Northern Gaza Out of Service Following Raid"* (28 December 2024), available at <https://news.un.org/en/story/2024/12/1158596> (Kamal Adwan raid); and OHCHR, *Thematic Report: Attacks on Hospitals During the Escalation of Hostilities in Gaza (7 October 2023 – 30 June 2024)* (31 December 2024), available at <https://www.ohchr.org/sites/default/files/documents/countries/opt/20241231-attacks-hospitals-gaza-en.pdf>.

The OP must cease all military actions against medical facilities and personnel and ensure their uninterrupted operation by removing all obstructions and interference.

## **V. OBLIGATIONS OF THE OP CONCERNING FUNDAMENTAL HUMAN RIGHTS AND THE RIGHT TO SELF-DETERMINATION**

40. The ICJ has consistently reaffirmed that international human rights law remains fully applicable in situations of occupation, including in the OPT. The OP remains legally bound by its obligations under the International Covenant on Civil and Political Rights (the “ICCPR”) and the International Covenant on Economic, Social, and Cultural Rights (the “ICESCR”). These commitments persist during armed conflict.

41. As part of its examination of the legal questions posed by the General Assembly’s request, Kuwait will now assess the OP’s violations of fundamental human rights protections within this context. This analysis will culminate in an examination of the right to self-determination, a foundational principle in international law that lies at the heart of the legal framework governing occupation. In doing so, Kuwait will highlight the corresponding legal obligations that the OP must uphold towards the Palestinian People. Notably, this marks the final set of obligations Kuwait will address under the scope of the General Assembly’s request.

### **1. Right to Life**

42. The right to life is a fundamental human right under Article 6 of the ICCPR. A right that remains absolute even during armed conflict.<sup>52</sup> This provision not only forbids arbitrary killings but also mandates that States take proactive measures to protect life. In an occupation, restricting humanitarian aid by denying access to essential supplies such as food and medicine breaches this right. The OP, by imposing severe restrictions on humanitarian aid deliveries and targeting relief efforts, has acted in contravention of this fundamental norm.

### **2. Right to Food and Water**

43. Article 11 of the ICESCR guarantees the right to adequate food and obliges the OP to ensure the civilian population’s access to essential nutrition.<sup>53</sup> The Committee on Economic, Social and Cultural Rights has emphasized that States must respect, protect, and

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<sup>52</sup> Human Rights Committee, *General Comment No. 36*, UN Doc. CCPR/C/GC/36, paras. 63-64.

<sup>53</sup> ICESCR, Article 11(1).

fulfill the right to food by refraining from measures that prevent access to sustenance and by taking active steps to ensure food security.<sup>54</sup>

44. The right to water, recognized in Articles 11 and 12 of the ICESCR, obligates the OP to avoid actions that hinder access to safe drinking water and sanitation. The OP has repeatedly violated this right by destroying water infrastructure, obstructing necessary repairs, and targeting purification plants, thereby depriving the population of access to safe and clean water.<sup>55</sup>

### **3. Right to Health**

45. Pursuant to Article 12 of the ICESCR,<sup>56</sup> the OP is under the obligation to ensure access to medical care, facilities, and essential medicines. In occupation, this duty is crucial due to the population's heightened vulnerability. Attacks on hospitals, medical personnel, and ambulances, as well as restrictions on medical supplies, violate human rights and humanitarian law. The OP's actions, including strikes on medical facilities, denial of evacuations, and deliberate delays on aid, gravely undermine this right.<sup>57</sup>

### **4. Right to Education**

46. Article 50 of the Fourth Geneva Convention and Article 13 of the ICESCR affirm the right to education, particularly for children in conflict-affected areas. The OP's repeated targeting of schools, particularly UNRWA-run educational institutions, has severely

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<sup>54</sup> Committee on Economic, Social and Cultural Rights, *General Comment No. 12*, UN Doc. E/C.12/1999/5 (12 May 1999), paras. 14, 17.

<sup>55</sup> See Nina Lakhani, "Global Surge of Water-Related Violence Led by Israeli Attacks on Palestinian Supplies – Report," *The Guardian* (22 August 2024), available at <https://www.theguardian.com/world/article/2024/aug/22/israel-palestine-gaza-water>.

<sup>56</sup> ICESCR, Article 12(1).

