

**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 HASHEMITE KINGDOM OF JORDAN**

**28 FEBRUARY 2025**



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## CHAPTER 1

### INTRODUCTION

1.1. The Hashemite Kingdom of Jordan (“**Jordan**”) submits this Written Statement in accordance with the Court’s Order of 23 December 2024, as a contribution to the advisory proceedings on the question submitted to the Court by the General Assembly of the United Nations in resolution 79/232.

#### I. The request for an advisory opinion

1.2. On 19 December 2024, the General Assembly adopted resolution 79/232, which requests, on a priority basis and with the utmost urgency, an advisory opinion on the following question:

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

1.3. This request was made in the context of the dire humanitarian situation in the Occupied Palestinian Territory, especially in the Gaza Strip, following the attack of 7 October 2023. The ensuing hostilities and massive Israeli military operations in the Gaza Strip have caused extensive and unprecedented suffering to the civilian population living there. More than 47,000 people have been reported dead, the majority of whom are women and children, and hundreds of thousands have been injured. The civilian infrastructure in the Gaza Strip, including hospitals, schools, as well as electrical, water, and sanitation facilities, have been decimated. Approximately 92 per cent of housing structures has been destroyed<sup>1</sup>.

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<sup>1</sup> OCHA, “Reported Impact Snapshot | Gaza Strip”, 28 January 2025 (available at: <https://www.ochaopt.org/content/reported-impact-snapshot-gaza-strip-28-january-2025>).

1.4. The devastating effects of the military operation have been compounded by Israel's blockade of the Gaza Strip, which prevents the entry of goods, services, fuel and water. The blockade has notably restricted the provision of humanitarian relief to the civilian population and placed significant limitations on the work of the United Nations and other humanitarian organizations.

1.5. The activities of the United Nations Relief and Works Agency for Palestine in the Near East ("UNRWA") — the largest and vital provider of health, education, and humanitarian assistance in Gaza — have been alarmingly undermined as a result of Israel's actions.

1.6. The General Assembly established UNRWA as a subsidiary body in 1949 on the basis of Article 22 of the Charter<sup>2</sup>. Its mandate has been renewed up till now<sup>3</sup>. It is not disputed that the General Assembly has the power to proceed in that manner. According to resolution 302 (IV), the purpose of UNRWA is:

“(a) To carry out in collaboration with local governments the direct relief and works programmes as recommended by the Economic Survey Mission;

(b) To consult with the interested Near Eastern Governments concerning measures to be taken by them preparatory to the time when international assistance for relief and works projects is no longer available”.

1.7. Subsequent resolutions of the General Assembly have further specified the mission of UNRWA, including the “reintegration of the refugees into the economic life of the Near East, either by repatriation or resettlement”<sup>4</sup>.

1.8. UNRWA carries on its activities in the Occupied Palestinian Territory, including East Jerusalem, as well as in other areas of the Middle East (notably Jordan, Lebanon and Syria). The premise of UNRWA's mandate is to provide services to the Palestine refugees until a settlement of the Israeli-Palestinian conflict is reached, based on the two-State solution and on

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<sup>2</sup> General Assembly resolution 302 (IV), 8 December 1949 (adopted with 47 votes in favour, none against and 6 abstentions. Israel voted in favour).

<sup>3</sup> General Assembly resolution 77/123, 12 December 2022. The resolution acknowledges in its preamble, *inter alia*, the essential role that UNRWA has played for more than seven decades in ameliorating the plight of Palestinian refugees through the provision of education, health, relief and social services, as well as UNRWA's commitment to act consistent with the humanitarian principles of neutrality, humanity, independence and impartiality.

<sup>4</sup> General Assembly resolution 513 (VI), 26 January 1952.

international law. Then — and only then — will the activities of UNRWA be capable of being transferred to a Palestinian administration able to function, free of the constraints of foreign military occupation. As mentioned in the Colonna Report, “[i]n the absence of a political solution between Israel and the Palestinians, UNRWA remains pivotal in providing life-saving humanitarian aid and essential social services, particularly in health and education, to Palestinian refugees in Gaza, Jordan, Lebanon, Syria and the West Bank. As such, UNRWA is irreplaceable and indispensable to Palestinians’ human and economic development”<sup>5</sup>. In its resolution 79/88 of 12 December 2024, the General Assembly “[a]ffirms the necessity for the continuation of the work of the United Nations Relief and Works Agency for Palestine Refugees in the Near East and the importance of its unimpeded operation and its provision of services, including emergency assistance, for the well-being, protection and human development of the Palestine refugees and for the stability of the region, pending the just resolution of the question of the Palestine refugees”<sup>6</sup>.

1.9. Notwithstanding the crucial mandate of UNRWA, its facilities in Gaza have since 7 October 2024 been largely destroyed and approximately 272 of its staff members have been killed. Never in its history has the United Nations witnessed such destruction caused against one of its institutions.

1.10. Israel’s actions do not stop there. On 28 October 2024, the Israeli Knesset adopted two laws that purport to close UNRWA’s facilities in Occupied East Jerusalem and place further restrictions on its operations and staff in the rest of the Occupied Palestinian Territory. This legislative action not only challenges key tenets of the Charter, including the privileges and immunities to which the United Nations is entitled, but also threatens seriously to aggravate the dire humanitarian situation in the Gaza Strip.

1.11. Despite repeated calls by the United Nations and its Member States for Israel to abide by its obligations under international law and to repeal the legislation in question, the latter entered into force on 30 January 2025.

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<sup>5</sup> Final Report for the United Nations Secretary General: Independent Review of Mechanisms and Procedures to Ensure Adherence by UNRWA to the Humanitarian Principle of Neutrality, 22 April 2024 (“Colonna Report”), p. 4.

<sup>6</sup> General Assembly resolution 79/88, 4 December 2024, para. 3.

1.12. It is against this background that the General Assembly made a request for an advisory opinion. At around the time of the adoption of the Israeli Knesset’s legislation, a group of Member States (Norway, Chile, Egypt, Guyana, Indonesia, Ireland, Jordan, Malaysia, Namdema, Qatar, Saudi Arabia, Slovenia, South Africa and Spain) met regularly to discuss the possibility of requesting an advisory opinion from the Court concerning Israel’s obligations in this context. The group held various rounds of consultations with the wider membership of the United Nations, as a result of which a draft resolution was put to vote in the General Assembly. On 19 December 2024, the General Assembly adopted resolution 79/232 with 137 votes in favour, 10 against, and 22 abstentions.

1.13. The catastrophic humanitarian situation in Gaza, a result of the ongoing armed conflict, together with the severe restrictions placed by Israel on the presence and activities of humanitarian actors and on the provision of relief and assistance, has presented a significant challenge to the United Nations in dealing effectively with the situation in the Occupied Palestinian Territory. Moreover, owing to their magnitude, these restrictions pose a real and imminent risk of the complete denial of the Palestinian people’s right to self-determination, which was reaffirmed by the Court in its advisory opinion of 19 July 2024 (the “*2024 Advisory Opinion*”). Guidance from the Court is therefore most urgently needed.

1.14. It must be emphasized that Israel is under an obligation to respect the right of the Palestinian people to self-determination and, as an occupying Power, to adopt only lawful measures which are aimed at protecting the Palestinian population, and which are for the benefit of the latter. Such obligations in relation to the presence and activities of the United Nations, other international organizations and third States in the Occupied Palestinian Territory, are at the core of the General Assembly’s requests for an advisory opinion.

## **II. Factual background**

1.15. The present section lays down the facts that are most relevant for the present advisory proceedings. It describes: (A) Israel’s actions aimed at frustrating UNRWA’s mandate; and (B) the humanitarian situation in the Occupied Palestinian Territory — in particular in the Gaza Strip — since 7 October 2023.



## **A. Israel's actions aimed at frustrating UNRWA's mandate**

1.16. Following the attacks on 7 October 2023, Israel initiated airstrikes across the Gaza Strip. On the same day, the Israeli Prime Minister, Benjamin Netanyahu, declared: “Gaza is the city of evil. We will turn all the places in which Hamas deploys and hides into ruins. I am telling the people of Gaza — get out of there now. We will act everywhere and with full power”<sup>7</sup>.

1.17. In line with this approach, on 9 October 2023, then Israeli Defence Minister Yoav Gallant announced a “complete siege” on Gaza, which would involve cutting off electricity and blocking the entry of food and fuel into the territory. He justified these actions by stating that Israel was “fighting against human animals” and that it was “acting accordingly”<sup>8</sup>. Israel’s then Minister of Energy, Israel Katz, stated on 12 October 2023 that “[n]o electrical switch will be turned on, no water pump will be opened and no fuel truck will enter until the Israeli abductees are returned home”<sup>9</sup>. On 18 October 2023, Prime Minister Netanyahu reinforced the stance and confirmed that Israel would not permit the entry of any humanitarian aid, including food and medicine, from Israeli territory into Gaza<sup>10</sup>.

1.18. In parallel, during discussions in the Special Political and Decolonization Committee of the General Assembly on 14 December 2023, the Israeli delegation expressed concerns regarding what it described as the “exploitation by terrorist organizations in Gaza of humanitarian and other forms of aid to the Palestinians, including aid donated to UNRWA”. To seek to support its claims of misuse of humanitarian assistance, Israel claimed that construction material had been used to build tunnels beneath civilian infrastructure; that fuel stolen from UNRWA compounds was used for military purposes; and that water infrastructure

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<sup>7</sup> The Guardian, “Israel’s darkest day: the 24 hours of terror that shook the country”, 13 October 2023 (available at: <https://www.theguardian.com/world/2023/oct/13/israel-darkest-day-24-hours-of-terror-hamas-gaza>).

<sup>8</sup> Al Jazeera, “Israeli defence minister orders ‘complete siege’ on Gaza, 9 October 2023 (available at: <https://www.aljazeera.com/program/newsfeed/2023/10/9/israeli-defence-minister-orders-complete-siege-on-gaza>); PBS News, “Israeli defense minister orders ‘complete siege’ on Gaza after Hamas surprise attack”, 9 October 2023 (available at: <https://www.pbs.org/newshour/world/israeli-defense-minister-orders-complete-siege-on-gaza-after-hamas-surprise-attack>).

<sup>9</sup> The Times of Israel, “Energy minister: No electricity or water to Gaza until abductees returned home”, 12 October 2023 (available at: [https://www.timesofisrael.com/liveblog\\_entry/energy-minister-no-electricity-or-water-to-gaza-until-abductees-returned-home/](https://www.timesofisrael.com/liveblog_entry/energy-minister-no-electricity-or-water-to-gaza-until-abductees-returned-home/)).

<sup>10</sup> Prime Minister’s Office, “Statement by PM Netanyahu”, 18 October 2023 (available at: <https://www.gov.il/en/pages/event-statement181023>).

equipment was repurposed to manufacture explosives. Israel also alleged that “ Hamas had even been known to exploit the movement of sick Gazans being treated in Israeli hospitals, including by using cancer patients to smuggle explosives”<sup>11</sup>.

1.19. Further rhetoric from Israeli leadership emphasized its framing of the war. Prime Minister Netanyahu stated on 25 October 2023: “We are the people of the light, they are the people of darkness ... we shall realize the prophecy of Isaiah”<sup>12</sup>. Moreover, during an open debate in the Security Council on 24 October 2023 regarding the developments in the war in Gaza, the Israeli Minister for Foreign Affairs, Eli Cohen, said that if all nations did not stand with Israel to “eliminate these monsters from the face of the Earth”, this would be “the darkest hour of the UN” and the United Nations would “have no moral justification to exist”<sup>13</sup>.

1.20. In the course of less than a month, by 26 October 2023, more than 7,000 Palestinians had been killed in Gaza, 66% of which were women and children. Around 1,600 persons, including 900 children, remained missing under the rubble. Gaza faced (immediately after 11 October 2023) a total electricity blackout for 17 days, while over a third of hospitals and nearly two-thirds of primary health clinics shut down owing to damage from Israeli strikes or lack of fuel<sup>14</sup>. In response, the General Assembly adopted a resolution which demanded the immediate, continuous, sufficient, and unhindered provision of essential goods and services to civilians throughout the Gaza Strip, and called for immediate, full, sustained, safe, and unhindered humanitarian access for UNRWA and other UN humanitarian agencies<sup>15</sup>.

1.21. In a letter dated 6 December 2023 to the Security Council, the Secretary-General invoked Article 99 of the Charter and reiterated his call for a humanitarian ceasefire. He stated, in no uncertain terms, that:

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<sup>11</sup> General Assembly Official Records, Special Political and Decolonization Committee, 78<sup>th</sup> Session, 23<sup>rd</sup> meeting (A/C.4/78/SR.23), 14 December 2023.

<sup>12</sup> In Context, “Netanyahu delivers address amid war with Hamas”, 25 October 2023 (available at <https://twitter.com/disclosetv/status/1717232829766009086?s=20>).

<sup>13</sup> UN Meeting Coverage and Press Releases, “Amid Increasingly Dire Humanitarian Situation in Gaza, Secretary-General Tells Security Council Hamas Attacks Cannot Justify Collective Punishment of Palestinian People” (SC/15462), 24 October 2023 (available at: <https://press.un.org/en/2023/sc15462.doc.htm>).

<sup>14</sup> OCHA, “Hostilities in the Gaza Strip and Israel | Flash Update #20”, 26 October 2023 (available at: <https://www.ochaopt.org/content/hostilities-gaza-strip-and-israel-flash-update-20>).

<sup>15</sup> General Assembly resolution ES-10/2, 27 October 2023.

“We are facing a severe risk of collapse of the humanitarian system. The situation is fast deteriorating into a catastrophe with potentially irreversible implications for Palestinians as a whole and for peace and security in the region. Such an outcome must be avoided at all costs”<sup>16</sup>.

1.22. Between 7 October and 7 December 2023, at least 17,177 Palestinians had been killed in Gaza. The Office of the United Nations High Commissioner for Human Rights (“**OHCHR**”) stated in this context that “the pattern of attacks that target or impact on civilian infrastructure raises serious concerns about Israel’s compliance with international humanitarian law and significantly raises the risk of atrocity crimes”<sup>17</sup>.

1.23. Israel’s stance against UNRWA drastically hardened in January 2024, when Prime Minister Netanyahu, during a meeting with a delegation of United Nations ambassadors, declared that it was “time that the international community and the UN itself understand that UNRWA’s mission has to end”. He claimed that UNRWA was “totally infiltrated with Hamas” and called for its replacement with other international organizations<sup>18</sup>. In February 2024, he suggested that UNRWA “perpetuates the Palestinian refugee problem” and that its schools “indoctrinate Palestinian children with genocide and terror”; accused certain UNRWA personnel of having participated in the 7 October 2023 attack; and called once again for the replacement of the Agency<sup>19</sup>.

1.24. On 16 February 2024, then Defence Minister Yoav Gallant publicly revealed the identities of 12 staff members of UNRWA who Israel claimed had “actively participated” in the attack of 7 October 2023. He added that “in addition to these 12 workers, we have significant indications based on intelligence, that over 30 UNRWA workers participated in the massacre, facilitated the taking of hostages, looted and stole from Israeli communities, and more”. He further stated that UNRWA had “lost legitimacy and can no longer function as a UN body”. Gallant is reported to have “instructed the Israel Defence Forces and the defence establishment to transfer responsibilities of aid delivery in the Strip to other humanitarian

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<sup>16</sup> OCHA, “Hostilities in the Gaza Strip and Israel | Flash Update #62”, 7 December 2023 (available at: <https://www.ochaopt.org/content/hostilities-gaza-strip-and-israel-flash-update-62>).

<sup>17</sup> *Ibid.*

<sup>18</sup> Prime Minister’s Office, “Prime Minister Benjamin Netanyahu to a Delegation of UN Ambassadors: ‘It’s time that the international community and the UN itself understand that UNRWA’s mission has to end’”, 31 January 2024 (available at: <https://www.gov.il/en/pages/event-un310124>).

<sup>19</sup> Prime Minister’s Office, “Statement by PM Netanyahu”, 2 February 2024 (available at: <https://www.gov.il/en/pages/event-press-conference070224>).

organizations”<sup>20</sup>. Prior to revealing the identities of the 12 UNRWA staff members, then Foreign Minister Israel Katz called on UNRWA Commissioner-General, Philippe Lazzarini, to resign<sup>21</sup>.

1.25. A classified report from the Israeli Foreign Ministry was subsequently published by media outlets. It outlined a plan to ensure that UNRWA would not remain in Gaza in the aftermath of the war, involving three stages: (1) the preparation of a report on alleged UNRWA co-operation with Hamas; (2) reducing UNRWA’s operations in Gaza and identifying a different organization to provide education and welfare services; and (3) transferring UNRWA’s responsibilities to a post-war entity administering Gaza<sup>22</sup>. Israel has not denied the existence of this report. Then Foreign Minister Israel Katz furthermore declared that Israel would work to halt UNRWA’s operations in Gaza after the war and to ensure that “UNRWA will not be a part of the day after”<sup>23</sup>.

1.26. The United Nations swiftly responded to Israel’s accusations against UNRWA, commissioning both an independent external review and an internal investigation. The Independent Review Group on UNRWA, led by former French Foreign Minister Catherine Colonna, was tasked by the Secretary-General with assessing UNRWA’s neutrality and its mechanisms for preventing misconduct by staff. It released a report — the Colonna Report — in April 2024, where the Review Group concluded that “UNRWA has established a significant number of mechanisms and procedures to ensure compliance with the humanitarian principles, with emphasis on the principle of neutrality, and that it possesses a more developed approach to neutrality than other similar UN or NGO entities”. The report also identified “several measures to help UNRWA address its neutrality challenges in eight critical areas requiring

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<sup>20</sup> Times of Israel, “Israel reveals 12 UNRWA staffers it says took part in Oct. 7, says 30 more assisted”, 16 February 2024 (available at: <https://www.timesofisrael.com/israel-reveals-12-unrwa-staffers-it-says-took-part-in-oct-7-says-30-more-assisted/>).

<sup>21</sup> Times of Israel, “Foreign minister urges UNRWA chief to resign”, 28 January 2024 (available at: [https://www.timesofisrael.com/liveblog\\_entry/foreign-minister-urges-unrwa-chief-to-resign/](https://www.timesofisrael.com/liveblog_entry/foreign-minister-urges-unrwa-chief-to-resign/)).

<sup>22</sup> Times of Israel, “Israel hoping to push UNRWA out of Gaza post-war — report”, 29 December 2023 (available at: <https://www.timesofisrael.com/israel-hoping-to-push-unrwa-out-of-gaza-post-war-report/>).

<sup>23</sup> Times of Israel, “Israel wants UNRWA out of Gaza after staffers fired for involvement in Oct. 7 onslaught”, 27 January 2024 (available at: <https://www.timesofisrael.com/israel-to-look-to-end-unrwa-gaza-activities-after-staffers-fired-for-oct-7-involvement/>).

immediate improvement”<sup>24</sup>. It further clarified that “UNRWA has immediately begun implementing the recommendations, supported by a High-level Action Plan that is regularly updated, with progress shared transparently, including on the website of UNRWA”<sup>25</sup>.

1.27. In parallel, the United Nations Office of Internal Oversight Services (“**OIOS**”) launched a formal investigation into accusations against 19 staff members in connection with their alleged involvement in “political activity that may be against the interest of the United Nations or connections to acts of terror”<sup>26</sup>. UN Deputy Spokesperson Farhan Haq indicated that “since information used by Israeli officials to support the allegations have remained in Israeli custody, OIOS was not able to independently authenticate most of the information provided to it”<sup>27</sup>. The investigation thus found no evidence to support the allegations in one case, whereas in nine others the evidence was deemed insufficient. The Deputy Spokesperson clarified that “in the remaining nine cases, the evidence obtained by OIOS indicated that the UNRWA staff members may have been involved in the 7 October attacks”. UNRWA, it should be emphasized, has over 30,000 employees.

1.28. In response to the conclusions reached by the OIOS, the Commissioner-General of UNRWA announced that the contracts of the nine individuals who might have been involved in the 7 October 2023 attack would be terminated<sup>28</sup>.

1.29. It should be noted that UNRWA has consistently cooperated with the Israeli Government by sharing lists of its personnel, notifying it of suspected military activity near its premises in Gaza, and repeatedly requesting evidence of neutrality breaches to take disciplinary action, including dismissal. The Secretary-General himself, in a letter dated 8 January 2025 addressed to the President of the General Assembly, reiterated that UNRWA had expressed willingness to facilitate Israeli investigations or prosecutions of alleged misconduct. However,

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<sup>24</sup> Final Report for the United Nations Secretary General: Independent Review of Mechanisms and Procedures to Ensure Adherence by UNRWA to the Humanitarian Principle of Neutrality, 22 April 2024 (“Colonna Report”), p. 5.

<sup>25</sup> *Ibid.*

<sup>26</sup> Letter dated 9 January 2025 from the Secretary-General addressed to the President of the General Assembly (A/79/716-S/2025/18).

<sup>27</sup> UN News, “UN completes investigation on UNRWA staff”, 5 August 2024 (available at: <https://news.un.org/en/story/2024/08/1152841>).

<sup>28</sup> *Ibid.*

Israel has neither sought UNRWA's cooperation in any such proceedings nor engaged with the Agency to substantiate its claims<sup>29</sup>.