<sup>57</sup> See Oxfam, "Israel Using Water as Weapon of War as Gaza Supply Plummets by 94%, Creating Deadly Health Catastrophe: Oxfam" (18 July 2024), available at <https://www.oxfamamerica.org/press/israel-using-water-as-weapon-of-war-as-gaza-supply-plummets-by-94-creating-deadly-health-catastrophe-oxfam/>; and Kayleen Devlin et al., "Half of Gaza Water Sites Damaged or Destroyed, BBC Satellite Data Reveals," *BBC* (9 May 2024), available at <https://www.bbc.com/news/world-middle-east-68969239>.

disrupted access to education.<sup>58</sup> The displacement of children, combined with the destruction of educational infrastructure, significantly impedes the realization of this right.

## **5. Right to Self-Determination and Associated Duties**

47. The right to self-determination is a core principle of international law, established as a peremptory norm that cannot be overridden or restricted.<sup>59</sup> This right – which constitutes an *erga omnes* obligation –<sup>60</sup> is enshrined in General Assembly Resolutions 1514 (1960) and 2625 (1970).<sup>61</sup> The ICJ has reaffirmed that the Palestinian People possess an inalienable right to self-determination and that all States are under an obligation to support its fulfillment.<sup>62</sup> Outlined below are the key duties arising from this right under international law—obligations that the OP has blatantly disregarded and violated.

48. **Duty to Promote and Facilitate Self-Determination:** All States have a legal obligation to uphold and advance the right to self-determination. The treaty body established by the ICCPR has emphasized that State parties must take proactive steps to support this right.<sup>63</sup> This duty extends to cooperating with the UN in implementing mechanisms that facilitate its full realization.<sup>64</sup> The Court has previously emphasized that the General Assembly and the Security Council are vested with the responsibility of determining the necessary modalities for ensuring that the Palestinian People can exercise

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<sup>58</sup> Middle East Monitor, “Israel has bombed 8 schools in the Gaza Strip in the past 10 days, says UNRWA head” (18 July 2024), available at <https://www.middleeastmonitor.com/20240718-israel-has-bombed-8-schools-in-the-gaza-strip-in-the-past-10-days-says-unrwa-head/>.

<sup>59</sup> See *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. 233.

<sup>60</sup> *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. 232; and *Chagos Advisory Opinion*, para. 180.

<sup>61</sup> It is further codified in common Article 1 of both the ICCPR and the ICESCR.

<sup>62</sup> See *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. 230; and *Wall Advisory Opinion*, para. 118.

<sup>63</sup> See Human Rights Committee, *General Comment No. 12*, UN Doc. HRI/GEN/1/Rev.1 at 12 (1984), para. 6.

<sup>64</sup> See *Wall Advisory Opinion*, paras. 88 and 156.

this right.<sup>65</sup> Moreover, States are required to cooperate with the UN in effectuating these measures.

49. **Duty to Refrain from Obstructing Self-Determination and Impact of the OP's Policies on Self-Determination:** The ICJ has repeatedly affirmed that the OP must not obstruct the Palestinian People's exercise of their right to self-determination.<sup>66</sup> The right to self-determination encompasses not only political autonomy but also economic, social, and cultural development. The Court has previously determined that the OP's limitations on economic progress and resource access constitute a violation of this right. Its legislative measures against the UNRWA, obstruction of humanitarian aid, and imposition of economic dependency further deepen these infringements.<sup>67</sup> Established to deliver essential services to Palestinian refugees, the UNRWA plays a crucial role in maintaining economic and social stability in the OPT. By prohibiting its operations, targeting its personnel, and obstructing aid deliveries, the OP has severely weakened critical mechanisms that uphold the Palestinian People's right to self-determination.<sup>68</sup>

50. The OP's legal obligations under international human rights law and the principle of self-determination are clear and binding. Its systematic restrictions on fundamental rights and deliberate policies obstructing self-governance constitute grave violations of international law. The ICJ's advisory opinion is critical in reaffirming these obligations and clarifying the legal consequences of the OP's actions in the OPT. Kuwait calls on the Court to uphold the integrity of international law, affirm the Palestinian People's inalienable right to self-determination, and ensure accountability for the OP's persistent breaches of fundamental human rights.

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<sup>65</sup> *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.