1.30. On 15 February 2024, the Israeli Knesset approved in preliminary reading a law on the prohibition on UNRWA's activities within "the sovereign territory of the State of Israel". Later, in May 2024, the Knesset approved in preliminary reading yet another law to revoke the privileges and immunities of UNRWA<sup>30</sup>. The "Law for the Cessation of UNRWA Activities" and the "Law for the Cessation of UNRWA Activities in the State of Israel" were ultimately adopted by the Knesset on 28 October 2024. The legislation entered into force on 30 January 2025.

1.31. In defence of the legislation in question, a member of the Knesset, Yulia Malinovsky, stated that "UNRWA should not exist at all", calling it a "branch of Hamas" and "a terrorist organization for all intents and purposes". Dan Illouz, another member of the Knesset, similarly declared that the proposed legislation "is an essential law for our national security. After 7 October, we cannot continue as if nothing happened. We cannot allow the terror-supporting organization UNRWA to operate against us. We are fighting for our security and our future and UNRWA cannot pretend to be a humanitarian entity while harming us. That ends today"<sup>31</sup>. Benny Gantz, another member of the Israeli Knesset, said that "UNRWA chose to make itself an inseparable component of Hamas' mechanism — and now is the time to detach ourselves entirely from it"<sup>32</sup>.

1.32. On 4 November 2024, Israel informed the United Nations that it had decided to withdraw from the 1967 Exchange of Letters constituting a Provisional Agreement concerning Assistance to Palestine Refugees ("**1967 Exchange of Letters**" or "**Comay-Michelmores Agreement**") after the Knesset passed the abovementioned laws<sup>33</sup>. Then Foreign Minister

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<sup>29</sup> Letter dated 8 January 2024 from the Secretary-General addressed to the President of the General Assembly (A/78/707).

<sup>30</sup> Knesset News, "Approved in preliminary reading: Revocation of immunities and privileges held by UNRWA and its workers", 29 May 2024 (available at: <https://main.knesset.gov.il/en/news/pressreleases/pages/press29524z.aspx>).

<sup>31</sup> The Times of Israel, "Knesset committee discusses trio of bills aimed at shutting down UNRWA", 2 July 2024, (available at: <https://www.timesofisrael.com/knesset-committee-discusses-trio-of-bills-aimed-at-shutting-down-unrwa/>).

<sup>32</sup> Benny Gantz (@gantzbe), X (10:55 AM) (available at: <https://x.com/gantzbe/status/1848739936595279880>).

<sup>33</sup> Letter of the Director General of the Ministry of Foreign Affairs of Israel to the President of the General Assembly dated 3 November 2024.

Israel Katz stated that “UNRWA — the organization whose employees participated in the October 7th massacre and many of whose employees are Hamas operatives — is part of the problem in the Gaza Strip and not part of the solution” and that “[t]he UN was presented with endless evidence [sic] about Hamas operatives working at UNRWA and about the use of UNRWA facilities for terror purposes and nothing was done about it”<sup>34</sup>.

1.33. In a letter dated 18 December 2024 addressed to the Presidency of the Security Council, Israel suggested that the “undeniable and inexcusable reality, in which UNRWA has kept numerous terrorists on both its premises and payroll, has compromised its impartiality beyond repair. Since the beginning of the war in Gaza, Israel has not been informed by UNRWA, not even once, of any instances where Hamas has infiltrated or used UNRWA infrastructure, yet another breach of UNRWA’s neutrality”. Israel further justified the laws as a “direct response to the significant national security risks” posed by UNRWA, arguing that despite “more than ten months of good-faith engagement with the UN,” no meaningful action had been taken to address Israel’s concerns<sup>35</sup>. On 17 February 2025, the *Jerusalem Post* reported that “Prime Minister Benjamin Netanyahu has directed that the UNRWA law, which the Knesset passed with broad support, be enforced immediately”<sup>36</sup>.

1.34. In response to the Knesset’s adoption of two laws, the Secretary-General sent urgent letters to Israel, the General Assembly and the Security Council<sup>37</sup>. He detailed the grave implications of this legislation, which would effectively terminate Israel’s cooperation with UNRWA, bar all State authorities from engaging with the Agency, and prohibit its operations within Israel’s declared territory, including East Jerusalem<sup>38</sup>. The Secretary-General underscored that the laws directly obstruct UNRWA’s mandate given by the General Assembly, which includes the operation of nearly 400 schools, over 65 health clinics, and emergency relief programs benefiting millions of Palestinian refugees in the Occupied

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<sup>34</sup> The Times of Israel, “Israel informs UN that 1967 agreement recognizing UNRWA is void”, 4 November 2024 (available at: <https://www.timesofisrael.com/israel-informs-un-that-1967-agreement-recognizing-unrwa-is-void/>).

<sup>35</sup> Identical letters dated 18 December 2024 from the Permanent Representative of Israel to the United Nations addressed to the President of the General Assembly and the President of the Security Council (A/79/710-S/2024/940).

<sup>36</sup> The Jerusalem Post, “Netanyahu: Enforce UNRWA law immediately, no exceptions”, 17 February 2025 (available at: <https://www.jpost.com/breaking-news/article-842568>).

<sup>37</sup> Identical letters dated 9 December 2024 from the Secretary-General addressed to the President of the General Assembly and the President of the Security Council (A/79/684–S/2024/892).

<sup>38</sup> *Ibid.*

Palestinian Territory<sup>39</sup>. The Secretary-General warned that implementing the laws would leave millions of people without essential humanitarian assistance<sup>40</sup>. The letters also emphasized Israel's obligations under international law, particularly in light of the *2024 Advisory Opinion*, which concluded that Israel's occupation of the Occupied Palestinian Territory, including East Jerusalem, is illegal and must cease as rapidly as possible<sup>41</sup>.

1.35. Furthermore, in a letter dated 28 October 2024, the Secretary-General noted that “it can readily be appreciated that a situation may exist in which a difference has arisen between the United Nations and the State of Israel regarding, among other things, the interpretation or application of the Convention on the Privileges and Immunities of the United Nations, to which Israel is a party”<sup>42</sup>. He further emphasized, in a letter dated 27 January 2025, that:

“a unilateral demand to cease operations and evacuate all premises within less than a week of formal notice being provided is manifestly unreasonable and inconsistent with Israel's international obligations, ... and any modification or termination of UNRWA activities in the Occupied Palestinian Territory, including East Jerusalem, would require prior consultations and negotiations between the United Nations and Israel and guidance from the General Assembly, and may not be effected unilaterally. No such consultations have taken place so far. The Secretariat sent a number of communications to Israel, which provided ample opportunities for the Secretariat and Israel to enter into consultations on matters arising from the adoption of the two pieces of legislation by the Knesset of Israel on 28 October 2024. However, no response to those communications was received”<sup>43</sup>.

1.36. The “Law for the Cessation of UNRWA Activities” and the “Law for the Cessation of UNRWA Activities in the State of Israel”, adopted in the midst of the humanitarian catastrophe resulting from Israel's military attack against Gaza, were thus the immediate trigger of the present request for an advisory opinion. Israel, however, had engaged in a sustained and deliberate campaign against UNRWA's operations long before that.

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<sup>39</sup> Letter dated 28 October 2024 from the Secretary-General addressed to the President of the General Assembly (A/79/558).

<sup>40</sup> Identical letters dated 9 December 2024 from the Secretary-General addressed to the President of the General Assembly and the President of the Security Council (A/79/684–S/2024/892).

<sup>41</sup> Letter dated 28 October 2024 from the Secretary-General addressed to the President of the General Assembly (A/79/558).

<sup>42</sup> *Ibid.*

<sup>43</sup> Letter dated 27 January 2025 from the Secretary-General addressed to the Permanent Representative of Israel.



1.37. Indeed, for decades, Israel has sought to delegitimize UNRWA, advancing allegations that frame the Agency as a security threat. These allegations have ranged from links to terrorism to accusations of antisemitic content in educational materials. The claims remain, however, largely unsubstantiated and form part of a broader strategy to undermine the Agency's mandate and operations.

1.38. In fact, the Israeli government started a campaign aiming at the dismantlement of UNRWA long before 7 October 2023. The historical record demonstrates a consistent pattern of Israeli attacks on UNRWA, its personnel and its facilities.

1.39. In 2003, following the killing of a staff member of UNRWA by Israeli forces in Gaza, a UN internal investigation confirmed that no gunfire emanated from the United Nations compound where the staff member was killed. The Israeli authorities have failed to provide any evidence supporting the allegations that “guerrillas hijacked” the Agency's buildings, staff, or operations. Claims that Palestinian militants stored ammunition in UNRWA schools or smuggled arms using UNRWA ambulances were found to be entirely false<sup>44</sup>.

1.40. In 2009, a Board of Inquiry appointed by the Secretary-General found that Israeli forces were responsible for seven out of nine violent incidents involving UN premises during that years' conflict. Among these incidents was the shelling of an UNRWA compound where hundreds of civilians had taken shelter — an act the inquiry described as “grossly negligent, amounting to recklessness”<sup>45</sup>.

1.41. During the 2014 conflict in Gaza, Israeli forces repeatedly targeted UNRWA schools and shelters, despite the United Nations having previously provided their coordinates for protection<sup>46</sup>. By August 2014, UNRWA estimated that approximately 95 installations were

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<sup>44</sup> New York Times, “U.N. Aide's Killing”, 9 January 2003 (available at: <https://www.nytimes.com/2003/01/09/opinion/1-un-aide-s-killing-761559.html?searchResultPosition=53>).

<sup>45</sup> New York Times, “Differences Between Israel and U.N. Over Gaza Episodes Go Back Years”, 8 August 2014 (available at: <https://www.nytimes.com/2014/08/09/world/middleeast/differences-between-israel-and-un-over-gaza-episodes-go-back-years.html?searchResultPosition=10>). See also Letter dated 4 May 2009 from the Secretary-General addressed to the President of the Security Council (A/63/855-S/2009/250).

<sup>46</sup> New York Times, “Blasts Kill 16 Seeking Haven at Gaza School”, 24 July 2014 (available at: <https://www.nytimes.com/2014/07/25/world/middleeast/despite-talk-of-a-cease-fire-no-lull-in-gaza-fighting.html>).

damaged since the onset of hostilities<sup>47</sup>. On 30 July 2014, Israeli shelling of an UNRWA school killed at least 19 civilians seeking refuge therein. While the United Nations condemned the attack, Israeli authorities responded by accusing UNRWA of aiding Hamas, without providing verifiable evidence<sup>48</sup>.

1.42. On 11 June 2017, Prime Minister Netanyahu stated in public remarks to his cabinet that “[i]t is time UNRWA be dismantled”. He said so referring to a meeting he had had four days earlier with the then United States Ambassador to the United Nations, Nikki Haley: “I told her it was time the United Nations reconsider UNRWA’s existence”<sup>49</sup>. He further stated that UNRWA’s institutions fostered incitement against Israel and expressed his regret “that UNRWA, to a large degree, by its very existence, perpetuates — and does not solve — the Palestinian refugee problem. Therefore, the time has come to disband UNRWA and integrate it into the UNHCR”<sup>50</sup>.

1.43. In 2018, Prime Minister Netanyahu suggested that UNRWA “needs to pass from the world” because it sustains the narrative of the Palestinians’ right of return, which he described as an existential threat to Israel<sup>51</sup>.

1.44. On 6 February 2024, Bank Leumi froze approximately \$3 million in funds belonging to UNRWA, thereby restricting the Agency’s access to its financial resources<sup>52</sup>. On 8 February 2024, Israel issued an eviction and demolition order against UNRWA’s Kalandia Training Center and demanded a “usage fee” of approximately \$4.6 million<sup>53</sup>. On 30 April 2024, Interior Minister Moshe Arbel rejected a request by UNRWA Commissioner-General for an entry visa

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<sup>47</sup> UNRWA, “Gaza Situation Report 27”, 4 August 2014 (available at <https://www.unrwa.org/newsroom/emergency-reports/gaza-situation-report-27>).

<sup>48</sup> New York Times, “Tensions Escalate Between Israel and a Second Party in Gaza: The United Nations” 31 July 2014) (available at: <https://www.nytimes.com/2014/08/01/world/middleeast/tensions-escalate-between-israel-and-united-nations-in-gaza-strip.html?searchResultPosition=4>).

<sup>49</sup> Prime Minister’s Office, “PM Netanyahu's Remarks at the Start of the Weekly Cabinet Meeting”, 11 June 2017 (available at: <https://www.gov.il/en/pages/spokestart110617>).

<sup>50</sup> *Ibid.*

<sup>51</sup> Prime Minister’s Office, “PM Netanyahu's Remarks at the Start of the Weekly Cabinet Meeting”, 7 January 2018 (available at <https://www.gov.il/en/pages/spokestart070118>).

<sup>52</sup> Middle East Monitor, “Israel's Bank Leumi suspends UNRWA’s bank account”, 5 February 2024 (available at: <https://www.middleeastmonitor.com/20240205-israels-bank-leumi-suspends-unrwas-bank-account/>).

<sup>53</sup> Letter from the Commissioner-General of UNRWA addressed to the President of the General Assembly, 22 February 2024 (available at: <https://www.un.org/unispal/document/letter-from-the-commissioner-general-to-ga-22feb-2024/>).

to Israel<sup>54</sup>, thereby preventing him from accessing Gaza<sup>55</sup>. Israel has also escalated a disinformation campaign against UNRWA, including the use of billboards and online advertisements to discredit the Agency's image<sup>56</sup>.

1.45. Moreover, Israel has imposed a series of measures that significantly obstruct the work of non-governmental organizations (“NGO”) operating in the Occupied Palestinian Territory and Israel. Central to these measures is a new registration and visa process, which shifts responsibility for NGOs registration and foreign worker endorsements to an interministerial committee<sup>57</sup>. This committee, composed of ministries known for restricting humanitarian activities, has broad discretion to reject or annul registrations based on ambiguous and open-ended criteria. These allegations include supporting boycotts, delegitimizing Israel, or having ties to terrorism<sup>58</sup>. Notably, the criteria by the Israeli authorities can be applied retroactively, targeting statements or actions by NGOs associates up to seven years prior to October 2023. Under the new policy, NGOs registrations are subject to review every three years, introducing major uncertainty and administrative challenges for such organizations<sup>59</sup>. Also, restrictions on visas and permits for foreign and Palestinian workers further hinder NGOs’ capability to deliver aid in an effective fashion<sup>60</sup>. These measures are part of a broader pattern of policies aimed at restricting humanitarian assistance, including legislation targeting organizations like UNRWA, which undermine the independence, impartiality, and neutrality of humanitarian work, ultimately hindering the delivery of essential aid to Palestinian populations in need<sup>61</sup>.

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<sup>54</sup> The Jerusalem Post, “Interior Ministry refuses to give UNRWA chief entry visa — report”, 30 April 2024 (available at: <https://www.jpost.com/breaking-news/article-799258>).

<sup>55</sup> *Ibid.*

<sup>56</sup> UNRWA, “The State of Israel continues disinformation campaign against UNRWA”, 4 December 2024 (available at: <https://www.unrwa.org/newsroom/official-statements/state-israel-continues-dis-information-campaign-against-unrwa>).

<sup>57</sup> Gisha — Legal Center for Freedom of Movement, “NGOs in Israel condemn an Israeli government decision designed to deny registration and work visas to international humanitarian organizations”, 8 January 2025 (available at: <https://gisha.org/en/ngos-in-israel-condemn-an-israeli-government-decision-designed-to-deny-registration-and-work-visas-to-international-humanitarian-organizations/>). See also Prime Minister’s Office, “International non-governmental organizations whose main activity is with Palestinian residents with the aim of assisting their well-being”, 9 December 2024 (available at: <https://www.gov.il/he/pages/dec2542-2024>).

<sup>58</sup> *Ibid.*

<sup>59</sup> *Ibid.*

<sup>60</sup> *Ibid.*

<sup>61</sup> *Ibid.*

1.46. Israel has also severely limited the activities and presence of third States in the Occupied Palestinian Territory. Shortly after Spain's recognition of the State of Palestine, Israel stopped the Spanish Consulate General in East Jerusalem from providing services to the Palestinian civilian population in the Occupied Palestinian Territory<sup>62</sup>. Similarly, shortly after Norway's recognition of the State of Palestine, Israel decided no longer to facilitate Norway's representation to the Palestinian Authority, which meant that Norway's Representative Office in Al Ram, northeast of Jerusalem, was closed in August 2024, eight Norwegian diplomats having had their diplomatic status purportedly revoked by Israel<sup>63</sup>.

## **B. The humanitarian situation in the Occupied Palestinian Territory since 7 October 2023**

1.47. As mentioned above, the humanitarian situation in the Occupied Palestinian Territory, and in particular in the Gaza Strip, has reached catastrophic levels, exacerbated by the Israeli military operation in Gaza since 7 October 2023, severe restrictions on aid entry, and systematic obstruction imposed by Israeli authorities. The following provides a summary of the grave impact of the Gaza multifaceted crisis from various aspects, insofar as it is relevant to the present advisory proceedings.

1.48. As of January 2025, the Israeli war in Gaza has resulted in over 47,000 Palestinian fatalities and 111,000 injuries since October 2023, while more than 10,000 people are reported missing or under the rubble<sup>64</sup>. According to UN estimates, over 1.9 million Gazans have been

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<sup>62</sup> See Reuters, "Israel stops Spanish consulate from providing services to Palestinians", 24 May 2024 (available at: <https://www.reuters.com/world/middle-east/israel-stops-spanish-consulate-providing-services-palestinians-2024-05-24/>); Wafa News Agency, "Spain rejects Israeli restrictions on its Jerusalem consulate following recognition of Palestine", 31 May 2024 (available at: <https://english.wafa.ps/Pages/Details/144627>).

<sup>63</sup> See Ministry of Foreign Affairs of Norway, Press release, "Norway's Representative Office in Palestine is closed until further notice", 16 August 2024 (available at: <https://www.regjeringen.no/en/aktuelt/norways-representative-office-in-palestine-is-closed-until-further-notice/id3050105/>). See also European Union External Action, "Israel/Palestine: Statement by the High Representative on government's actions against Norway", 8 August 2024 (available at: [https://www.eeas.europa.eu/eeas/israelpalestine-statement-high-representative-governments-actions-against-norway\\_en](https://www.eeas.europa.eu/eeas/israelpalestine-statement-high-representative-governments-actions-against-norway_en)); Foreign, Commonwealth & Development Office, Press release, "UK statement following Israel's decision to revoke the diplomatic status of 8 Norwegian diplomats", 9 August 2024 (available at: <https://www.gov.uk/government/news/uk-statement-israels-revocation-of-norwegian-diplomats-status>).

<sup>64</sup> OCHA, "Reported Impact Snapshot | Gaza Strip", 28 January 2025 (available at: <https://www.ochaopt.org/content/reported-impact-snapshot-gaza-strip-28-january-2025>).

forcibly displaced<sup>65</sup>. Furthermore, the destruction of housing units in Gaza has been extensive, with around 436,000 houses either destroyed or severely damaged by the Israeli military. This constitutes more than 92 percent of the housing units in Gaza, leaving around 1.875 million people in urgent need of shelter<sup>66</sup>.

1.49. The Integrated Food Security Phase Classification (“**IPC**”) projects that 91 per cent of Gaza’s population, which equals 1.95 million people, currently faces high levels of acute food insecurity, with 876,000 people in emergency conditions (IPC Phase 4) and 345,000 in catastrophic conditions (IPC Phase 5)<sup>67</sup>. Over 96 per cent of children (aged 6–23 months) and women are not currently meeting their nutrient requirements, whereas 290,000 children (under the age of 5) and 150,000 pregnant and breastfeeding women require feeding and micronutrient supplements. Moreover, acute malnutrition is widespread in Gaza, with over 60,000 children estimated to require treatment in 2025<sup>68</sup>.

1.50. According to the Office for the Coordination of Humanitarian Affairs (“**OCHA**”) January 2025 Snapshot, the water supply in Gaza is critically insufficient, with only 85 ,000 cubic meters of water produced daily, that is, less than a quarter of the pre-7 October 2023 regular supply. Water losses through damaged networks are close to 70 per cent, and 62 per cent of the population of Gaza receive less than the recommended 6 liters per person per day for drinking and cooking. Sanitation-related threats, including exposure to rodents, pests, solid waste, sewage, and human waste, continue to affect 1 million Gazans<sup>69</sup>.

1.51. The healthcare system in Gaza is on the brink of collapse. The lack of medical supplies, fuel, and electricity caused by Israel’s siege has severely hampered healthcare delivery, with many hospitals struggling to operate without the most basic supplies and equipment. At present, only 50 per cent of the hospitals in Gaza are partly functional, including only one in North

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<sup>65</sup> UNRWA, “UNRWA Situation Report #148 on The Humanitarian Crisis in The Gaza Strip and The West Bank, Including East Jerusalem”, 20 November 2024 (available at: <https://www.unrwa.org/resources/reports/unrwa-situation-report-148-situation-gaza-strip-and-west-bank-including-east-jerusalem>).

<sup>66</sup> OCHA, “Reported Impact Snapshot | Gaza Strip”, 28 January 2025 (available at: <https://www.ochaopt.org/content/reported-impact-snapshot-gaza-strip-28-january-2025>).

<sup>67</sup> The Integrated Food Security Phase Classification (IPC), Gaza Strip: IPC Acute Food Insecurity and Acute Malnutrition Special Snapshot | September 2024–April 2025 (17 October 2024).

<sup>68</sup> OCHA, “Reported Impact Snapshot | Gaza Strip”, 28 January 2025 (available at: <https://www.ochaopt.org/content/reported-impact-snapshot-gaza-strip-28-january-2025>) (Global Nutrition Cluster).

<sup>69</sup> *Ibid.* (Global WASH Cluster).

Gaza. Further, over 12,000 patients require medical evacuation abroad, whilst 458 of which have only been evacuated since May 2024<sup>70</sup>.

1.52. The education system in Gaza has also been destroyed, with roughly 658,000 students currently unable to access proper education. Over 88 per cent of school buildings in Gaza need full reconstruction or major refurbishment, and 51 university campuses have been demolished as a result of the Israeli hostilities. Additionally, over 1 million children in need of mental health and psychosocial support. Aid workers, journalists, and health workers have been targeted, with at least 385 aid workers, 1,000 health workers, and 198 journalists killed since 7 October 2023 by Israel<sup>71</sup>.

1.53. Since 7 October 2023, Israel has imposed severe restrictions on the entry of humanitarian aid into Gaza. Gaza previously relied on three main border crossings for the entry of aid: Beit Hanoun/Erez, Rafah and Karem Abu Salem/Kerem Shalom<sup>72</sup>. With the escalation of hostilities, Israel has largely closed these crossings, allowing only limited aid through Rafah and Karem Abu Salem/Kerem Shalom<sup>73</sup>. According to UNRWA, the average number of trucks entering Gaza daily has been far below the minimum required 500 trucks a day<sup>74</sup>, with only 37 trucks entering daily in October 2024<sup>75</sup>. Israel has restricted access to North Gaza where the humanitarian need is most acute, given Israeli forces' complete siege of the area. According to

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<sup>70</sup> *Ibid.* (Health Cluster).

<sup>71</sup> *Ibid* (Global Education Cluster).

<sup>72</sup> Al Jazeera, "The seven border crossings of Gaza", 15 June 2022 (available at: <https://www.aljazeera.com/features/2022/6/15/the-seven-border-crossings-of-gaza>); ACAPS, "Palestine: Humanitarian access to and within the Gaza Strip: five months into the recent hostilities", 8 March 2024, p. 2 (available at: [https://www.acaps.org/fileadmin/Data\\_Product/Main\\_media/20240308\\_ACAPS\\_Palesstine\\_Gaza\\_humanitarian\\_access\\_note.pdf](https://www.acaps.org/fileadmin/Data_Product/Main_media/20240308_ACAPS_Palesstine_Gaza_humanitarian_access_note.pdf)).

<sup>73</sup> ACAPS, "Palestine: Humanitarian access to and within the Gaza Strip: five months into the recent hostilities", 8 March 2024, p. 2 (available at: [https://www.acaps.org/fileadmin/Data\\_Product/Main\\_media/20240308\\_ACAPS\\_Palesstine\\_Gaza\\_humanitarian\\_access\\_note.pdf](https://www.acaps.org/fileadmin/Data_Product/Main_media/20240308_ACAPS_Palesstine_Gaza_humanitarian_access_note.pdf)), p. 2; OCHA, "Hostilities in the Gaza Strip and Israel | Flash Update #118", 14 February 2024 (available at: <https://www.ochaopt.org/content/hostilities-gaza-strip-and-israel-flash-update-118>).

<sup>74</sup> ACAPS, "Palestine: Humanitarian access to and within the Gaza Strip: five months into the recent hostilities", 8 March 2024, p. 2 (available at: [https://www.acaps.org/fileadmin/Data\\_Product/Main\\_media/20240308\\_ACAPS\\_Palesstine\\_Gaza\\_humanitarian\\_access\\_note.pdf](https://www.acaps.org/fileadmin/Data_Product/Main_media/20240308_ACAPS_Palesstine_Gaza_humanitarian_access_note.pdf)), p. 4; UNRWA, "Gaza Supplies and Dispatch Tracking", 16 January 2025 (available at: Microsoft Power BI).

<sup>75</sup> OCHA, "Reported impact snapshot | Gaza Strip", 5 November 2024 (available at: [https://www.ochaopt.org/content/reported-impact-snapshot-gaza-strip-5-november-2024?\\_gl=1\\*956120\\*\\_ga\\*MTM5NjU2NjMxNC4xNzM4MjY2MzY3\\*\\_ga\\_E60ZNX2F68\\*MTczODM2MDUwOS4yLjAuMTczODM2MDU4Mi42MC4wLjA](https://www.ochaopt.org/content/reported-impact-snapshot-gaza-strip-5-november-2024?_gl=1*956120*_ga*MTM5NjU2NjMxNC4xNzM4MjY2MzY3*_ga_E60ZNX2F68*MTczODM2MDUwOS4yLjAuMTczODM2MDU4Mi42MC4wLjA)).

the United Nations, only 39 per cent of planned missions to North Gaza have been facilitated in 2024, which severely limits the ability of humanitarian organizations to deliver aid there.

1.54. The United Nations has also estimated that, as of October 2024, food supplies to the entire Gaza Strip have significantly declined owing to new Israeli restrictions imposed on humanitarian aid. Israeli authorities introduced a customs rule requiring individuals from relief organizations to provide passport details and accept liability for any false information on shipments, particularly affecting UN-chartered truck convoys from Jordan to Gaza. UN data confirmed that as of September 2024, food and aid deliveries dropped to their lowest in seven months<sup>76</sup>.

1.55. Moreover, Israeli checkpoints have imposed unpredictable and often dangerous procedures, including changing agreements on staff screening and firing warning shots at UN vehicles. These actions have delayed humanitarian operations and exposed aid workers to serious risks. Israel has also imposed severe restrictions on the import of essential humanitarian items, including spare parts for water and sanitation infrastructure, solar panels, and generators. These restrictions have hindered the ability of humanitarian organizations to provide basic services to the population in Gaza.

1.56. It has been noted in this regard that “humanitarian trucks are also subjected to long inspections. Upon inspection, if any single item or pallet on a truck is incorrectly logged or rejected by the Israeli authorities, the entire truck is denied entry to Gaza through either crossing”<sup>77</sup>. The process of issuing permits for humanitarian personnel is equally burdensome, often taking from two to three weeks and requiring coordination with multiple Israeli agencies<sup>78</sup>.

1.57. The 16-year blockade of Gaza by Israel had already restricted the flow of essential commodities, including fuel, food, and medical supplies, thereby negatively affecting Gaza’s economy. Israel’s military operations after 7 October 2023 have immensely exacerbated these

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<sup>76</sup> Reuters, “Food aid to Gaza falls as Israel sets new rule – sources”, 2 October 2024 (available at: <https://www.reuters.com/world/middle-east/food-aid-gaza-falls-israel-sets-new-aid-rule-sources-2024-10-02/>).

<sup>77</sup> ACAPS, “Palestine: Humanitarian access to and within the Gaza Strip: five months into the recent hostilities”, 8 March 2024, p. 2 (available at: [https://www.acaps.org/fileadmin/Data\\_Product/Main\\_media/20240308\\_ACAPS\\_Palesstine\\_Gaza\\_humanitarian\\_access\\_note.pdf](https://www.acaps.org/fileadmin/Data_Product/Main_media/20240308_ACAPS_Palesstine_Gaza_humanitarian_access_note.pdf)), p. 2.

<sup>78</sup> *Ibid.*

restrictions, including cutting off electricity and fuel, leading to blackouts and the collapse of critical civilian infrastructure<sup>79</sup>.

1.58. UNRWA's facilities, as noted in the previous section, have been particularly targeted as part of the Israeli military campaign, including hospitals, clinics and schools. Over 205 UNRWA installations have been damaged, and 7 out of 26 of UNRWA health centers have become non-functional<sup>80</sup>. The destruction of these facilities has severely hindered the delivery of humanitarian aid and services provided to civilians residing in Gaza. Since 7 October 2023, Israel's armed operations have forcibly displaced over 1.9 million Gazans, many of whom have sought shelter in overcrowded UNRWA schools and other public facilities<sup>81</sup>. According to the United Nations, Israeli authorities have detained and ill-treated UNRWA staff, sometimes subjecting them to torture or inhuman treatment. As of January 2025, twenty UNRWA staff members remain in Israeli detention, with no access granted to the Agency to visit them<sup>82</sup>.

1.59. The severe four-month siege imposed on North Gaza, declared by Israel on 9 October 2024, has severely limited the population's access to vital necessities such as food, water, and medical supplies<sup>83</sup>. This siege has brought the city to the precipice of unprecedented humanitarian disaster. The United Nations has reported that residents of North Gaza are experiencing severe deprivation and unparalleled hardships, with families dealing with acute food insecurity and many surviving on fewer than one meal per day<sup>84</sup>. Additionally, OCHA revealed that between 6 October and 30 December 2024, out of 164 attempts to deliver aid to

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<sup>79</sup> *Ibid.*, p. 6.

<sup>80</sup> OCHA, "Reported Impact Snapshot | Gaza Strip", 28 January 2025 (available at: <https://www.ochaopt.org/content/reported-impact-snapshot-gaza-strip-28-january-2025>).

<sup>81</sup> UNRWA, "UNRWA Situation Report #148 On The Humanitarian Crisis In The Gaza Strip And The West Bank, Including East Jerusalem", 20 November 2024 (available at: <https://www.unrwa.org/resources/reports/unrwa-situation-report-148-situation-gaza-strip-and-west-bank-including-east-jerusalem>).

<sup>82</sup> *Ibid.*

<sup>83</sup> PBS News, "Israeli defense minister orders 'complete siege' on Gaza after Hamas surprise attack", 9 October 2023 (available at: <https://www.pbs.org/newshour/world/israeli-defense-minister-orders-complete-siege-on-gaza-after-hamas-surprise-attack>).

<sup>84</sup> Associated Press, "Many in Gaza are eating just once a day, as hunger spreads amid aid issues", 22 November 2024 (available at: <https://apnews.com/article/israel-palestinians-hamas-war-aid-hunger-9500a5d59f31c7dd4722115fe5dba83e>).



besieged areas in North Gaza, 148 were blocked by Israeli authorities, while 16 others faced significant obstacles, in violation of international humanitarian law<sup>85</sup>.

1.60. The humanitarian disaster post-7 October 2023, whether caused by Israel's restrictions on aid entry, food insecurity, malnutrition, the collapse of the education system, or the lack of access to basic necessities, has led to the degradation of the social structure in Gaza, including reports of looting and violence as desperate civilians compete for limited resources. The absence of a functioning civilian police force has further compounded this situation, with aid convoys and warehouses frequently being at risk<sup>86</sup>.

1.61. The humanitarian situation in Gaza carries severe long-term consequences. Rebuilding critical infrastructure, such as schools and hospitals, would require years of effort and resources<sup>87</sup>. The breakdown of the education system is expected to have generational effects, as hundreds of thousands of children are deprived of schooling and endure lasting psychological trauma<sup>88</sup>. Meanwhile, the healthcare system is nearing total collapse, with severely limited ability to provide treatment for the injured and ill, exacerbating the already dire situation<sup>89</sup>.

1.62. In the West Bank, concurrent with the war in Gaza, Israeli forces have conducted multiple ground incursions, often supported by airstrikes, into various Palestinian cities and refugee camps<sup>90</sup>. These operations have resulted in the deaths of 877 Palestinians, with over

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<sup>85</sup> UNRWA, "UNRWA Situation Report #153 On The Humanitarian Crisis In The Gaza Strip And The West Bank, Including East Jerusalem", 4 January 2025 (available at: <https://www.unrwa.org/resources/reports/unrwa-situation-report-153-situation-gaza-strip-and-west-bank-including-east-jerusalem>).

<sup>86</sup> OCHA, "Reported Impact Snapshot | Gaza Strip", 28 January 2025 (available at: <https://www.ochaopt.org/content/reported-impact-snapshot-gaza-strip-28-january-2025>); ACAPS, "Palestine: Humanitarian access to and within the Gaza Strip: five months into the recent hostilities", 8 March 2024, p. 2 (available at: [https://www.acaps.org/fileadmin/Data\\_Product/Main\\_media/20240308\\_ACAPS\\_Palesstine\\_Gaza\\_humanitarian\\_access\\_note.pdf](https://www.acaps.org/fileadmin/Data_Product/Main_media/20240308_ACAPS_Palesstine_Gaza_humanitarian_access_note.pdf)).

<sup>87</sup> NPR, "Rebuilding Gaza will be a massive project. Here are 5 things to know", 22 January 2025, (available at: <https://www.npr.org/2025/01/22/nx-sl-5262884/gaza-israel-reconstruction-war-palestinians#:~:text=The%20United%20Nations%20estimates%20that,it%20would%20take%20a%20decade>).

<sup>88</sup> OCHA, "Reported Impact Snapshot | Gaza Strip", 28 January 2025 (available at: <https://www.ochaopt.org/content/reported-impact-snapshot-gaza-strip-28-january-2025>, accessed on 23 February 2025) (Global Education Cluster).

<sup>89</sup> *Ibid.* (Health Cluster).

<sup>90</sup> Reuters, "Israel strikes militant compound under West Bank Mosque, military says", 22 October 2023 (available at: <https://www.reuters.com/world/middle-east/israeli-jets-strike-west-banks-jenin-two-killed-palestinian-medics-2023-10-21/>).

7,000 injured and approximately 12,100 detained<sup>91</sup>. The most significant military campaign during this period was “Operation Summer Camp” which targeted Jenin, Tulkarm, and Tubas. Reports indicate widespread aerial and ground strikes, exchanges of gunfire, and detonations of explosive devices, leading to substantial casualties and extensive infrastructure damage, particularly due to the use of bulldozers across multiple governorates<sup>92</sup>.

1.63. Following the 7 October 2023 events, there was also a notable surge in settler violence against Palestinians, escalating into what was described as a “systematic campaign” to displace Palestinian communities<sup>93</sup>. From 7 October 2023 to 31 December 2024, at least 1,860 settler attacks were recorded, making 2024 the worst year on record<sup>94</sup>. Nearly 1,400 of these attacks involved physical violence, arson, and property destruction, averaging almost four incidents per day. These attacks were often carried out with the apparent support or tolerance of Israeli soldiers. Additionally, there have been organized attacks on humanitarian aid convoys by Israeli settlers headed to Gaza under the protection of the Israeli military, a number of which were through the Jordan land route<sup>95</sup>. From 4 to 10 February 2025 alone, OCHA documented 15 incidents involving Israeli settlers that led to casualties, property damage or both<sup>96</sup>.

1.64. The agreement between Israel and Hamas on a temporary ceasefire and the release of hostages and prisoners, which entered into force on 19 January 2025, may assist to some extent in alleviating the suffering of the civilian population in Gaza. Its temporary nature, however, and the fact that the humanitarian relief is dependent on the actions and measures of Israel, as

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<sup>91</sup> Middle East Monitor, “Israel arrested 12,100 Palestinians in West Bank since Oct 2023”, 13 December 2024 (available at: <https://www.middleeastmonitor.com/20241213-israel-arrested-12100-palestinians-in-west-bank-since-oct-2023/>).

<sup>92</sup> Mondoweiss, “Israel launches large-scale military invasion in the northern West Bank”, 28 August 2024 (available at: <https://mondoweiss.net/2024/08/israel-launches-large-scale-military-invasion-in-the-northern-west-bank/>); CNN, “All the streets were destroyed: Palestinians count the cost as Israel pulls back from Jenin”, 28 August 2024 (available at: <https://www.cnn.com/2024/09/06/middleeast/israeli-military-operation-jenin-west-bank-enters-second-week-intl/index.html>).

<sup>93</sup> Financial Times, “How extremist settlers in the West Bank became the law”, 27 October 2024 (available at: <https://ig.ft.com/west-bank/>).

<sup>94</sup> OCHA, “West Bank Monthly Snapshot - Casualties, Property Damage and Displacement | December 2024”, 14 January 2025 (available at: <https://www.ochaopt.org/content/west-bank-monthly-snapshot-casualties-property-damage-and-displacement-december-2024>); OCHA, “Today's top news: Occupied Palestinian Territory, Syria”, 31 December 2024 (available at: <https://www.unocha.org/news/todays-top-news-occupied-palestinian-territory-syria-5>).

<sup>95</sup> The Washington Post, “Far-right Israeli settlers step up attacks on aid trucks bound for Gaza”, 26 May 2024 (available at: <https://www.washingtonpost.com/world/2024/05/26/west-bank-aid-trucks-gaza-settlers/>).

<sup>96</sup> OCHA, “Humanitarian Situation Update #264 | West Bank”, 13 February 2025 (available at: <https://www.ochaopt.org/content/humanitarian-situation-update-264-west-bank>).

the occupying Power, serve to emphasize the urgency and importance of the request for an advisory opinion by the Court. Whether or not the ceasefire is sustained, the situation in the Occupied Palestinian Territory, especially in Gaza, is contingent upon Israel's performance of its legal obligations, as an occupying Power, including its obligations to protect the civilian population in the Occupied Palestinian Territory in the event of a humanitarian disaster.

1.65. On 21 January 2025, Israel initiated a large-scale military campaign across several West Bank cities, beginning in Jenin refugee camp and subsequently expanding to Tulkarm, Nur Shams, and El Far'a camps<sup>97</sup>. The operation displaced approximately 40,000 Palestinian refugees and resulted in the deaths of around 50 Palestinians<sup>98</sup>. According to UN estimates, 82 per cent of displaced families in the northern West Bank are currently residing in rented accommodations, with ongoing efforts to enhance assistance to address their needs. Additionally, 24 attacks on healthcare facilities were documented in January 2025, including a direct gunfire incident targeting the chemotherapy ward of Jenin Governmental Hospital on 2 February 2025<sup>99</sup>.

### **III. The Hashemite Kingdom of Jordan's special interest**

1.66. Jordan has been at the forefront on the question of Palestine since the beginning of the Arab-Israeli conflict. As a result of the 1948 and 1967 wars, Jordan has received hundreds of thousands of Palestine refugees who were forcefully displaced. There are today more than 2.39 million refugees registered with UNRWA who live in Jordan<sup>100</sup>.

1.67. Following the Oslo Accords signed between the Palestinian Liberation Organization and Israel, Jordan concluded a Treaty of Peace with Israel on 26 October 1994<sup>101</sup>. The Treaty ended the state of war between the two States and led to the establishment of diplomatic relations between them. Jordan has since then been a strong proponent of achieving a just, lasting and comprehensive peace between the Israelis and Palestinians that would lead to a

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<sup>97</sup> UN News, "Israeli military operation displaces 40,000 in the West Bank", 10 February 2025 (available at: <https://news.un.org/en/story/2025/02/1159971>).

<sup>98</sup> *Ibid.*

<sup>99</sup> *Ibid.*

<sup>100</sup> UNRWA, "Where we work, Jordan" (available at: <https://www.unrwa.org/where-we-work/jordan>).

<sup>101</sup> Treaty of Peace between the State of Israel and the Hashemite Kingdom of Jordan, 26 October 1994, 2042 UNTS 35.

withdrawal of Israel from the territories it occupied in June 1967 and the creation of an independent Palestinian State on such territories, including East Jerusalem.

1.68. Over the last three decades, peace negotiations between Israel and the Palestinian Liberation Organization regrettably failed to bring a peaceful settlement that would end the Israeli occupation of 1967 and the recognition of a Palestinian State. Israel has, especially over the last two decades, failed to engage in good faith efforts to reach a two-State solution through negotiations. Israel has instead engaged in concerted policies to create realities on the ground that would end the prospects for the realization of the Palestinian people's right to self-determination and for the creation of a Palestinian State. This has been carried out systematically by Israel through annexation and settlement policies in the occupied West Bank and East Jerusalem, as well as by measures and restrictions against the civilian Palestinian population that are tantamount to racial segregation and apartheid. The "Great Israel" became the policy of the Israeli government, as demonstrated by the statements of Israeli leaders and officials<sup>102</sup>.

1.69. Since 7 October 2023, Israel made concerted efforts to displace the civilian population in the Gaza Strip to the south near the Egyptian border. Owing to the destruction, bombardment, and military orders of the Israeli forces, the north of Gaza was mostly emptied of its population; indeed, out of nearly 2.3 million Gazans, more than 1.8 million were displaced to the south of the Strip<sup>103</sup>. Israeli leaders seemed intent to transfer the civilian population of Gaza by exploiting the devastating humanitarian situation there to advance this goal<sup>104</sup>.

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<sup>102</sup> See also the Written Statement of Jordan in *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*, pp. 20–33, 68–83; *2024 Advisory Opinion*, para. 245.

<sup>103</sup> Al Jazeera, "How Israel is squeezing 1.8 million Palestinians into an airport-sized area", 6 December 2023 (available at: <https://www.aljazeera.com/news/2023/12/6/how-israel-is-squeezing-1-8-million-palestinians-into-an-airport-sized-area#ixzz8z8CjCBnu>); UNRWA Situation Report #111 on The Situation In The Gaza Strip And The West Bank, Including East Jerusalem, 5 June 2024 (available at: <https://www.unrwa.org/resources/reports/unrwa-situation-report-111-situation-gaza-strip-and-west-bank-including-east-jerusalem>)

<sup>104</sup> B. Woodward, *War* (Simon & Schuster, 2024), Chapter 46 (during a meeting between US Secretary of State, Anthony Blinken, and Israel's Prime Minister on 12 October 2023 to discuss the military operation in Gaza, Blinken inquired about what would happen to the civilians in Gaza. The response from Netanyahu was "let us set up a humanitarian corridor. We'll take them all into Egypt and let them go there").