<sup>66</sup> *Id.*, para. 237. See also *Wall Advisory Opinion*, para. 149.

<sup>67</sup> See *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.

<sup>68</sup> *Id.*, paras. 241-242.

## **VI. CONCLUSIONS – FINDINGS AND LEGAL DETERMINATIONS OF THE COURT**

51. Kuwait respectfully submits that the Court has jurisdiction to issue the requested advisory opinion pursuant to the UN General Assembly Resolution 79/232. As explained, there are no valid grounds for the Court to decline jurisdiction, and its ruling is essential for clarifying the legal framework and guiding States and international organizations. In delivering its advisory opinion, the Court should confirm that the OP is subject to fundamental international legal obligations. These include protections for the UN's privileges and immunities, similar safeguards for other international organizations, as well as obligations under IHL and human rights law, particularly the right to self-determination. Specifically:

### **52. Obligations Relating to the Privileges and Immunities of the UN and Other International Organizations – The OP must:**

- a. Guarantee that the UN, particularly the UNRWA, and other humanitarian organizations can operate freely within the OPT;
- b. Respect and protect their personnel, property, and facilities, including schools, healthcare centers, water infrastructure, and transport networks;
- c. Uphold the legal immunity of UN officials, international organization personnel, and UN experts on mission;
- d. Allow the unrestricted entry of humanitarian personnel to ensure effective relief efforts.

### **53. Obligations Arising Under IHL - The OP must:**

- a. Ensure the unobstructed distribution of humanitarian aid, including food, clothing, and medical supplies, within the OPT;
- b. Protect humanitarian personnel, facilities, and infrastructure during military operations, in compliance with IHL, while upholding obligations under the



Fourth Geneva Convention to meet the basic needs of the occupied population and enable effective relief efforts.

54. **Obligations Concerning Human Rights and the Right to Self-Determination – The OP must:**

- a. Cease policies that restrict the Palestinian People's right to self-determination, including limitations on governance, economic development, and free movement;
- b. Fully cooperate with the UN and the international community to uphold self-determination, including ending measures that undermine self-governance and socio-economic development.

55. Notably, some of the obligations mentioned, especially those concerning the right to self-determination, are *erga omnes* in nature. These obligations transcend bilateral relations and impose duties that affect the legal interests of all States. Consequently, all States must:

- a. Cooperate with the UN in ensuring the full realization of the Palestinian People's right to self-determination and take all necessary measures to avoid any action that could directly or indirectly contribute to the denial of this right;<sup>69</sup>
- b. Refrain from providing any assistance that may facilitate or contribute to the OP's violations of *erga omnes* obligations, as such assistance could give rise to complicity under international law.

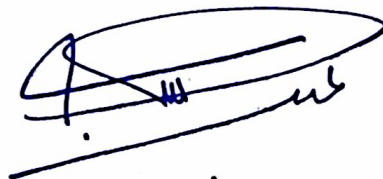
56. Kuwait unequivocally reaffirms its steadfast commitment to the principles of international law and the indispensable role of this Court in upholding them. It expresses its firm confidence that the Court's advisory opinion will serve as an authoritative legal pronouncement, offering essential guidance on these critical issues. By reaffirming the inalienable rights of the Palestinian People and delineating the legal obligations of the OP

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<sup>69</sup> *Id.*, paras. 275, 279; and *Wall Advisory Opinion*, para. 159.

and all States, the Court will play a pivotal role in ensuring adherence to international law and reinforcing the legal framework governing State conduct.

57. The significance of this opinion extends far beyond the present legal questions—it is fundamental to the integrity of the international legal order. By affirming the binding obligations established under international law, the Court’s findings will strengthen the stability, consistency, and enforceability of the global legal system. Moreover, they will reaffirm the collective international commitment to upholding human rights, IHL, and the sacrosanct right to self-determination. In rendering its opinion, the Court has the opportunity to fortify the rule of law at the international level, ensuring accountability, protecting fundamental rights, and upholding the core principles of justice and legality that form the foundation of the global order.



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ABDULLAH ALI ABDULLAH ALYAHYA  
MINISTER OF FOREIGN AFFAIRS OF THE STATE OF KUWAIT  
REPRESENTATIVE OF THE STATE OF KUWAIT

28 February 2025