1.70. In response to the apparent Israeli efforts to forcefully displace the population of Gaza, both the Security Council and the General Assembly adopted several resolutions throughout the period of armed hostilities in Gaza, asserting the illegality of forced displacement of the civilian population under international humanitarian law<sup>105</sup>.

1.71. Jordan has been vocal in objecting to such Israeli efforts to displace the civilian population in Gaza, concerned that Israel may also target the Palestinian population in the West Bank and East Jerusalem to Jordan. The Jordanian Government issued statements and sent messages to the Israeli Government warning of such attempts. This has been prompted by the attack of Israeli settlers on the Palestinians and their property throughout the Occupied Palestinian Territory, with no action being taken by the Israeli forces and authorities to stop such attacks. This has been taking place in conjunction with severe restrictions that the occupying power has been imposing on the livelihood and movement of Palestinians in their towns and villages in the West Bank. Such restrictions and actions include besieging Palestinian areas, destructions of critical infrastructure and subjecting Palestinians to searches and humiliating measures at checkpoints.

1.72. Following the temporary ceasefire in Gaza, Israel extended its military operation in areas in the West Bank, including Jenin refugee camp. If such military measures continue or intensify, there would be a significant danger that the civilian population of the West Bank would face deteriorating humanitarian situation that would also trigger the displacement of such population or parts thereof, including towards the Jordanian border.

1.73. It is against this background that Jordan places emphasis on the request for an advisory opinion, in view of the importance and implications of the current situation in the Occupied Palestinian Territory on the vital interests of Jordan.

1.74. Jordan has, consistent with its obligations under international law, been one of the main providers of humanitarian assistance to the civilian population in the Gaza Strip since 7 October 2023.

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<sup>105</sup> Security Council resolution 2712, 15 November 2023; Security Council resolution 2720, 22 December 2023; Security Council resolution 2735, 10 June 2024; General Assembly resolution ES-10/21, 27 October 2023; General Assembly resolution ES-10/24, 18 September 2024; General Assembly resolution ES-10/26, 11 December 2024.

1.75. As of 27 January 2025, Jordan has sent 147 aid convoys to Gaza, via the Jordan route, with a total of 5,569 trucks carrying more than 66,000 tons of aid, valued at \$171.5 million. These convoys have delivered food, medical supplies, sanitary products, blankets, and tents, benefiting more than 1.3 million people, residing in the Strip. The convoys were dispatched by the Jordanian Armed Forces — Arab Army, the World Food Programme, UNICEF, and other humanitarian organizations.

1.76. In addition to land aid convoys, Jordan has established a humanitarian air bridge to Gaza. The first operation of this bridge took place on 20 November 2024, with 8 helicopters, delivering 7.2 tons of basic aid to Gaza. Jordan has also conducted 391 airdrops, with 125 carried out independently as well as 266 in tandem with other countries.

1.77. Jordan has also provided medical support through its field hospitals and surgical stations based in Gaza. These medical facilities offer services in general surgery, pediatric surgery, and other medical specialties. Additionally, the Jordanian hospital in North Gaza has received more than 36,000 cases, while the hospital in Khan Younis has dealt with over 60,000 cases since its establishment in 2024. In September 2024, Jordan has deployed two mobile clinics in Gaza to support amputees, benefiting 245 patients.

1.78. As Jordan continues in its efforts to provide the urgently needed essential medical and humanitarian supplies, it is important that it does not face unlawful restrictions. International humanitarian law, including the law of occupation, imposes specific obligations on Israel in this regard. The same applies to the provision of assistance to the other parts in the Occupied Palestinian Territory, where the Israeli military operation may threaten the humanitarian situation.

1.79. If the measures against UNRWA and its operation in the Occupied Palestinian Territory, described in Sub-Section A above, continue, then the humanitarian situation will further deteriorate, thus risking further displacement of the Palestinian population and placing more pressure on the assisting actors, including Jordan, in providing and delivering such assistance.

1.80. Israel's measures against UNRWA will have direct negative effects on the Agency's services in Jordan, one of the areas of operation of the Agency. Jordan will not be able to assume the cost and services that UNRWA provides for the Palestinian refugees registered with

the Agency in Jordan. The forced displacement of the civilian population in the Occupied Palestinian Territory towards Jordan's borders, as a direct result of Israel's policies, restrictions and military operations, will be a severely destabilizing factor, not only on Jordan but on the whole Middle East region.

1.81. Jordan has invested heavily in the peace process and political settlement of the Palestinian-Israeli conflict based on the two-State solution. It recognized the State of Israel and the State of Palestine and has diplomatic relations with both. Actions by Israel in the Occupied Palestinian Territory, including the humanitarian restrictions, purport to end the prospects of the two-State solution and an independent Palestinian state. It is therefore of vital importance for Jordan that the humanitarian situation in the Occupied Palestinian Territory does not further deteriorate, as a result of Israeli unlawful conduct.

1.82. Under Article 8 of the Treaty of Peace between Jordan and Israel, the two parties agreed to seek to alleviate "the massive human problems" caused to them by the conflict in the Middle East and to resolve these problems, including the issue of refugees, in accordance with international law. Israel must respect this obligation by not causing further deterioration of the humanitarian situation in the Occupied Palestinian Territory and further displacement of the civilian population from the Occupied Palestinian Territory.

#### **IV. The issues raised by the request**

1.83. The Court's previous Advisory Opinions regarding the Occupied Palestinian Territory provide important background for the present request. They have clarified, in particular, the scope and content of the right to self-determination, to which the Palestinian people is entitled, as well as the applicability of international humanitarian law and international human rights law to the Occupied Palestinian Territory. The Court has moreover determined the manner in which Israel has violated, and continues to violate, its various obligations under international law in this context, and what are the legal consequences of those breaches. The Court has also, importantly, found that Israel's occupation is unlawful as such, and that Israel has an obligation to end the occupation as rapidly as possible.

1.84. The present request raises certain specific issues that the Court has not directly addressed in its previous Advisory Opinions, and which are crucial in the context of the humanitarian catastrophe that the Occupied Palestinian Territory is undergoing at present.

1.85. The request refers, first, to “the obligations of Israel, as an occupying Power and as a member of the United Nations”. The Court is thus not called upon to address the obligations that other States or international organizations may have. These may, however, be relevant when determining the scope of some of Israel’s own obligations, both as an occupying Power and as a member of the United Nations, towards the United Nations, other international organizations and third States.

1.86. Second, Israel’s obligations must relate “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”. This further delineates the scope of the question. The obligations in question must not only relate to activities within the Occupied Palestinian Territory, but also to activities relating to it (that is, activities outside the Occupied Palestinian Territory having a connection with the latter).

1.87. At the same time, the actors referred to in the request are diverse: the United Nations, other international organizations and third States. The obligations of Israel in question may vary in each case.

1.88. The scope of the question is further specified by the phrase “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”. The use of the word “including” suggests that obligations of Israel in respect of other matters may also be addressed, but the phrase still indicates what is the focus of the request.

1.89. This qualifies the “presence and activities” that are relevant in this case. Thus, the presence and activities of the United Nations, other international organizations and third States that are most relevant are those that concern: (1) the provision of urgently needed supplies essential to the survival of the Palestinian civilian population; (2) the provision of basic services; (3) the provision of humanitarian assistance; and (3) the provision of development assistance. In practice, these types of assistance are often interrelated, especially in complex conflicts such as the one unfolding in the Occupied Palestinian Territory, where nearly every aspect of the life of the civilian population may be affected. They concern, notably, the supply



of food, water, medicine, medical goods and services, and education, as well as other related humanitarian relief.

1.90. Finally, the usefulness of the Court's advisory opinion — which will be felt particularly by the individuals on the ground, both those suffering as a consequence of the dire humanitarian situation and those providing relief — will lie on the degree of precision with which the Court addresses those obligations, taking into account the current factual situation in the Occupied Palestinian Territory.

1.91. Given the grave humanitarian situation existing in the Occupied Palestinian Territory, which has been described in some detail in the previous section, the General Assembly has requested the Court to deal with this request for an advisory opinion as a matter of urgency.



## CHAPTER 2

### JURISDICTION AND PROPRIETY

2.1. This chapter demonstrates that the Court has jurisdiction to give the advisory opinion requested by the General Assembly in its resolution 79/232 (I) and that there are no compelling reasons why the Court should, in the exercise of its discretion, decline to answer the request (II).

#### I. The Court has jurisdiction to give the advisory opinion

2.2. The Court's jurisdiction to give an advisory opinion is based on Article 65(1) of the Statute, which provides that:

“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”.

2.3. Pursuant to Article 96(1) of the Charter of the United Nations:

“The General Assembly or the Security Council may request the International Court of Justice to give an advisory opinion on any legal question”.

2.4. Applying these provisions, the Court has highlighted that the only requirement for a request by the General Assembly to fall within its jurisdiction is that the advisory opinion requested be on a “legal question”<sup>106</sup>. It has recalled on various occasions that, given their broad competencies, this distinguishes the General Assembly and the Security Council from other organs authorized to request an advisory opinion from the Court, the latter being limited to asking legal questions arising within the scope of their activities<sup>107</sup>.

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<sup>106</sup> See, for example, *Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965*, Advisory Opinion, I.C.J. Reports 2019, pp. 112–113, paras. 55–62; 2024 Advisory Opinion, para. 25.

<sup>107</sup> *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Advisory Opinion, I.C.J. Reports 2004, p. 144, para. 14, referring to *Application for Review of Judgement No. 273 of the United Nations Administrative Tribunal*, Advisory Opinion, I.C.J. Reports 1982, pp. 333–334, para. 21 (“It is ... a precondition of the Court's competence that the advisory opinion be requested by an organ duly authorized to seek it under the Charter, that it be requested on a legal question, and that, *except in the case of the General Assembly or the Security Council*, that question should be one arising within the scope of the activities of the requesting organ”) (emphasis added).

2.5. Moreover, the Court has made clear that nothing prevents the General Assembly from requesting an advisory opinion on a legal question related to a matter which is on the Security Council's agenda at the time of the request. In particular, neither the text of Article 12(1) of the Charter, nor the way in which that provision has been understood and applied, limits the General Assembly's competence in this regard. The Court said so specifically in its advisory opinion in *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory* (the "**2004 Advisory Opinion**"), with reference to the Security Council's engagement with the situation in the Middle East<sup>108</sup>.

2.6. With regard to the nature of the question submitted, the Court has expressly stated that "a request from the General Assembly for an advisory opinion to examine a situation by reference to international law concerns a legal question"<sup>109</sup>. This is plainly the case as regards the question asked in the present request, which relates to "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". The Court is, as the *chapeau* to the question makes clear, requested to answer the question by reference to international law.

2.7. The fact that the questions asked may also have a political character is irrelevant in the determination of whether the Court has jurisdiction to answer the request and cannot "deprive the Court of a competence expressly conferred on it by its Statute"<sup>110</sup>. As the Court has stated on numerous occasions:

"the fact that a question has political aspects does not suffice to deprive it of its character as a legal question ... Whatever its political aspects, the Court cannot refuse to admit the legal character of a question which invites it to discharge an

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<sup>108</sup> *2004 Advisory Opinion*, pp. 148–150, paras. 24–28, with the Court concluding at para. 28 that "the General Assembly, in adopting resolution ES-10/14, seeking an advisory opinion from the Court, did not contravene the provisions of Article 12, paragraph 1, of the Charter" and that "by submitting that request the General Assembly did not exceed its competence". See also *Accordance with International Law of the Unilateral Declaration of Independence in Respect of Kosovo, Advisory Opinion, I.C.J. Reports 2010*, p. 414, para. 24.

<sup>109</sup> *Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965, Advisory Opinion, I.C.J. Reports 2019*, p. 112, para. 58.

<sup>110</sup> *2004 Advisory Opinion*, p. 155, para. 41; *Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion, I.C.J. Reports 1966*, p. 234, para. 13.

essentially judicial task, namely, an assessment of the legality of the possible conduct of States with regard to the obligations imposed upon them by international law”<sup>111</sup>.

2.8. Similarly, the political nature of the motives which may have inspired the request, or the political implications which the Court’s opinion might have, has no bearing on the qualification of the questions as being of a legal character<sup>112</sup>. Furthermore, as the Court has already explained:

“in situations in which political considerations are prominent it may be particularly necessary for an international organization to obtain an advisory opinion from the Court as to the legal principles applicable with respect to the matter under debate”<sup>113</sup>.

2.9. Jordan maintains, in light of the above, that the question submitted to the Court is legal in character and that the request for an advisory opinion has been made in accordance with the Charter. The Court consequently has jurisdiction to give the advisory opinion requested by resolution 79/232 of the General Assembly.

## **II. There are no compelling reasons for the Court not to exercise its jurisdiction**

2.10. The Court has emphasized on several occasions that its answer to a request for an advisory opinion “should not be refused”, unless “compelling reasons would justify refusal of such a request”<sup>114</sup>. In the present case, not only do such “compelling reasons” not exist, but there are instead urgent “compelling reasons” for the Court to comply with the request by the General Assembly.

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<sup>111</sup> *Accordance with International Law of the Unilateral Declaration of Independence in Respect of Kosovo, Advisory Opinion, I.C.J. Reports 2010*, p. 415, para. 27; *2004 Opinion*, p. 155, para. 41; *Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion, I.C.J. Reports 1996*, p. 234, para. 13.

<sup>112</sup> *Accordance with International Law of the Unilateral Declaration of Independence in Respect of Kosovo, Advisory Opinion, I.C.J. Reports 2010*, p. 415, para. 27, referring to *Conditions of Admission of a State to Membership in the United Nations (Article 4 of the Charter), Advisory Opinion, 1948, I.C.J. Reports 1947–1948*, p. 61, and *Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion, I.C.J. Reports 1996*, p. 234, para. 13.

<sup>113</sup> *Interpretation of the Agreement of 25 March 1951 between the WHO and Egypt, Advisory Opinion, I.C.J. Reports 1980*, p. 87, para. 33; *2004 Advisory Opinion*, p. 155, para. 41.

<sup>114</sup> See *Application for Review of judgment no. 333 of the UN Administrative Tribunal, Advisory Opinion, ICJ Reports 1987*, p. 31; *Western Sahara, Advisory Opinion, ICJ Reports 1975*, p. 21, para. 23; *Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion, I.C.J. Reports 1996*, p. 235, para. 14; *Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965, Advisory Opinion, I.C.J. Reports 2019*, p. 113, para. 65; *Accordance with International Law of the Unilateral Declaration of Independence in Respect of Kosovo, Advisory Opinion, I.C.J. Reports 2010*, p. 416, para. 30; *2004 Advisory Opinion*, p. 156, para. 44; *2024 Advisory Opinion*, paras. 30, 31, 43 and 47.

2.11. This is not the first case in which the Court is requested to give an advisory opinion relating to the policies and practices of Israel in the Occupied Palestinian Territory. On the two prior occasions, different — and similar — arguments were advanced by some States in order to seek to challenge the exercise of the Court’s advisory jurisdiction. All of them were rejected.

2.12. During the 2003 advisory proceedings, certain States argued (1) that there was a contentious dispute between Israel and Palestine and the former did not consent to the Court’s jurisdiction; (2) that an advisory opinion by the Court could impede a political, negotiated solution to the Israeli-Palestinian conflict; (3) that the Court did not have at its disposal the requisite facts and evidence to enable it to reach its conclusions; (4) that such an opinion would lack any useful purpose; and (5) that the General Assembly had not made clear what use it would make of an advisory opinion. In addition, (6) Israel has contended that Palestine, given its responsibility for acts of violence against Israel and its population, could not seek from the Court a remedy for a situation resulting from its own wrongdoing<sup>115</sup>.

2.13. In relation to the 2024 Advisory Opinion, the following arguments were made: (1) the request for an advisory opinion related to a dispute between two parties, one of which had not consented to the jurisdiction of the Court; (2) the opinion would not assist the General Assembly; (3) the opinion might undermine the Israeli-Palestinian negotiation process; (4) an advisory opinion would be detrimental to the work of the Security Council; (5) the Court did not have sufficient information to enable it to give an advisory opinion; and (6) the questions were formulated in a biased manner.

2.14. If any of these arguments are raised again in the context of the current request, they ought to be solved following the Court’s prior analysis, which would remain applicable. Indeed, the explanations advanced by some States to justify voting against Resolution 79/232 were a repetition of some of these same arguments.

2.15. According to the United States of America, the referral of the question to the Court would “not encourage the parties to engage with one another on a political process to solve issues”, the draft resolution requesting the advisory opinion was “one-sided”, “deeply flawed”,

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<sup>115</sup> 2004 *Advisory Opinion*, pp. 157–164, paras. 45–65.

“fail[ed] to create a path forward for restoring trust between Israel and UNRWA”, “fail[ed] to address credible allegations about activities of some UNRWA personnel”. The United States furthermore suggested that the United Nations had “not yet begun an earnest conversation with Israel regarding implementation of the [Israeli] legislation” and made allegations as to the “Organization’s failure to address lingering questions about whether UNRWA personnel violated the Agency’s neutrality policy”<sup>116</sup>.

2.16. Israel’s explanation of vote concentrated on a political attack against the organs of the United Nations and did not advance any argument having a bearing on the matter of propriety for the exercise of the advisory jurisdiction of the Court<sup>117</sup>. Australia was of the view that Israel’s obligations under international law were clear and that the request for an advisory opinion would not bring practical progress towards peace or the two-State solution<sup>118</sup>. Austria, while condemning the Israeli legislation which would restrict UNRWA’s activities, raised concerns as to what it considered the limited added value of a request for an advisory opinion<sup>119</sup>. Slovakia considered that the issue at hand was concerned more with implementation than clarification of the Israel’s obligations. In its view, the question of the resolution was “not sufficiently clear and specific” and potentially covered matters related to bilateral disputes<sup>120</sup>.

2.17. For the sake of completeness, this section will rebut the core argument as regards propriety raised during the explanation of votes in the General Assembly, namely the possible existence of a bilateral dispute and the lack of consent by one of the parties to it for its consideration by the Court. Indeed, with regard to arguments relating to the opportunity or the practical impact of the advisory opinion, it may be recalled what the Court explained on other occasions:

“... it is not for the Court itself to purport to decide whether or not an advisory opinion is needed by the Assembly for the performance of its functions. The General Assembly has the right to decide for itself on the usefulness of an opinion in the light of its own needs”<sup>121</sup>.

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<sup>116</sup> Doc. A/79/PV.54, 19 December 2024, pp. 46–47.

<sup>117</sup> *Ibid.*, pp. 47–48.

<sup>118</sup> 19 December 2024 (verbatim record from the United Nations not yet available).

<sup>119</sup> 19 December 2024 (verbatim record from the United Nations not yet available).

<sup>120</sup> 19 December 2024 (verbatim record from the United Nations not yet available).

<sup>121</sup> *Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion, I.C.J. Reports 1996 (I)*, p. 237, para. 16; *2004 Advisory Opinion*, p. 163, para. 61; *2024 Advisory Opinion*, para. 37.

2.18. The Court has already rejected arguments as regards propriety relating to the existence of a dispute between Israel and Palestine, given the major concern and involvement of the United Nations and its organs in the question<sup>122</sup>. As was seen above, in connection with the present request for an advisory opinion, certain States mentioned the question of lack of negotiations between the United Nations and Israel, assuming the possibility of the existence of a dispute between them in relation to the laws passed by the Israeli Knesset concerning UNRWA.

2.19. The issue can be addressed at three different levels: (A) the impact of the existence of a bilateral dispute in the context of a request for an advisory opinion, (B) the content of the “difference” between Israel and the United Nations and its impact and (C) the scope of the present request of an advisory opinion.

#### **A. The impact of the existence of a bilateral dispute**

2.20. The Court has already addressed the issue of the existence of a bilateral dispute in the context of a request for an advisory opinion. In *Western Sahara* it observed:

“In certain circumstances ... the lack of consent of an interested State may render the giving of an advisory opinion incompatible with the Court’s judicial character. An instance of this would be when the circumstances disclose that to give a reply would have the effect of circumventing the principle that a State is not obliged to allow its disputes to be submitted to judicial settlement without its consent”<sup>123</sup>.

2.21. Commenting on this, the Court considered in the *2004 Advisory Opinion* that:

“In applying that principle to the request concerning *Western Sahara*, the Court found that a legal controversy did indeed exist, but one which had arisen during the proceedings of the General Assembly and in relation to matters with which the Assembly was dealing. It had not arisen independently in bilateral relations ...”<sup>124</sup>.

2.22. In the current advisory proceedings, it may be considered that a “difference of views” exists between the United Nations and one member State (Israel). The Court has noted that “[d]ifferences of views ... on legal issues have existed in practically every advisory

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<sup>122</sup> *2004 Advisory Opinion*, pp. 158–159, para. 48; *2024 Advisory Opinion*, paras. 34–35.

<sup>123</sup> *Western Sahara, Advisory Opinion, I.C.J. Reports 1975*, p. 25, paras. 32–33.

<sup>124</sup> *2004 Advisory Opinion*, p. 158, para. 47.



proceeding”<sup>125</sup>. In this particular case it occurs in the context of the very activity of the United Nations and with regard to its organs, in relation to the obligations of Israel as a member of the Organization and as the occupying Power of the Occupied Palestinian Territory. As the Court has already observed, and as is applicable here again:

“The object of the request before the Court is to obtain from the Court an opinion which the General Assembly deems of assistance to it for the proper exercise of its functions. The opinion is requested on a question which is of particularly acute concern to the United Nations ..., the Court does not consider that to give an opinion would have the effect of circumventing the principle of consent to judicial settlement, and the Court accordingly cannot, in the exercise of its discretion, decline to give an opinion on that ground”<sup>126</sup>.

**B. The content of the “difference of views” between the United Nations and Israel and its impact**

2.23. On 28 October 2024, the Secretary-General brought to the attention of the General Assembly the legislation adopted by the Israeli Knesset, “which, if implemented, could prevent the UNRWA from continuing its essential work in the Occupied Palestinian Territory”<sup>127</sup>. Resolution 79/232, requesting the present advisory opinion, considered that, “according to the aforementioned letter, it can readily be appreciated that a situation may exist in which a difference has arisen between the United Nations and the State of Israel regarding, among other things, the interpretation or application of the Convention on the Privileges and Immunities of the United Nations, to which Israel is a party”.

2.24. Section 30 of the Convention provides that, if a difference arises between the United Nations and a Member, “a request shall be made for an advisory opinion on any legal question involved in accordance with Article 96 of the Charter and Article 65 of the Statute of the Court”. The provision continues by establishing that such an advisory opinion “shall be accepted as decisive by the parties”.

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<sup>125</sup> *Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970), Advisory Opinion*, I. C.J. Reports 1971, p. 24, para. 34.

<sup>126</sup> *2004 Advisory Opinion*, p. 159, para. 50.

<sup>127</sup> Letter dated 28 October 2024 from the Secretary-General addressed to the President of the General Assembly (A/79/558).

2.25. Indeed, the present request for an advisory opinion is not the type of request envisaged in Section 30 of the General Convention on the Privileges and Immunities of the United Nations of 1946 (“**General Convention**”). The General Assembly is in a position to make a request based on Section 30. *A fortiori*, it can also request an advisory opinion from the Court while taking a decision in this regard.

2.26. This “difference” is crucially distinct from a bilateral inter-State dispute. It concerns the basic functioning of the United Nations and its organs. The General Assembly, a principal organ of the United Nations, is clearly competent to seek legal guidance from the Court in order to decide the possible further paths to follow, including a new request on the basis of Section 30. Neither the General Assembly nor the Court needs the consent from the State of Israel to request (in the case of the former) or to render (in the case of the latter) the present advisory opinion.

2.27. Some statements, explaining the reasons for certain States’ opposition or abstention to resolution 79/232, mentioned the allegations made by Israel in relation to the neutrality of UNRWA or alleged criminal actions of some of its staff. As the Secretary-General informed both the General Assembly and the Security Council, the United Nations has taken decisive action in this regard<sup>128</sup>. In any case, the question put to the Court concerns the obligations of Israel and not the allegations on which the latter relies as an excuse to proceed with measures with the aim at frustrating the mandate of UNRWA. As was recalled by the Secretary-General in his letter to the Permanent Representative of Israel to the United Nations of 27 January 2025, no measure by Israel relating to UNRWA’s activities may be effected unilaterally<sup>129</sup>. In any event, these are matters relating to the merits of the differences between Israel and the United Nations and are not covered by the present request for an advisory opinion.

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<sup>128</sup> Letter dated 8 January 2024 from the Secretary-General addressed to the President of the General Assembly (A/78/707). See also para. 1.29 above.

<sup>129</sup> Letter from the Secretary-General to the Permanent Representative of Israel, 27 January 2025, doc. N308 submitted by the Secretariat to the Court.

### **C. The scope of the present request**

2.28. The question raised by the General Assembly in resolution 79/232 is “one which is located in a much broader frame of reference”<sup>130</sup> than the “differences” that exist on the basis of the General Convention. It includes obligations of Israel other than those covered by the General Convention, and not only with regard to the United Nations, but also with regard to other international organizations and third States.

2.29. There is, on the basis of the above, no compelling reason for the Court not to proceed to exercise its advisory jurisdiction as requested by the General Assembly.

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<sup>130</sup> 2004 *Advisory Opinion*, p. 159, para. 50.



## CHAPTER 3

### ISRAEL'S RELEVANT OBLIGATIONS UNDER INTERNATIONAL LAW

3.1. The question on which an opinion of the Court is sought requires an assessment of various areas of international law in which obligations incumbent Israel may be found, “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”. At the same time, the question concerns specifically those obligations that may be relevant taking into account Israel’s status “as an occupying Power and as a member of the United Nations”, and which may be qualified as obligations “in relation to the presence and activities of the United Nations, including its agencies and bodies, other international organizations and third States”.

3.2. In its Resolution 79/232 requesting the advisory opinion, the General Assembly referred to “the rules and principles of international law, as regards in particular the Charter of the United Nations, international humanitarian law, international human rights law, privileges and immunities applicable under international law for international organizations and States, relevant resolutions of the Security Council, the General Assembly and the Human Rights Council, the advisory opinion of the Court of 9 July 2004, and the advisory opinion of the Court of 19 July 2024”.

3.3. To assist the Court in discharging its task, the present chapter identifies Israel’s relevant obligations by reason of the field of international law in which they are found. Specifically, it addresses, in turn, Israel’s obligations arising under: the principle of self-determination (I); the law of the United Nations and other international organizations (II); the law of occupation (III); international human rights law (IV) the law on the protection of persons in the event of disasters (V); binding provisional measures issued by the Court (VI); and diplomatic and consular law (VII). In each case, it is indicated whether the obligations at issue apply in relation to the presence and activities of the United Nations, other international organizations and/or third States.

3.4. Prior findings of the Court on key aspects of the question expedites its current task. The Court has already acknowledged the right of the Palestinian people to self-determination<sup>131</sup>, the legal status of the Occupied Palestinian Territory<sup>132</sup>, the extent of it (including the Gaza strip, the West Bank and East Jerusalem)<sup>133</sup>, the qualification of Israel as the occupying Power<sup>134</sup>, the illegality of this occupation<sup>135</sup> and the obligation of Israel to bring to an end its presence in the Occupied Palestinian Territory as rapidly as possible<sup>136</sup>. The Court has also affirmed the applicability of international humanitarian law and human rights law and their relationship<sup>137</sup> and that the Oslo Accords did not released Israel from its obligations under the relevant rules of international law applicable in the Occupied Palestinian Territory<sup>138</sup>.

3.5. Taking into account those findings, to which Jordan respectfully request the Court to refer to, the sections below develop the obligations of Israel with regard to the presence and activities of the United Nations, other international organizations and third States in and in relation to the Occupied Palestinian Territory.

## **I. The Principle of Self-Determination**

3.6. The question on which an opinion of the Court is sought requires the ascertainment of Israel's obligations 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 "in support of the Palestinian people's right to self-determination". As this section will explain, the principle of self-determination is indeed central to the present advisory proceedings. The realization of this right, to which the Palestinian people is unquestionably entitled, is the background against which all other obligations incumbent upon Israel must be interpreted and applied. It moreover requires Israel, in the present circumstances and consistent

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<sup>131</sup> 2004 Advisory Opinion, p. 183, para. 118; 2024 Advisory Opinion, para. 230.

<sup>132</sup> 2004 Advisory Opinion, p. 167, para. 78; 2024 Advisory Opinion, paras. 87–94.

<sup>133</sup> *Ibid.*

<sup>134</sup> *Ibid.*

<sup>135</sup> 2024 Advisory Opinion, para. 261.

<sup>136</sup> *Ibid.*, para. 267

<sup>137</sup> 2004 Advisory Opinion, pp. 177–181, paras. 101, 106–113, p. 199, para. 157; 2024 Advisory Opinion, paras. 96–101.

<sup>138</sup> 2024 Advisory Opinion, para. 102.

with its obligation not to impede the realization of that right, to adopt all necessary and effective measures to protect the Palestinian civilian population.

3.7. The right of all peoples to self-determination is a fundamental principle of international law. Article 1, paragraph 2, of the Charter establishes the “respect for the principle of equal rights and self-determination of peoples” as one of the Purposes of the United Nations. The Court has recognized the importance of this right, its character as customary international law and its *erga omnes* nature<sup>139</sup>. Furthermore, “[t]he Court considers that, in cases of foreign occupation such as the present case, the right to self-determination constitutes a peremptory norm of international law”<sup>140</sup>.

3.8. As the Court has acknowledged in its *2004 Advisory Opinion*, “the existence of a ‘Palestinian people’ is no longer in issue”<sup>141</sup>. Neither is its right to self-determination, which the Court considered in the same advisory opinion to have been recognized by Israel<sup>142</sup>.

3.9. The Court has already determined, more than once, that Israel is in breach of its obligation to respect the right of the Palestinian people to self-determination<sup>143</sup>. As a result of the breach of the peremptory and *erga omnes* character of that right, Israel not only has obligations towards the Palestinian people in this regard, but also vis-à-vis the United Nations, other international organizations and third States.

3.10. The United Nations has a principal responsibility for the implementation of the right of the Palestinian people to self-determination, both as regards the United Nations’ general functions and powers under the Charter and its specific responsibility with regard to the former

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<sup>139</sup> *Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970)*, Advisory Opinion, I.C.J. Reports 1971, p. 31, paras. 52–53; *Western Sahara*, Advisory Opinion, I.C.J. Reports 1975, p. 68, para. 162; *Frontier Dispute*, Judgment, I.C.J. Reports 1986, pp. 566–567, para. 25; *East Timor (Portugal v. Australia)*, Judgment, I.C.J. Reports 1995, p. 102, para. 29; *2004 Advisory Opinion*, pp. 171–172, para. 88; *Accordance with International Law of the Unilateral Declaration of Independence in Respect of Kosovo*, Advisory Opinion, I.C.J. Reports 2010, p. 436, para. 79; *Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965*, Advisory Opinion, I.C.J. Reports 2019, p. 131–135, paras. 144–162; *2024 Advisory Opinion*, paras. 230–234.

<sup>140</sup> *2024 Advisory Opinion*, para. 233.

<sup>141</sup> *2004 Advisory Opinion*, pp. 182–183, para. 118; *2024 Advisory Opinion*, para. 102.

<sup>142</sup> *Ibid.*

<sup>143</sup> *2004 Advisory Opinion*, p. 184, para. 122; *2024 Advisory Opinion*, paras. 238–243.

Mandated territory<sup>144</sup>. Other international organizations, in particular but not only those of the system of the United Nations, must assist the United Nations in the performance of its functions and powers in this regard.

3.11. Third States also have the obligation to ensure respect for the right of the Palestinian people to self-determination. As recognized in the Friendly Relations Declaration, “[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”<sup>145</sup>.

3.12. Furthermore, as developed in the same Declaration, peoples deprived, through the forcible action of a State, of the exercise of the right to self-determination “are entitled to seek and to receive support in accordance with the purposes and principles of the Charter”<sup>146</sup>.

3.13. Also of importance in this regard is Article 1 common to the International Covenant on Civil and Political Rights (“**ICCPR**”) and the International Covenant on the Economic, Social and Cultural Rights (“**ICESCR**”). After declaring that all peoples have the right to self-determination, paragraph 2 of common Article 1 establishes that “[i]n no case may a people be deprived of its own means of subsistence”. Paragraph 3 provides for its part that States parties “shall promote the realization of the right of self-determination, and shall respect that right, in conformity with the provisions of the Charter of the United Nations”.

3.14. The Court determined in its *2024 Advisory Opinion* that “all States have a legal interest in protecting that right”<sup>147</sup>. The Court stated in the same opinion that, “by virtue of the right to self-determination, a people is protected against acts aimed at dispersing the population and undermining its integrity as a people”<sup>148</sup>, and found that Israel was in breach of its obligations

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<sup>144</sup> Cf. *International Status of South-West Africa, Advisory Opinion*, ICJ Reports 1950, pp. 143–144; *Wall Advisory Opinion*, p. 159, para. 50; *Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965, Advisory Opinion*, I.C.J. Reports 2019 (I), p. 118, para. 88; *2024 Advisory Opinion*, para. 35.

<sup>145</sup> *Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations*, adopted in resolution 2625 (XXV) of the General Assembly, 24 October 1970.

<sup>146</sup> *Ibid.*

<sup>147</sup> *2024 Advisory Opinion*, para. 231.

<sup>148</sup> *Ibid.*, para. 239.



because of, *inter alia*, measures aimed at, or which contribute to, a change in the demographic composition of the Occupied Palestinian Territory, as they significantly impede the realization of the right to self-determination<sup>149</sup>. Furthermore, the Court determined that “[t]he dependence of the West Bank, East Jerusalem, and especially of the Gaza Strip, on Israel for the provision of basic goods and services impairs the enjoyment of fundamental rights, in particular the right to self-determination”<sup>150</sup>.

3.15. Within the framework of its particular role as regards the determination of the status of the former Mandate of Palestine, the General Assembly has regularly adopted resolutions on the Palestinian question. These resolutions have recognized the right of the Palestinian people to self-determination, including its right to create its own independent State. They have declared a number of obligations of Israel in this regard as well ascertained several breaches as a result of the Israeli conduct. The General Assembly has also created “several subsidiary bodies specifically established to assist in the realization of the inalienable rights of the Palestinian people”<sup>151</sup>. Of particular importance among these is UNRWA.

3.16. In light of the above, the United Nations, other international organizations and third States have the obligation to co-operate with one another in the realization of the right to self-determination. One of the forms in which such co-operation must take place is by eliminating, through lawful means, any situation that may impede the realization of that right, including those situations that would entail a change in demographic composition undermining the integrity of the people in question as such.

3.17. As explained in Chapter 1, the current humanitarian situation in the Occupied Palestinian Territory is likely to have catastrophic consequences on the living conditions of the Palestinian people, especially those living in the Gaza Strip, thereby undermining its integrity as a people. These consequences are being seriously aggravated by the implementation of Israel’s legislation aimed at preventing UNRWA from carrying on its functions – indeed, at dismantling it altogether. Moreover, plans for the displacement of the Palestinian inhabitants

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<sup>149</sup> *Ibid.*

<sup>150</sup> *Ibid.*, para. 241.

<sup>151</sup> 2004 *Advisory Opinion*, p. 159, para. 49

of the Gaza Strip have been advanced or endorsed by Israel<sup>152</sup>. Taken together, all these facts demonstrate the existence of a complete denial by Israel of the right of the Palestinian people to self-determination, which includes the right to freely determine its political status, to freely pursue its economic, social and cultural development, and to freely dispose of its natural wealth and resources. By virtue of the principle of self-determination, Israel is obliged to refrain from any such acts.

3.18. Israel has an additional duty to co-operate with other States insofar as a serious breach of the right to self-determination, a *jus cogens* norm, is taking place. Article 41, paragraph 1, of the ILC Articles on responsibility of States for internationally wrongful acts, which reflects customary international law, lists as one of the particular consequences of a serious breach of a peremptory norm the obligation of States to “cooperate to bring to an end through lawful means any serious breach”. The ILC Draft articles on identification and legal consequences of peremptory norms of general international law (*jus cogens*) reiterate this obligation, noting further that it may require cooperation through institutionalized cooperation mechanisms, non-institutional cooperation (including through *ad hoc* arrangements), and individual action<sup>153</sup>.

3.19. This secondary obligation to co-operate has also been addressed by the Court. Thus, in its 2004 *Advisory Opinion*, it found that, given the character and the importance of the obligations which Israel had violated, “it [was] for all States, while respecting the United Nations Charter and international law, to see to it that any impediment, resulting from the construction of the wall, to the exercise of the Palestinian people of its right to self-determination is brought to an end”<sup>154</sup>.

3.20. In its 2024 *Advisory Opinion*, the Court determined that Israel, through its policies and practices, is in breach of the right of the Palestinian people to self-determination. As long as that breach continues (as is the case as of the filing of the present Written Statement), States — including Israel — have an obligation, including through co-operation in accordance with international law, to put an end to the illegal situation.

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<sup>152</sup> “PM Netanyahu’s Remarks at the Start of the Government Meeting”, 9 February 2025 (available at: <https://www.gov.il/en/pages/spoke-start090225>); Statement of PM Netanyahu, 11 February 2025 (available at: <https://www.gov.il/en/pages/spoke-cabinet110225>); See also para 1.70 above.

<sup>153</sup> ILC Draft conclusions on identification of peremptory norms of general international law (*jus cogens*), with commentaries, p. 75, para. (10).

<sup>154</sup> 2004 *Advisory Opinion*, p. 200, para. 159. See also *Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965*, *Advisory Opinion*, I.C.J. Reports 2019 (I), p. 139, para. 179.

3.21. On 18 July 2024, just a day before the Court rendered its *2024 Advisory Opinion*, the Knesset adopted a declaration stating that it opposes the establishment of a Palestinian State<sup>155</sup>. This declaration from the Israeli parliament is again in blatant contradiction with the right of the Palestinian people to self-determination. All organs of the State of Israel have the obligation to respect this right and not to put obstacles to its implementation.

3.22. For purposes of the present request, the obligation to respect the right of the Palestinian people to self-determination includes the obligation to co-operate so as to allow the Palestinian people the full exercise of their right to self-determination, respecting their territorial integrity, preventing any kind of displacement of their components, ensuring and facilitating 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.

3.23. In the exercise of its right to self-determination, the Palestinian people has proclaimed the State of Palestine, which is recognized as such by 149 States, including Jordan, and has been granted the status of non-member observer State in the United Nations<sup>156</sup>. As a result, recognizing States have appointed their representatives to the Palestinian authorities. This representation is, however, exposed to serious obstacles derived from the fact of the Israeli occupation and as a result some of them were obliged to be closed<sup>157</sup>. Israel has the obligation not to hinder the diplomatic, consular and other relations of third States with the State of Palestine, and to respect the privileges and immunities of third States in their representations to Palestine<sup>158</sup>.

3.24. In parallel, Palestine has become member, or was granted observer status, to several international organizations, and a State party to many multilateral treaties. Owing to the Israeli occupation, Palestine representatives are subject to hindrances that do not allow Palestine fully to exercise its right to participation in the relevant international fora. Israel has the obligation not to put obstacles to the participation of Palestine in international organizations and in the

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<sup>155</sup> “Knesset Plenum votes in favour of a declaration stating that parliament opposes the establishment of a Palestinian state”, 18 July 2024 (available at: <https://main.knesset.gov.il/en/news/pressreleases/pages/press18724w.aspx#>).

<sup>156</sup> General Assembly resolution 67/19, 29 November 2012.

<sup>157</sup> See para. 1.47 above.

<sup>158</sup> See below, paras. 3.157–3.160.

meetings of States parties to multilateral treaties to which it is a Party. More generally, Israel has the obligation to respect the exercise of the foreign relations of the Palestinian people.

3.25. In sum, Israel has the obligation to co-operate with the United Nations, other international organizations and third States to bring to an end as rapidly as possible its unlawful presence in the Occupied Palestinian Territory, in order to allow the full exercise of the right of the Palestinian people to self-determination, to cease any activity that prevent such exercise and to act positively in order to facilitate it.

## **II. The law of the United Nations and other international organizations**

3.26. This section begins by setting forth the obligation incumbent on Israel, under Article 1, paragraph 3, of the United Nations Charter, to co-operate with a view to solving international problems of a humanitarian character in and in relation to the Occupied Palestinian Territory (A). Second, it sets forth Israel's obligation, under Article 2, paragraph 5, of the Charter to give the United Nations every assistance in any action it takes in accordance with the Charter (B). Third, it turns to Israel's obligations, under Article 105 of the Charter and the General Convention, to respect the privileges and immunities of the United Nations (C). Fourth, it explains Israel's obligations in relation to Security Council and General Assembly Resolutions concerning humanitarian relief in and in relation to the Occupied Palestinian Territory (D). Fifth, and finally, it sets forth Israel's obligations, under the rules of customary international law, to facilitate the unimpeded transit of United Nations and associated personnel and their equipment across its territory to the Occupied Palestinian Territory (E).

### **A. Israel's obligation to co-operate in solving problems of a humanitarian character in and in relation to the Occupied Palestinian Territory**

3.27. Article 1, paragraph 3, of the Charter of the United Nations provides that one of "[t]he Purposes of the United Nations" is "[t]o achieve international cooperation in solving international problems of an economic, social, cultural, or humanitarian character". This obligation is legally binding for the Members of the United Nations as States parties to the Charter<sup>159</sup>. The obligation to co-operate is one of the most important legal obligations for

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<sup>159</sup> See T. Kleinlein, "Article 1", in B. Simma and others (eds.), *The Charter of the United Nations: A Commentary* (4th edn, OUP, 2024), p. 167. See also General Assembly resolution 62/166, 18 December 2007, para. 1; General Assembly resolution 59/204, 20 December 2004, para. 1.

Members under the Charter. The Charter provides, as the President of the San Francisco Conference, President Truman, observed at the end of the Conference, “for this cooperation as a part of the very heart of the entire compact”<sup>160</sup>.

3.28. The Friendly Relations Declaration sets out in greater detail the obligation under Article 1, paragraph 3, of the Charter to achieve international cooperation in solving international problems of an economic, social, cultural, or humanitarian character<sup>161</sup>. The Declaration lays down the principle that it is “[t]he duty of States to co-operate with one another in accordance with the Charter”. This duty, which forms part of customary international law, is set out in the following terms:

“States have the duty to co-operate with one another, irrespective of the differences in their political, economic and social systems, in the various spheres of international relations, in order to maintain international peace and security and to promote international economic stability and progress, the general welfare of nations and international co-operation free from discrimination based on such differences.

To this end:

- (a) States shall co-operate with other States in the maintenance of international peace and security;
- (b) States shall co-operate in the promotion of universal respect for, and observance of, human rights and fundamental freedoms for all, and in the elimination of all forms of racial discrimination and all forms of religious intolerance”.

3.29. The Declaration provisions relating to the duty to co-operate accurately reflects the obligation of States to co-operate under the Charter<sup>162</sup>. This obligation of States to co-operate is a general obligation: it is limited neither *ratione personae* nor *ratione materiae*<sup>163</sup>. Although the obligation is general, it is possible to establish a legal obligation to co-operate in specific legal contexts and to measure a State’s compliance with it.

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<sup>160</sup> *UNCIO*, Vol. 1, p. 683.

<sup>161</sup> General Assembly resolution 2625 (XXV), 24 October 1970.

<sup>162</sup> R. Rosenstock, “The Declaration of Principles of International Law Concerning Friendly Relations” (1971), vol. 65, *AJIL*, p. 729.

<sup>163</sup> G. Abi-Saab, “La reformulation des principes de la Charte et la transformation des structures juridiques de la communauté internationale” in *Le droit international au service de la paix, de la justice et du développement : Mélanges Virally* (Pedone, 1991), p. 6.

3.30. Against this background, Article 1, paragraph 3, of the Charter lays down an obligation for Israel, a Member of the United Nations, to engage in international co-operation with a view to solving international problems of a humanitarian character in and in relation to the Occupied Palestinian Territory. Israel has, as the Declaration of Friendly Relations specifies, an obligation to co-operate with third States, irrespective of any political differences between Israel and such third States<sup>164</sup>.

3.31. Article 1, paragraph 3, also entails an obligation for Israel to co-operate with UNRWA. Such co-operation must be carried out in good faith, with a view to promoting the objectives and purposes of the United Nations in connection with the work of UNRWA.

3.32. This obligation applies in relation to Israel's notification issued on 3 November 2024, to withdraw its request to UNRWA that it continue its operations in the Occupied Palestinian Territory. On 14 June 1967, immediately after the June 1967 hostilities, a provisional agreement was reached by the Exchange of Letters / Comay-Michelmores Agreement. At the request of Israel, UNRWA agreed to continue such assistance to the Palestine refugees in the West Bank and on the Gaza Strip. Israel, having just occupied those areas, as well as East Jerusalem, agreed to extend its "full co-operation" to UNRWA in this regard and to "facilitate the task of UNRWA to the best of its ability, subject only to regulations or arrangements which may be necessitated by considerations of military security"<sup>165</sup>.

3.33. The Exchange of Letters also set forth the position — which would have applied in any event — that the General Convention, to which Israel had acceded on 21 September 1949, should govern the relations between UNRWA and Israel "in all that concerns UNRWA's functions"<sup>166</sup>. It further enumerated certain facilities, in the specific context of the Occupied Palestinian Territory, which Israel and UNRWA were agreed would, as a matter of fact, be "essential if the Agency is to operate effectively". The parties were agreed that it was essential for the effective operation of UNRWA in the Occupied Palestinian Territory that Israel must agree:

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<sup>164</sup> General Assembly resolution 2625 (XXV), 24 October 1970.

<sup>165</sup> Exchange of Letters Constituting a Provisional Agreement between the United Nations Relief and Works Agency for Palestine Refugees in the Near East and Israel concerning Assistance to Palestine Refugees, 14 June 1967, 620 UNTS 186.

<sup>166</sup> *Repertory of Practice of the United Nations Organs, Supplement No. 4 (1966–1969)*, vol. 2, p. 375, para. 7; 620 UNTS 186.

- “(a) To ensure the protection and security of the personnel, installations and property of UNRWA;
- (b) To permit the free movement of UNRWA vehicles into, within and out of Israel and the areas in question;
- (c) To permit the international staff of the Agency to move in, out and within Israel and the areas in question; they will be provided with identity documents and any other passes which might be required;
- (d) To permit the local staff of the Agency to move within the areas in question under arrangements made or to be made with the military authorities;
- (e) To provide radio, telecommunications and landing facilities;
- (f) Pending a further supplementary agreement, to maintain the previously existing financial arrangements with the governmental authorities then responsible for the areas in question, concerning:
  - i. Exemptions from custom duties, taxes and charges on importation of supplies, goods and equipment;
  - ii. provision free of charge of warehousing, labour for offloading and handling, and transport by rail or road in the areas under our control;
  - iii. such other costs to the Agency as were previously met by the governmental authorities concerned.”

3.34. Israel purported, however, by letter dated 3 November 2024, to withdraw from its agreement with UNRWA<sup>167</sup>. In its letter of 24 January 2025, Israel communicated to the United Nations its position that “UNRWA is required to cease its operations in Jerusalem, and evacuate all premises in which it operates in the city, no later than 30 January 2025”<sup>168</sup>. Israel set out its expectation that “UNRWA take all the necessary steps to cease its operations in Jerusalem and evacuate all premises in which it operates in the city within the stated timeframe”<sup>169</sup>.

3.35. Jordan makes two points as regards Israel’s obligation to co-operate with UNRWA in this connection: (1) Israel, having given its recognition to the facilities agreed in the Exchange of Letters being essential to the effective operation of UNRWA, cannot now go back upon that recognition; and (2) Israel is, in any event, bound by the mutual obligations incumbent upon Israel and UNRWA to co-operate in good faith with respect to the implications and effects of any transfer of UNRWA to a new site and to co-operate in good faith to promote the Purposes of the United Nations as expressed in the Charter.

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<sup>167</sup> Letter of the Director General of the Ministry of Foreign Affairs of Israel to the President of the General Assembly dated 3 November 2024.

<sup>168</sup> Letter dated 24 January 2025 from the Permanent Representative of Israel to the United Nations addressed to the Secretary-General, p. 2.

<sup>169</sup> *Ibid.*, p. 3.

3.36. First, in the 1967 Exchange of Letters, Israel, “by express declaration and by conduct”<sup>170</sup>, recognized that, in order for UNRWA to operate effectively in the Occupied Palestinian Territory, the facilities enumerated in sub-paragraphs (a)–(g) were essential. As the Court has previously advised, “the paramount consideration both for the Organization and the host State in every case must be their clear obligation to co-operate in good faith to promote the objectives and purposes of the Organization”<sup>171</sup>. Israel recognized the fact that, the guarantee by it of the facilities enumerated in sub-paragraphs (a)–(g) of the Exchange of Letters was essential if the Agency was to operate effectively. It is because these facilities were recognized as a matter of fact that it is not open to Israel subsequently “to go back upon that recognition”<sup>172</sup>.

3.37. Second, Israel cannot unilaterally denounce the 1967 Exchange of Letters without prior consultations and negotiations with the United Nations. In *Interpretation of the Agreement of 25 March 1951 between the WHO and Egypt* that the Court<sup>173</sup>, considered, on the basis of “the general legal principles and rules applicable”<sup>174</sup>, that in the context of the case before it “the mutual obligations of the Organization and the host State to co-operate” included:

- a) A duty for the two “to consult together in good faith as to the question under what conditions and in accordance with what modalities a transfer” of the regional office might be affected;
- b) In the event of its being finally decided that the regional office should be transferred from Egypt, “their mutual obligations of co-operation place a duty upon the Organization and Egypt to consult together and to negotiate regarding the various arrangements needed to effect the transfer from the existing to the new site in an orderly manner and with a minimum of prejudice to the work of the Organization and the interests of Egypt”; and

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<sup>170</sup> Cf. *Case concerning the Arbitral Award made by the King of Spain on 23 December 1906*, I.C.J. Reports 1960, p. 213.

<sup>171</sup> *Interpretation of the Agreement of 25 March 1951 between the WHO and Egypt*, Advisory Opinion, I.C.J. Reports 1980, p. 96, para. 49.

<sup>172</sup> Cf. *Case concerning the Arbitral Award made by the King of Spain on 23 December 1906*, I.C.J. Reports 1960, p. 213. Whether the basis is good faith, estoppel, acquiescence, or any other cognate, the requirements of international law focus on the preclusion of a party from denying the truth of a statement of *fact* made previously by that party to another: see e.g. *Temple of Preah Vihear (Cambodia v. Thailand)*, Merits, I.C.J. Reports 1962, Separate Opinion, Judge Sir Gerald Fitzmaurice, pp. 62–63; D. W. Bowett, “Estoppel before International Tribunals and Its Relation to Acquiescence” (1957), vol. 33, BYIL, pp. 176–177.

<sup>173</sup> *Interpretation of the Agreement of 25 March 1951 between the WHO and Egypt*, Advisory Opinion, I.C.J. Reports 1980, p. 95, para. 48.

<sup>174</sup> *Ibid.*, p. 96, para. 49.



- c) Those mutual obligations place a duty upon the party which wishes to effect the transfer to give a reasonable period of notice to the other party for the termination of the existing situation, “taking due account of all the practical arrangements needed to effect an orderly and equitable transfer of the Office to its new site”<sup>175</sup>.

3.38. The Court observed in conclusion that “the paramount consideration both for the Organization and the host State in every case must be their clear obligation to co-operate in good faith to promote the objectives and purposes of the Organization as expressed in its Constitution”<sup>176</sup>.

3.39. Israel consequently has an obligation not to denounce unilaterally the 1967 agreement with UNRWA without prior consultations and negotiations. As the Secretary-General noted in his letter of 27 January 2025 to the Permanent Representative of Israel to the United Nations, “[n]o such consultations have taken place so far”<sup>177</sup>. Such consultations and negotiations should take into account UNRWA’s unique role in the Occupied Palestinian Territory.

**B. Israel’s obligation to give every assistance in any action the United Nations takes in and in relation to the Occupied Palestinian Territory**

3.40. Article 2, paragraph 5, of the Charter provides that: “All Members shall give the United Nations every assistance in any action it takes in accordance with the present Charter”.

3.41. This principle requires Members to give the Organization every assistance in any action — without any limitation in principle as to its nature — which the United Nations takes in accordance with the Charter. Article 2, paragraph 5, is, as indicated by its wording, a “general obligation”<sup>178</sup>. The principle “means first of all that the Members will be obligated to give to the Organization any assistance which their obligations under the Charter require of them”<sup>179</sup>.

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<sup>175</sup> *Ibid.*

<sup>176</sup> *Ibid.*, p. 96, para. 49.

<sup>177</sup> Letter from the Secretary-General to the Permanent Representative of Israel, 27 January 2025, doc. N308 submitted by the Secretariat to the Court.

<sup>178</sup> *Report to the President on the Results of the San Francisco Conference by the Chairman of the United States Delegation, the Secretary of State*, 26 June 1945, Department of State publication 2349, p. 42.

<sup>179</sup> *Ibid.*

This is necessarily so because “[u]nless the Organization can count on such assistance, it cannot now plan effectively or operate successfully”<sup>180</sup>.

3.42. The interpretation that Article 2, paragraph 5, applies without any limitation as regards the nature of the action in question is confirmed by the practice of the United Nations<sup>181</sup> as well as by State practice:

- a) In respect of the United Nations operations in the Congo, India drew attention to Article 2, paragraph 5, and observed that it was “the binding duty not only of the Congolese Government, but of all Members of the United Nations, to give the Organization every assistance in its undertaking”<sup>182</sup>.
- b) In connection with the right of petition in relation to Trust and Non-Self-Governing Territories, the USSR observed that “Article 2, paragraph 5, required [Member States] to ‘give the United Nations every assistance in any action it takes in accordance with the present Charter’. The hearing of petitioners was an action taken in accordance with the Charter and was connected with one of the functions of the United Nations. Hence it was incumbent upon each Member State to help the United Nations in fulfilling that purpose”<sup>183</sup>.
- c) Ghana observed of the obligation in Article 2, paragraph 5, that the “obligation is not confined to action taken under Chapter VII but extends to cover action indicated by the resolutions passed in accordance with the Charter by this Organization”<sup>184</sup>.
- d) Tunisia observed that, “[b]y denying the members of the Special Committee [to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories] access to the occupied territories and by interfering with its work, Israel was failing to fulfil its responsibilities under Article 2, paragraph 5, of the Charter”<sup>185</sup>.

3.43. The Court has confirmed this interpretation of Article 2, paragraph 5, of the Charter. In *Reparation for Injuries Suffered in the Service of the United Nations* the Court observed, as regards the purposes set out in Article 1, that the Charter had not been content to make the

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<sup>180</sup> *Ibid.*

<sup>181</sup> See e.g. Respect for the privileges and immunities of officials of the United Nations and the specialized agencies and related organizations, Report of the Secretary-General, 20 October 1983 (A/C.5/38/17), Annex I, p. 27, para. 7; High-Level Panel on United Nations Peace Operations, Report of the Panel on United Nations Peace Operations, 21 August 2000 (A/55/305–S/2000/809), p. 6, para. 32; and *United Nations Juridical Yearbook*, 2015, p. 294, para. 5.

<sup>182</sup> General Assembly, 923rd plenary meeting, A/PV.923, 22 November 1960, p. 952, para. 39.

<sup>183</sup> General Assembly, 4th Committee, 1479th meeting, A/C.4/SR.1479, 13 November 1963, p. 306, para. 11.

<sup>184</sup> General Assembly, 2182nd plenary meeting, A/PV.2182, 28 November 1973, p. 4, para. 43.

<sup>185</sup> General Assembly, Special Political Committee, 38th meeting, A/SPC/37/SR.38, 29 November 1982, p. 10, para. 36.

Organization created by it merely a centre for harmonizing the actions of nations in the Attainment of these common ends; it had equipped that centre with organs, and has given it special tasks: “It has defined the position of the Members in relation to the Organization by requiring them to give it every assistance in any action undertaken by it (Article 2, para. 5)”<sup>186</sup>.

3.44. The Court also observed that, in the interest in the protection of the agents of the Organization, the Members of the Organization had entered into certain undertakings, some of which were in the Charter and others in complementary agreements. The Court stressed in particular:

“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”<sup>187</sup>.

3.45. In 1966 Israel itself recognized this interpretation of the scope of Article 2, paragraph 5, by stressing the general need for Members under that provision to act “as loyal Members of this Organization”<sup>188</sup>.

3.46. Jordan makes two points as to the obligation of Israel to give the United Nations every assistance in any action it takes: (1) Israel has an obligation to give UNRWA every assistance in any action it takes in accordance with the relevant decisions of competent principal organs adopted pursuant to the provisions of the Charter; and (2) Israel has an obligation to give due regard to the resolutions of the General Assembly on the question of the Occupied Palestinian Territory and consider them in good faith.

3.47. First, the Secretary-General has recalled, on the basis of Article 2, paragraph 5, of the Charter, that:

“as a Member of the United Nations, Israel continues to be required, pursuant to Article 2, paragraph 5, of the Charter of the United Nations, to give UNRWA every assistance

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<sup>186</sup> *Reparation for Injuries Suffered in the Service of the United Nations, Advisory Opinion, I.C.J. Reports 1949*, p. 178.

<sup>187</sup> *Ibid.*, p. 183 (emphasis added).

<sup>188</sup> General Assembly, 1439th plenary meeting, A/PV.1439, 12 October 1966, p. 10.

in any action it takes in accordance with the relevant decisions of competent principal organs adopted pursuant to the provisions of the Charter, including General Assembly resolution 302 (IV) and subsequent Assembly resolutions renewing the UNRWA mandate”<sup>189</sup>.

3.48. It follows from the duty to give the United Nations every assistance that Members must give due regard to resolutions by the General Assembly adopted in accordance with the Charter. As the Court has observed, “General Assembly resolutions, even if they are not binding, may sometimes have normative value”<sup>190</sup>.

3.49. Second, as Judge Sir Hersch Lauterpacht observed in *South-West Africa — Voting Procedure* with regard to General Assembly resolutions which have a recommendatory effect, a Member State of the United Nations, “while not bound to accept the recommendation, is bound to give it due consideration in good faith”<sup>191</sup>. He went on to reason that, although a General Assembly resolution contains a recommendation, it would be wrong, however, to maintain:

“that a recommendation is of no legal effect whatsoever. A Resolution recommending to an Administering State a specific course of action creates *some* legal obligation which, however rudimentary, elastic and imperfect, is nevertheless a legal obligation and constitutes a measure of supervision. The State in question, while not bound to accept the recommendation, is bound to give it due consideration in good faith. If, having regard to its own ultimate responsibility for the good government of the territory, it decides to disregard it, it is bound to explain the reasons for its decision”<sup>192</sup>.

3.50. A State, therefore, that declines to act upon a recommendation or series of recommendations on the same subject:

“acts at its peril when a point is reached when the cumulative effect of the persistent disregard of the articulate opinion of the Organization is such as to foster the conviction that the State in question has become guilty of disloyalty to the Principles and Purposes of the Charter. Thus an Administering State which consistently sets itself above the

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<sup>189</sup> Identical letters dated 9 December 2024 from the Secretary-General addressed to the President of the General Assembly and the President of the Security Council (A/79/684–S/2024/892).

<sup>190</sup> *Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion, I.C.J. Reports 1996*, p. 254, para. 70; *Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965, Advisory Opinion, I.C.J. Reports 2019 (I)*, p. 132, para. 150.

<sup>191</sup> *South-West Africa — Voting Procedure, Advisory Opinion, I.C.J. Reports 1955*, Separate Opinion, Judge Lauterpacht, p. 119.

<sup>192</sup> *Ibid.*, pp. 118–119. See also Separate Opinion of Judge Klæstad, p. 88.

solemnly and repeatedly expressed judgment of the Organisation, in particular in proportion as that judgment approximates to unanimity, may find that it has overstepped the imperceptible line between impropriety and illegality, between discretion and arbitrariness, between the exercise of the legal right to disregard the recommendation and the abuse of that right, and that it has exposed itself to consequences legitimately following as a legal sanction”<sup>193</sup>.

3.51. This reasoning was applied, *mutatis mutandis*, by the Court in *Whaling in the Antarctic*. In relation to the “recommendatory resolution” of the International Whaling Commission and the Scientific Committee, the Court observed that States Parties to the International Convention for the Regulation of Whaling “have a duty to co-operate” with those organs and “thus should give due regard to recommendations” issued by them<sup>194</sup>. The Court based its finding of Japan’s State responsibility on the fact that Japan had failed to respect its “substantive requirements” resulting from the recommendations<sup>195</sup>.

3.52. Article 2, paragraph 5, of the Charter thus requires Israel to give due regard to the resolutions of the General Assembly on the question of the Occupied Palestinian Territory. Israel is bound to give such resolutions due consideration in good faith. Its persistent failure to do so over time necessarily leads to the conclusion that it is in breach of Article 2, paragraph 5, of the Charter, contrary to the principles and purposes of the Organization.

### **C. Israel’s obligation to respect the privileges and immunities of the United Nations in and in relation to the Occupied Palestinian Territory**

3.53. The privileges and immunities necessary for the United Nations and its officials to function in the territory in each of its Members are protected by the Charter of the United Nations<sup>196</sup>. Such privileges and immunities are fundamental for the Organization to carry out its functions effectively; as such, they are inextricably linked to Member States’ obligation to cooperate under Article 2(5) of the Charter as described above.

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<sup>193</sup> *Ibid.*, p. 120.

<sup>194</sup> *Whaling in the Antarctic (Australia v. Japan: New Zealand intervening)*, Judgment, I.C.J. Reports 2014, p. 257, para. 83. See also *ibid.*, p. 270, para. 137; p. 297, para. 240; p. 271, para. 144.

<sup>195</sup> *Ibid.* p. 297, para. 239.

<sup>196</sup> These self-evidently include the “essential” facilities enumerated in sub-paragraphs (a)–(g) in the Exchange of Letters between Israel and UNRWA (see para. 3.36 above).

3.54. Article 105, paragraph 1, provides that:

“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.”

3.55. The obligation in Article 105, paragraph 1, applies in the territory of Israel and in the territory of Palestine. Israel must, as the occupying Power, respect the privileges and immunities of the United Nations in the Occupied Palestinian Territory. The fact that Israel does not have any title to the Palestinian territory, “does not release it from its obligations and responsibilities under international law towards other States in respect of the exercise of its powers in relation to this Territory”<sup>197</sup>.

3.56. Article 105 “reflects the necessity of preserving the independence” of the United Nations<sup>198</sup>. Given the importance and the wide scope of its activities, the privileges and immunities in question should be widely interpreted<sup>199</sup>, as has been the constant practice of the Organization and its membership<sup>200</sup>.

3.57. In 1968 the position was set out in further detail in respect specifically of UNRWA by its General Counsel, Derek Bowett, in an opinion which explained that the Agency was a subsidiary organ of the General Assembly, with a mandate established by that body, and must therefore act at all times as a United Nations agency. It was a paramount principle, common to all United Nations operations, “that they must remain under the control of the United Nations

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<sup>197</sup> See *Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970)*, *Advisory Opinion*, I.C.J. Reports 1971, p. 54, para. 118.

<sup>198</sup> A. R. Ziegler, “Article 105” in B. Simma and others (eds.), *The Charter of the United Nations: A Commentary* (4th edn., OUP, 2024), p. 2808.

<sup>199</sup> *Ibid.*, p. 2809.

<sup>200</sup> See e.g. *Report to the President on the Results of the San Francisco Conference by the Chairman of the United States Delegation, the Secretary of State*, 26 June 1945, Department of State publication 2349, p. 159.

as such, representing the totality of the Member States, and must *not* fall under the control of any one Member State”<sup>201</sup>.

3.58. It followed that “no United Nations organ ever falls under the jurisdiction of a Member State in the sense of being literally bound by the provisions of its law or subject to its ‘sovereignty’. The relationship is one of co-operation and co-ordination, not of subordination”<sup>202</sup>. United Nations officials, and the activities and operations with which they are charged, must nevertheless be in general conformity with the law of host States:

“Compliance with criminal law, with road traffic regulations, with legislation on matters of health and with legal rules and procedures affecting transactions carried on within the State is the normal rule and raises no problems. Any special privileges and immunities are based upon the Charter and the Convention on the Privileges and Immunities of the United Nations of 1946, two treaties accepted freely by the host States. Thus, a United Nations body does not claim the right to ignore local law. *It claims only that it is not subject to any law which infringes upon its status as a United Nations organ, either by deviating from the Charter and the 1946 Convention*”<sup>203</sup>.

3.59. This reasoning applies all the more so when, as in the present case, “Israel is not entitled to sovereignty over or to exercise sovereign powers in any part of the Occupied Palestinian Territory”<sup>204</sup>.

3.60. The provisions of the General Convention on the Privileges and Immunities of the United Nations<sup>205</sup>, adopted by the General Assembly in its resolution 22 A (I) of 13 February 1946, determine the details of the application of Article 105, paragraphs 1 and 2, of the Charter. The General Convention specifies the privileges and immunities agreed by Member States which are essential for the effective functioning of the United Nations and its organs. As regards the specialized agencies of the United Nations, the General Convention is complemented by the Convention on the Privileges and Immunities of the Specialized Agencies<sup>206</sup>.

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<sup>201</sup> Opinion of the General Counsel of UNRWA, *United Nations Juridical Yearbook*, 1968, p. 182, para. 2.

<sup>202</sup> *Ibid.*, p. 182, para. 3.

<sup>203</sup> *Ibid.*, p. 183, para. 5 (emphasis added).

<sup>204</sup> *2024 Advisory Opinion*, para. 254.

<sup>205</sup> Convention on the Privileges and Immunities of the United Nations, 13 February 1946, 1 *UNTS* 15.

<sup>206</sup> Convention on the Privileges and Immunities of the Specialized Agencies, 21 November 1947, 33 *UNTS* 261.

3.61. The main provisions of these treaties — such as e.g. Sections 2 and 3 of the General Convention<sup>207</sup> — reflect customary international law<sup>208</sup>. United Nations Legal Counsel summarized the position to the effect that: “the standards and principles of the [General] Convention have been so widely accepted that they have now become a part of the general international law governing the relations of States and the United Nations”<sup>209</sup>.

3.62. International organizations which do not fall within the ambit of the General Convention or the Convention on the Privileges and Immunities of the Specialized Agencies, such as the International Committee of the Red Cross, benefit on this basis from the rules of customary international law on the subject to the extent necessary for the fulfilment of their purposes<sup>210</sup>.

3.63. The justification for the privileges and immunities of the United Nations is the notion of *functionality*, which is inherent in Articles 104 and 105 of the Charter<sup>211</sup>. For this reason, as the Office of Legal Affairs has observed, any interpretation of the provisions of the General Convention must be carried out “within the spirit of the underlying principles of the Charter of the United Nations, and in particular Article 105 thereof, which provides that the Organization

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<sup>207</sup> Respectively Sections 4 and 5 of the Convention on the Privileges and Immunities of the Specialized Agencies.

<sup>208</sup> Å. Hammarskjöld, “Immunités des personnes investies de fonctions internationales” (1936), vol. 56, *Recueil des Cours*, p. 182; P. Cahier, *Le droit diplomatique contemporain* (Droz, 1962), pp. 47–48; Special Rapporteur Mr. Abdullah El-Erian, *Yearbook of the International Law Commission 1977*, Vol. II, Part One, pp. 151–152, paras. 57–62. See also Interim Agreement on Privileges and Immunities of the United Nations concluded between the Secretary-General of the United Nations and the Swiss Federal Council, 11 June 1946, 1 *UNTS* 164, Article 1; Agreement for the purpose of determining the privileges, immunities and facilities to be granted in Egypt by the Government to the Organization, to the representatives of its Members and to its experts and officials, 25 March 1951, 223 *UNTS* 90, Section 3; Agreement concerning the Legal Status of the World Tourism Organization in Spain, 10 November 1975, 1047 *UNTS* 85, Article 3. For the practice of the United Kingdom, see Diplomatic Privileges (Extension) Bill, House of Lords, 27 September 1944, Hansard, vol. 403, col. 350. See further *Yearbook of the International Law Commission 1977*, vol. II, Part One, p. 152, para. 59; Switzerland, Conseil fédérale à l’Assemblée fédérale concernant le statut juridique en Suisse de l’Organisation des Nations Unies, d’institutions spécialisées des Nations Unies et d’autres organisations internationales, *Feuille fédérale* (1955), vol. 107, 2 September 1955, pp. 389, 400; the Netherlands, Statement by the Government of The Netherlands cited in *Iran–United States Claims Tribunal v. AS* (1985), vol. 94, *ILR*, p. 327.

<sup>209</sup> *United Nations Juridical Yearbook, 1967*, p. 314, para. 11. See also R. Higgins and others, *Oppenheim: United Nations* (OUP, 2017), p. 553.

<sup>210</sup> See e.g. Legal Opinion of the Federal Department of Foreign Affairs (2004), vol. 14, *Revue suisse de droit international et européen*, pp. 675–676 (“le CICR bénéficie des privilèges et immunités habituellement reconnus, sur le plan international, aux organisations intergouvernementales.”).

<sup>211</sup> Mr. Leonardo Díaz González, Fourth Report on Relations between States and International Organizations, 24 April 1989 (A/CN.4/424), paras. 26–27.



shall enjoy such privileges and immunities as are necessary for the fulfilment of its purposes”<sup>212</sup>.

3.64. Section 34 of the General Convention provides that: “It is understood that, when an instrument of accession is deposited on behalf of any Member, the Member will be in a position under its own law to give effect to the terms of this convention”<sup>213</sup>. This provision, constantly referred to in the practice of the United Nations<sup>214</sup>, is to the effect that a State party to the General Convention will *ipso facto* be in breach of the Convention if it has adopted legislation which causes it not to be “in a position under its own law to give effect to” the terms of the Convention. The passage of such legislation is an internationally wrongful act *in and of itself*<sup>215</sup>.

3.65. Section 2 of the General Convention is in these terms:

“The United Nations, its property and assets wherever located and by whomsoever held, shall enjoy immunity from every form of legal process except insofar as in any particular case it has expressly waived its immunity shall extend to any particular case it has expressly waived its immunity. It is, however, understood that no waiver of immunity shall extend to any measures of execution”<sup>216</sup>.

3.66. The immunity from every form of legal process in Section 2 is essential for the independent exercise by the United Nations of its functions<sup>217</sup>. The term “every form of legal process” includes all forms of process before the competent authorities of the host State. According to the Office of Legal Affairs, “[t]he expression ‘every form of legal process’ has been broadly interpreted to include every form of process before national authorities, whether judicial, administrative or executive and irrespective of whether the Organization is named as

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<sup>212</sup> Legal Opinion of the Office of Legal Affairs, *United Nations Juridical Yearbook*, 1995, p. 400, para. 6.

<sup>213</sup> The equivalent provision in the Convention on the Privileges and Immunities of the Specialized Agencies is Section 46.

<sup>214</sup> See e.g. Legal Opinion by the Office of Legal Affairs, *United Nations Juridical Yearbook*, 1996, p. 441, para. 7; Legal Opinion of the Office of Legal Affairs, *United Nations Juridical Yearbook*, 1995, p. 400, para. 6; Letter to the Minister of Foreign Affairs and International Cooperation of a Member State, *United Nations Juridical Yearbook*, 1994, p. 453.

<sup>215</sup> *Applicability of the Obligation to Arbitrate under Section 21 of the United Nations Headquarters Agreement of 26 June 1947*, *Advisory Opinion*, *I.C.J. Reports* 1988, p. 20, para. 18. See also ARSIWA Commentary Art. 12, para. 12.

<sup>216</sup> The equivalent provision in the Convention on the Privileges and Immunities of the Specialized Agencies is Section 4.

<sup>217</sup> See e.g. “Brief for the United Nations as *amicus curiae*”, *United Nations Juridical Yearbook*, 1980, p. 232.

a defendant or is asked to provide information or to perform some ancillary role<sup>218</sup>.” The immunity of the United Nations from every form of legal process “*empêche toute mesure d’exécution forcée*” in the event that the host State should consider that the United Nations is not acting in conformity with its domestic legislation<sup>219</sup>.

3.67. Section 3 of the General Convention further provides that:

“The premises of the United Nations shall be inviolable. The property and assets of the United Nations, wherever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation and any other form of interference, whether by executive, administrative, judicial or legislative action”<sup>220</sup>.

3.68. The term “premises of the United Nations” refers to buildings occupied in whole or in part by the United Nations as well as areas under its control<sup>221</sup>. It does not matter whether the premises are owned or rented by the United Nations<sup>222</sup>. The principle of the inviolability of United Nations premises entails that United Nations premises “may not be entered and that the United Nations must itself be permitted to control activities occurring on those premises unless it requests the local authorities to intervene”<sup>223</sup>. The principle has been universally respected and in the rare instances where unauthorized entry has been made into international premises appropriate apologies have been made<sup>224</sup>.

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<sup>218</sup> *United Nations Juridical Yearbook*, 1983, p. 213; see also *United Nations Juridical Yearbook*, 1987, pp. 206–208.

<sup>219</sup> See e.g. Legal Opinion of the Federal Department of Foreign Affairs (2006), vol. 16, *Revue suisse de droit international et européen*, p. 620.

<sup>220</sup> The equivalent provision in the Convention on the Privileges and Immunities of the Specialized Agencies is Section 5.

<sup>221</sup> L. Bartholomeusz, “Article II Section 3 General Convention” in A. Reinisch (ed.), *The Conventions on the Privileges and Immunities of the United Nations and its Specialized Agencies: A Commentary* (2016), p. 127.

<sup>222</sup> Legal Opinion of the Office of Legal Affairs, *United Nations Juridical Yearbook*, 1965, pp. 219–220; The Practice of the United Nations, the Specialized Agencies and the International Atomic Energy Agency concerning their status, privileges and immunities: Study prepared by the Secretariat, *Yearbook of the International Law Commission*, 1967, Vol. II, p. 227, para. 91.

<sup>223</sup> The Practice of the United Nations, the Specialized Agencies and the International Atomic Energy Agency concerning their status, privileges and immunities: Study prepared by the Secretariat, *Yearbook of the International Law Commission*, 1967, Vol. II, p. 227, para. 90.

<sup>224</sup> R. Zacklin, “Diplomatic Relations: Status, Privileges and Immunities” in R. J. Dupuy (ed.), *A Handbook on International Organizations* (2nd edn., Nijhoff, 1998), p. 300; see also The Practice of the United Nations, the Specialized Agencies and the International Atomic Energy Agency concerning their status, privileges and immunities: Study prepared by the Secretariat, *Yearbook of the International Law Commission*, 1967, Vol. II, p. 227, para. 90.

3.69. The Commissioner-General of UNRWA reported that even during the June 1967 hostilities the inviolability of the Agency's premises was in general respected<sup>225</sup>. In cases of incursions the Agency protested to the authorities and presented claims in a number of them<sup>226</sup>. It is not surprising that the principle has generally been well observed, as there can be no doubt that an indispensable element for the "effective independence of international institutions is the inviolability of their premises"<sup>227</sup>. If the United Nations does not have control over its premises, its ability to carry out its mandate without interference would be seriously affected<sup>228</sup>.

3.70. The requirements of the inviolability of United Nations premises are evident from relevant State practice. The Federal Department of Foreign Affairs of Switzerland has taken the position that, by reason of the inviolability which enures to the Organization, Swiss domestic authorities "*ne sont autorisées à procéder à des contrôles techniques qu'en accord avec l'Organisation. Cette dernière pourrait donc — en théorie — refuser l'accès à ses locaux aux inspecteurs cantonaux chargés de vérifier la conformité du bâtiment aux normes suisses*"<sup>229</sup>.

3.71. The requirements of inviolability are to the effect that any act of public power by the host country in respect of the premises of the United Nations will be a violation of international law<sup>230</sup>. To give one example: no official document which is meant to produce legal effect in respect of the addressee can be transmitted directly to the premises. Such documents must be transmitted and notified diplomatically by the relevant Ministry of Foreign Affairs to the United Nations itself<sup>231</sup>.

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<sup>225</sup> *Repertory of Practice of the United Nations Organs, Supplement No. 4 (1966–1969), vol. 2*, p. 378, para. 30; Report of the Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East, 1 July 1967–30 June 1968, GA (XXV), Suppl. No. 13, A/7213, Annex II, pp. 88–89, paras. 7–8.

<sup>226</sup> Report of the Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East, 1 July 1967–30 June 1968, GA (XXV), Suppl. No. 13, A/7213, Annex II, pp. 88–89, paras. 7–8.

<sup>227</sup> C. W. Jenks, *The Headquarters of International Institutions* (OUP, 1945), p. 41.

<sup>228</sup> Mr. Leonardo Díaz González, Fourth Report on Relations between States and International Organizations, 24 April 1989 (A/CN.4/424), paras. 80–89.

<sup>229</sup> Legal Opinion of the Federal Ministry of Foreign Affairs, (2007), vol. 17, *Revue suisse de droit international et européen*, p. 769.

<sup>230</sup> See e.g. "*Statut juridique en Suisse de l'Union postale universelle*", (2017), vol. 27, *Revue suisse de droit international et européen*, pp. 592–593.

<sup>231</sup> The Federal Department of Foreign Affairs of Switzerland explained in 2016 that, the Universal Postal Union being an international organization, its official premises "*sont inviolables*": "*Il en ressort que toutes les catégories d'actes relevant de l'exercice de la puissance publique par l'État du siège sont inadmissibles, en particulier la transmission directe de documents officiels qui produisent un effet juridique à l'égard de leur destinataire, de*

3.72. In the event that the United Nations temporarily loses control of certain of its premises, such temporary loss of control does not mean that the premises no longer enjoy inviolability. For example, UNRWA temporarily lost control of its field office compound in Jerusalem during the Six-Day War, but nevertheless claimed compensation owing to the breach of the inviolability of the premises<sup>232</sup>. It is only when the use and the function of the premises has effectively ceased that the premises no longer enjoy inviolability: “[w]hen, therefore, the use and the function of the premises has ceased — and ceased for a reason not truly and merely temporary — then their immunity must be considered as likewise having come to an end”<sup>233</sup>.

3.73. The requirements of Section 3 are — as wording of the provision makes evident — absolute. This is evident in respect of what, in the constant practice of the United Nations, constitutes a “search”:

“... section 3 of the General Convention bars national authorities from verifying the contents of United Nations property. Accordingly, in the case of United Nations supplies contained in sacks, envelopes or containers, national authorities are precluded from opening those sacks, envelopes or containers in order to verify their contents”<sup>234</sup>.

3.74. This means that once domestic authorities have ascertained that certain premises, property, or assets belong to the United Nations, the General Convention would therefore bar them from conducting a physical search of its interior<sup>235</sup>.

3.75. By the same logic, Section 3 also lays down stringent requirements of States as regards the protection of the funds of the United Nations. Pursuant to Section 5, the United Nations “may hold funds, gold or currency”, which shall enjoy the immunities provided for in Section

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*même que celle de documents qui menacent d’une sanction ou d’une peine. Ce type de document doivent être transmis et notifiés par la voie diplomatique, ce qui signifie qu’ils doivent être envoyés au DFAE [the Federal Department of Foreign Affairs] pour qu’ils puisse les faire parvenir et les notifier, par la voie du courrier diplomatique, à l’Union postale universelle. La notification direct par la voie postale ... est ainsi interdite par le droit international et, partant, invalide.”: *ibid.*; see also Legal Opinion of the Federal Ministry of Foreign Affairs, (2007), vol. 17, *Revue suisse de droit international et européen*, p. 769.*

<sup>232</sup> Report of the Commissioner-General of UNRWA to the General Assembly, 1 July 1968–30 June 1969, UN doc. A/7614, para. 159.

<sup>233</sup> *Tietz v. People’s Republic of Bulgaria* (1959), vol. 28, *ILR*, p. 384.

<sup>234</sup> Legal Opinion of the Office of Legal Affairs, *United Nations Juridical Yearbook*, 2003, p. 522, para. 7.

<sup>235</sup> *Ibid.*, p. 522, para. 8.

3<sup>236</sup>. As the Office of Legal Affairs has observed, the condition for the enjoyment by funds of the privileges and immunities of the United Nations is their quality as funds of the Organization, that is, held under the custody and control of the Secretary-General, the Chief Administrative Officer of the United Nations<sup>237</sup>.

3.76. Section 3 therefore protects the United Nations from the freezing or attachment by a Member State of any of its bank accounts<sup>238</sup>. When a Member State had taken action to block a project account of the United Nations Development Programme (UNDP), the Office of Legal Affairs observed that the Member State's "action in ordering the blocking of the UNDP project account is in contravention" of Section 3<sup>239</sup>. It has also observed that for a host country to block an account of an organ of the United Nations would be "in direct violation of the host country's international obligations under the Convention on the Privileges and Immunities of the United Nations"<sup>240</sup>.

3.77. The term "officials of the Organization" in Article 105, paragraph 2, of the Charter and Article V Section 17 of the General Convention<sup>241</sup> "refers to all UN staff members (employed by any principal or subsidiary organ) who are engaged on a full-time or substantially full-time basis and who have been registered in that capacity with host States"<sup>242</sup>. Field service officers, including those locally recruited, are staff members and accordingly "officials of the Organization" in the sense of Article 105 and Article V, Section 17, of the General Convention. By its resolution 76(I) of 7 December 1946, the General Assembly approved that the provisions in Articles V and VII of the General Convention apply to all staff members of the United

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<sup>236</sup> The equivalent provision in the Convention on the Privileges and Immunities of the Specialized Agencies is Section 7.

<sup>237</sup> Legal Opinion of the Office of Legal Affairs, *United Nations Juridical Yearbook*, 1997, pp. 441–442.

<sup>238</sup> Legal Opinion of the Office of Legal Affairs, *United Nations Juridical Yearbook*, 1968, pp. 215–216; Legal Opinion of the Office of Legal Affairs, *United Nations Juridical Yearbook*, 1993, pp. 382–383.

<sup>239</sup> Legal Opinion of the Office of Legal Affairs, *United Nations Juridical Yearbook*, 1974, pp. 145–146.

<sup>240</sup> Legal Opinion of the Office of Legal Affairs, *United Nations Juridical Yearbook*, 1992, p. 474.

<sup>241</sup> The equivalent provision in the Convention on the Privileges and Immunities of the Specialized Agencies is Section 18.

<sup>242</sup> A. R. Ziegler, "Article 105" in B. Simma and others (eds.), *The Charter of the United Nations: A Commentary* (4th edn, OUP, 2024), p. 2819.

Nations with the exception of those that are “recruited locally and assigned to hourly rates”. All staff members governed by the Staff Regulations are officials of the Organization<sup>243</sup>.

3.78. In a memorandum to the Government of Syria of 15 May 1968, UNRWA’s General Counsel explained the precise scope and the effect of privileges and immunities granted to locally recruited United Nations staff:

“Locally-recruited personnel of the Agency no less than internationally-recruited personnel are staff within the meaning of Article 101, paragraph 1, of the Charter. In accordance with General Assembly resolution 76(I) of 7 December 1946, privileges and immunities under Section 18 of the Convention apply to all officials of the United Nations except those who are both locally-recruited and assigned to hourly rates. This is a decision of the General Assembly and as such neither the Secretary-General nor the Commissioner-General have authority to agree to any modification of this decision”<sup>244</sup>.

3.79. United Nations Legal Counsel explained to the General Assembly in 1981 that:

“all staff members regardless of rank, nationality or place of recruitment, whether Professional or General Service, were considered as officials of the organizations for the purpose of privileges and immunities except for those who were both locally recruited and employed at hourly rates. United Nations locally recruited staff such as clerks, secretaries and drivers were in nearly every case paid according to established salary or wage scales and not at hourly rates and they were, therefore, covered by the terms of General Assembly resolution 76 (I)”<sup>245</sup>.

3.80. Section 18 sets out the immunity, limited to official acts<sup>246</sup>, and further privileges of officials of the United Nations in the following manner:

“Officials of the United Nations shall:

- (a) Be immune from legal process in respect of words spoken or written and all acts performed by them in their official capacity;
- (b) Be exempt from taxation on the salaries and emoluments paid to them by the United Nations;

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<sup>243</sup> Secretary-General’s Bulletin: Status, Basic Rights and Duties of United Nations Staff Members, ST/SGB/1998/19, “Commentary”, p. 10, para. 3.

<sup>244</sup> Memorandum from the General Counsel of UNRWA, *United Nations Juridical Yearbook*, 1968, p. 212, para. 3.

<sup>245</sup> Statement made by the Legal Counsel at the 59th meeting of the Fifth Committee of the General Assembly on 1 December 1981, *United Nations Juridical Yearbook*, 1981, p. 162, para. 5; see also Legal Opinion of the Office of Legal Affairs, *United Nations Juridical Yearbook*, 1997, p. 437, para. 6.

<sup>246</sup> Memorandum from the General Counsel of UNRWA, *United Nations Juridical Yearbook*, 1968, p. 213.

- (c) Be immune from national service obligations;
- (d) Be immune, together with their spouses and relatives dependent on them, from immigration restrictions and alien registration;
- (e) Be accorded the same privileges in respect of exchange facilities as are accorded to the officials of comparable ranks forming part of diplomatic missions to the Government concerned;
- (f) Be given, together with their spouses and relatives dependent on them, the same repatriation facilities in time of international crisis as diplomatic envoys;
- (g) Have the right to import free of duty their furniture and effects at the time of first taking up their post in the country in question”<sup>247</sup>.

3.81. The immunity under Section 18(a) is the most fundamental immunity granted to the United Nations for its officials. It is a corollary to the immunity provided to the Organization under Section 2<sup>248</sup>. The notion of “legal process” contained in Section 18(a) has to be given a broad interpretation<sup>249</sup>.

3.82. The United Nations has consistently objected to reservations to this provision as being incompatible with the General Convention and the Charter itself<sup>250</sup>. UNRWA’s General Counsel observed of the protections in Section 18 that:

“Paragraph (a) of Section 18, which confers immunity from legal process in respect of words spoken or written and all acts performed by officials in their official capacity, is the most important provision of that section. The United Nations has never agreed to any derogation from this provision. The extreme importance of this provision lies in the fact, that, when acting in their official capacity, the acts of the official are in effect the acts of the United Nations itself, and the nationality of the official is totally irrelevant. Without this immunity, officials would be liable to be sued or prosecuted for acts done in their official capacity; they would be liable to be forced to appear as witnesses in court to give evidence on official matters; they would be liable to arrest and interrogation by State authorities on matters arising out of their official duties. Removal of such protection would place officials in a situation where they could be subjected to external pressures and influence directly contrary to Article 100 of the Charter”<sup>251</sup>.

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<sup>247</sup> The equivalent provision in the Convention on the Privileges and Immunities of the Specialized Agencies is Section 19.

<sup>248</sup> R. Bandyopadhyay and T. Iwata, “Officials (Article V Sections 17–21 General Convention)” A. Reinisch (ed.), *The Conventions on the Privileges and Immunities of the United Nations and its Specialized Agencies: A Commentary* (OUP, 2016), p. 326.

<sup>249</sup> Memorandum from the General Counsel of UNRWA, *United Nations Juridical Yearbook*, 1968, p. 213.

<sup>250</sup> Aide-Mémoire to the Permanent Representative of a Member State, *United Nations Juridical Yearbook*, 1963, pp. 188–191; see also Memorandum from the General Counsel of UNRWA, *United Nations Juridical Yearbook*, 1968, p. 213.

<sup>251</sup> Memorandum from the General Counsel of UNRWA, *United Nations Juridical Yearbook*, 1968, p. 213.

3.83. The immunity of the United Nations from every form of legal process and the inviolability of its premises are both *absolute*. Neither can be abridged or qualified — whether in times of unrest or in armed conflict — or overridden by demands of military expediency or national security.

3.84. The practice of the United Nations is clear that determinations by a Member as to its putative “national security” cannot override or qualify its obligations whether under Article 105 of the Charter, the General Convention, or under host country agreements<sup>252</sup>. In 1988 the United States sought, under its Headquarters Agreement with the United Nations, to deny the visa application of Mr. Yasser Arafat, Chairman of the Executive Committee of the Palestinian Liberation Organization (PLO). In an opinion, which the General Assembly endorsed (151-2-1)<sup>253</sup>, United Nations Legal Counsel noted that the Headquarters Agreement did “not contain a reservation of the right to bar the entry of those who represent, in the view of the host country, a threat to its security”<sup>254</sup>. The General Assembly accordingly urged “the host country to abide scrupulously by the provisions of the Agreement and to reconsider and reverse its decision”<sup>255</sup>.

3.85. There has never been any dispute that the immunity of the United Nations from legal process is absolute<sup>256</sup>. In the context of arbitral proceedings, the absolute character of UNRWA’s immunity was confirmed by the Office of Legal Affairs: “*The immunity accorded international organizations under this system of law is an absolute immunity and must be distinguished from sovereign immunity which in some contemporary manifestations, at least, is more restrictive*”<sup>257</sup>.

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<sup>252</sup> The Agreement regarding the Headquarters of the United Nations, signed at Lake Success, on 26 June 1947, and approved by the General Assembly of the United Nations on 31 October 1947, with an Exchange of Notes, dated 21 November 1947, bringing this Agreement into effect, 26 June 1947, 11 *UNTS* 11, is “complementary to the provisions of the General Convention”: *ibid.*, 26; General Assembly resolution 259 (III), 8 December 1948.

<sup>253</sup> General Assembly resolution 43/48, 30 November 1988, Report of the Committee on Relations with the Host Country.

<sup>254</sup> Opinion of the Legal Counsel of the United Nations rendered on 28 November 1988, A/C.6/43/7, para. 4.

<sup>255</sup> General Assembly resolution 43/48, 30 November 1988, Report of the Committee on Relations with the Host Country, para. 4.

<sup>256</sup> A. R. Ziegler, “Article 105” in B. Simma and others (eds.), *The Charter of the United Nations: A Commentary* (4th edn, OUP, 2024), pp. 2813–2814; I. Pingel, “Article 105” in J. P. Cot and A. Pellet (eds.), *La Chartes des Nations Unies: Commentaire article par article tome II* (3rd edn., Economica, 2005), pp. 2159–2160; R. Zacklin, “Diplomatic Relations: Status, Privileges and Immunities” in R. J. Dupuy (ed.), *A Handbook on International Organizations* (2nd edn., Nijhoff, 1998), p. 299, fn. 17.

<sup>257</sup> Legal Opinion of the Office of Legal Affairs, *UN Juridical Yearbook 1984*, pp. 188–189 (emphasis added).



3.86. As United Nations Legal Counsel summarized the position in respect of inviolability under the General Convention, there is in this context one basic principle: “inviolability of United Nations premises applies both at war and at peace<sup>258</sup>”. There is no exception to this absolute rule<sup>259</sup>.

3.87. It is evident from the practice of the United Nations and its Member States that the privileges and immunities of the General Convention may not be qualified or overridden by any demands of military expediency or security:

- a) The Security Council expressed, in a Presidential Statement, its grave concern at attacks on and violations of United Nations premises, reaffirming, in that specific context, “the importance of ensuring the safety and security of United Nations and associated personnel as well as the inviolability of United Nations premises which are essential to the continuation and successful implementation of United Nations operations”<sup>260</sup>.
- b) The Office of Legal Affairs has explained that the requirements as to inviolability of the General Convention are not affected in any way by the fact that the security situation where the United Nations premises, property or assets are located may be difficult<sup>261</sup>: “The Convention does not contain anything to the effect that the privileges and immunities for which it provides are subject to abridgement or qualification in times of internal unrest or even in times of armed conflict. Indeed, it has been the consistent position of the Organization that the General Convention applies in such circumstances just as much as it does in times of peace and that the privileges and immunities for which it provides may not be qualified or overridden by any demands of military expediency or security”<sup>262</sup>.
- c) A United Nations Headquarters Board of Inquiry established by the Secretary-General in the aftermath of incidents occurring in the Gaza Strip in the period 27 December 2008–19 January 2009, concluded that Israel had “carried out a direct and intentional strike on United Nations premises. It considered that this amounted to an egregious breach of the inviolability of United Nations premises and a failure to accord the property and assets of the Organization immunity from any form of interference. It noted that such inviolability and immunity could not be overridden

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<sup>258</sup> Statement by Mr. Miguel de Serpa Soares, 41st Annual Seminar for Diplomats on International Humanitarian Law, 20 March 2024, pp. 3, 11.

<sup>259</sup> *Ibid.*

<sup>260</sup> S/PRST/1997/13, 12 March 1997, para. 3.

<sup>261</sup> Legal Opinion of the Office of Legal Affairs, *United Nations Juridical Yearbook*, 2003, p. 522, para. 11.

<sup>262</sup> *Ibid.*

by demands of military expediency<sup>263</sup>.” The Board of Inquiry held that the inviolability of United Nations premises “could not be set aside by any Member State on the grounds that, in the special circumstances of hostilities, it must be qualified or overridden by demands of military expediency”<sup>264</sup>.

- d) The European Union has, in the context of Israeli attacks against the United Nations Interim Force in Lebanon (UNIFIL), taken the position that all actors have an obligation “to respect the inviolability of UN premises at all times”<sup>265</sup>.
- e) The Federal Department of Foreign Affairs of Switzerland stated in a legal opinion in 2009 that, even faced with the dangers of a pandemic, it would not be possible for the Swiss government to interdict international organizations from operating: given an international organization was “[d]otée de la personnalité juridique internationale et de l’inviolabilité”, “il ne serait pas pensable de prendre des mesures de coercition à l’égard d’une organisation internationale. Il ne serait pas possible, par exemple, d’encercler le bâtiment de l’organisation par des policiers et d’empêcher les délégués de pénétrer dans le bâtiment”<sup>266</sup>.

3.88. As is well-known, the same is the position as regards the inviolability of diplomatic premises<sup>267</sup>. Thus the Court held in *Tehran Hostages* and in *Armed Activities* that, including in the event of armed conflict, the principle of inviolability of diplomatic premises must be respected at all times<sup>268</sup>.

3.89. Israel has, under the Charter, the General Convention, and the rules of customary international law on the subject, an obligation to respect the privileges and immunities of the United Nations, including UNRWA, UN officials, and experts on mission, in and in relation to the Occupied Palestinian Territory.

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<sup>263</sup> Summary by the Secretary-General of the report of the United Nations Headquarters Board of Inquiry into certain incidents in the Gaza Strip between 27 December 2008 and 19 January 2009, A/63/855, S/2009/250, para. 16.

<sup>264</sup> *Ibid.*, para 91. See also General Assembly resolution 64/89, 10 December 2009, preambular paras. 19–20.

<sup>265</sup> Press release, 13 October 2024, Statement by the High Representative on behalf of the European Union on recent attacks against UNIFIL (available at: <https://www.consilium.europa.eu/en/press/press-releases/2024/10/13/statement-by-the-high-representative-on-behalf-of-the-european-union-on-recent-attacks-against-unifil/>).

<sup>266</sup> “Situation des organisations intergouvernementales en Suisse”, (2010), vol. 20, *Revue suisse de droit international et européen*, pp. 545–546.

<sup>267</sup> J. Salmon, *Manuel de droit diplomatique* (Bruylant, 1994), pp. 198–199.

<sup>268</sup> *United States Diplomatic and Consular Staff in Tehran (United States of America v. Iran)*, I.C.J. Reports 1980, p. 40, para. 86; *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda)*, Judgment, I.C.J. Reports 2005, p. 278, para. 342. See also *Partial Award: Diplomatic Claim — Eritrea’s Claim 20* (2005), vol. XXVI, RIAA, p. 398–399, para. 46; *Partial Award: Diplomatic Claim — Eritrea’s Claim 8*, Decision of 19 December 2005 (2009), vol. XXVI, RIAA, para. 24.

**D. Security Council and General Assembly resolutions concerning humanitarian relief in the Occupied Palestinian Territory**

3.90. The Security Council and the General Assembly have in a number of resolutions set out relevant aspects of Israel's obligations in relation to ensuring and facilitating the unhindered provision of urgently needed supplies, basic services, humanitarian and development assistance for the benefit of the Palestinian civilian population. Israel has an obligation to comply with the resolutions of the Security Council to consider in good faith the recommendations of the General Assembly in relation to the situation of the Occupied Palestinian Territory<sup>269</sup>.

3.91. The Security Council has, exercising its functions and powers under the Charter, expressed its concerns as regards the provision of humanitarian assistance to the Palestinian civilian population and laid down obligations of Israel in that regard. In resolution 1405 (2002) the Security Council expressed its concern at "the dire humanitarian situation of the Palestinian civilian population"<sup>270</sup> and emphasized "the urgency of access of medical and humanitarian organizations to the Palestinian civilian population"<sup>271</sup>. In resolution 1435 (2002) the Security Council expressed its grave concern at "the humanitarian crisis being faced by the Palestinian people"<sup>272</sup>.

3.92. In resolution 2720 (2023) the Security Council reiterated its demand that all parties to the conflict comply with their obligations, "including with regard to the conduct of hostilities and the protection of civilians and civilian objects, humanitarian access, and the protection of humanitarian personnel and their freedom of movement, and the duty, as applicable, of ensuring the food and medical supplies, among others, of the population"<sup>273</sup>.

3.93. In the same resolution, the Council reaffirmed the obligations of the parties to the conflict "regarding the provision of humanitarian assistance"; it demanded "that they allow, facilitate and enable the immediate, safe and unhindered delivery of humanitarian assistance at

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<sup>269</sup> See paras. 3.50–3.52 above.

<sup>270</sup> Security Council resolution 1405 (2002), 19 April 2002, preamble. See also Security Council resolution 1073 (1996), 28 September 1996, preamble and para. 2, where the Council called for "the safety and protection of Palestinian civilians to be ensured".

<sup>271</sup> Security Council resolution 1405 (2002), 19 April 2002, para. 1.

<sup>272</sup> Security Council resolution 1435 (2002), 24 September 2002, preamble. See also Security Council resolution 1544 (2004), 19 May 2004, paras. 1–2.

<sup>273</sup> Security Council resolution 2720 (2023), 22 December 2023, para. 1.

scale directly to the Palestinian civilian population throughout the Gaza Strip”<sup>274</sup>. The Council furthermore demanded:

“that all parties to the conflict take all appropriate steps to ensure the safety and security of United Nations and associated personnel, those of its specialized agencies, and all other personnel engaged in humanitarian relief activities consistent with international humanitarian law, without prejudice to their freedom of movement and access”<sup>275</sup>.

3.94. In resolution 2728 (2024) the Security 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 reiterates its demand for the lifting of all barriers to the provision of humanitarian assistance at scale”<sup>276</sup>. The Council’s demands in resolution 2728 (2024) are a binding decision under Article 25 of the Charter.

3.95. The General Assembly has adopted numerous resolutions in relation to Israel’s obligations as regards humanitarian assistance and the early realization of the Palestinian people’s right to self-determination<sup>277</sup>.

3.96. In resolution ES-10/20 of 13 June 2018, the General Assembly, called for “full respect for international human rights law and international humanitarian law “including in regard to the protection of the civilian population”, and reiterated “the need to take appropriate steps to ensure the safety and well-being of civilians and ensure their protection”<sup>278</sup>. It called for “the consideration of measures to guarantee the safety and protection of the Palestinian civilian population in the Occupied Palestinian Territory”<sup>279</sup>. The General Assembly demanded “that all parties cooperate with medical and humanitarian personnel to allow and facilitate unimpeded access to the civilian population, and calls for the cessation of all forms of violence and intimidation directed against medical and humanitarian personnel”<sup>280</sup>. It also urged “the provision of immediate and unimpeded humanitarian assistance to the Palestinian civilian

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<sup>274</sup> *Ibid.*, para. 2.

<sup>275</sup> *Ibid.*, para. 13.

<sup>276</sup> Security Council resolution 2728 (2024), 25 March 2024, para. 2.

<sup>277</sup> See *e.g.* General Assembly resolution 2252 (ES-V) of 4 July 1967, para. 8.

<sup>278</sup> General Assembly resolution, ES-10/20, 13 June 2018, para. 1.

<sup>279</sup> *Ibid.*, para. 9.

<sup>280</sup> *Ibid.*, para. 11.

population in the Gaza Strip, bearing in mind critical medical, food, water and fuel needs” and urged increased support to UNRWA<sup>281</sup>.

3.97. In resolution ES-10/21 of 27 October 2023, the General Assembly demanded:

“... that all parties immediately and fully comply with their obligations under international law, including international humanitarian law and international human rights law, particularly in regard to the protection of civilians and civilian objects, as well as the protection of humanitarian personnel, persons hors de combat, and humanitarian facilities and assets, and to enable and facilitate humanitarian access for essential supplies and services to reach all civilians in need in the Gaza Strip”<sup>282</sup>.

3.98. It also called for:

“... immediate, full, sustained, safe and unhindered humanitarian access for the United Nations Relief and Works Agency for Palestine Refugees in the Near East and other United Nations humanitarian agencies and their implementing partners, the International Committee of the Red Cross and all other humanitarian organizations upholding humanitarian principles and delivering urgent assistance to civilians in the Gaza Strip, encourages the establishment of humanitarian corridors and other initiatives to facilitate the delivery of humanitarian aid to civilians”<sup>283</sup>.

3.99. In resolution ES-10/22 of 12 December 2023 the General Assembly, expressing grave concern over “the catastrophic humanitarian situation in the Gaza Strip and the suffering of the Palestinian civilian population, and emphasizing that the Palestinian and Israeli civilian populations must be protected in accordance with international humanitarian law”, demanded the ensuring of “humanitarian access”<sup>284</sup>.

3.100. In resolution ES-10/24 of 18 September 2024 the General Assembly strongly deplored “the continued and total disregard and breaches by the Government of Israel of its obligations under the Charter of the United Nations, international law and the relevant United Nations resolutions”<sup>285</sup> and urged “all States, the United Nations and its specialized agencies and

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<sup>281</sup> *Ibid.*, para. 12.

<sup>282</sup> General Assembly resolution ES-10/21, 27 October 2023, para. 2.

<sup>283</sup> *Ibid.*, para. 4.

<sup>284</sup> General Assembly resolution ES-10/22, 12 December 2023, para. 3.

<sup>285</sup> General Assembly resolution ES-10/24, 18 September 2024, para. 8.

organizations, as well as regional organizations, to support and assist the Palestinian people in the early realization of its right to self-determination”<sup>286</sup>.

3.101. In resolution ES-10/25 of 11 December 2024 — adopted after the events of 7 October 2023 — the General Assembly expressed grave concern “at the especially dire situation of the Palestine refugees in the Gaza Strip and the West Bank, including East Jerusalem, including with regard to their safety, well-being and socioeconomic living conditions”<sup>287</sup> and affirmed its full support for UNRWA in all of its fields of operation, namely Jordan, Lebanon, the Syrian Arab Republic and the Occupied Palestinian Territory<sup>288</sup>. On this basis, the General Assembly demanded:

“... 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”<sup>289</sup>.

3.102. It called upon Israel:

“... to abide by Articles 100, 104 and 105 of the Charter of the United Nations and the Convention on the Privileges and Immunities of the United Nations in 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”<sup>290</sup>.

3.103. In resolution ES-10/26 of 11 December 2024 the General Assembly demanded:

“... immediate access by the civilian population in the Gaza Strip to basic services and humanitarian assistance indispensable to its survival, while rejecting any effort to starve Palestinians, and further demands the facilitation of full, rapid, safe and unhindered entry of humanitarian assistance, at scale and under the coordination of the United

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<sup>286</sup> *Ibid.*, para. 16.

<sup>287</sup> General Assembly resolution ES-10/25, 11 December 2024, preamble.

<sup>288</sup> *Ibid.*, para. 1.

<sup>289</sup> *Ibid.*, para. 12.

<sup>290</sup> *Ibid.*, para. 14.

Nations, to and throughout the Gaza Strip and its delivery to all Palestinian civilians who need it, including to civilians in besieged north Gaza, who are in urgent need of immediate humanitarian relief”<sup>291</sup>.

3.104. Israel has the obligation, as a Member of the United Nations, to give due regard to these resolutions made by the General Assembly<sup>292</sup>.

#### **E. Israel’s obligations in relation to the safety and security of United Nations and associated personnel**

3.105. Israel has obligations under the rules of customary international law codified in the Convention on the Safety of United Nations and Associated Personnel (the “Safety Convention”)<sup>293</sup>. Israel is not a party to the Safety Convention; Palestine became a party to the Convention on 2 January 2015.

3.106. It is well-established that the Safety Convention codifies existing customary international law on the subject of the safety of United Nations and associated personnel. This is evident from the fact that:

- a) the Convention was, in the words of the Secretary-General, meant to “codify customary international law” as it existed at time of its adoption<sup>294</sup>;
- b) the Convention was adopted in the General Assembly by consensus<sup>295</sup>;

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<sup>291</sup> General Assembly resolution ES-10/26, 11 December 2024, para. 3.

<sup>292</sup> *South-West Africa — Voting Procedure, Advisory Opinion, I.C.J. Reports 1955*, Separate Opinion, Judge Lauterpacht, p. 119; *Whaling in the Antarctic (Australia v. Japan: New Zealand intervening), Judgment, I.C.J. Reports 2014*, p. 257, para. 83.

<sup>293</sup> Adopted by General Assembly resolution 49/59 on 9 December 1994. *UNTS*, vol. 2051, No. 35457.

<sup>294</sup> Note by the Secretary-General, Elaboration, Pursuant to Paragraph 1 of General Assembly Resolution 48/37 of 9 December 1993, of an International Convention Dealing with the Safety and Security of United Nations and Associated Personnel, with Particular Reference to Responsibility for Attacks on such Personnel, 25 March 1994 (A/AC.242/1), para. 13.

<sup>295</sup> *Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970), Advisory Opinion, I.C.J. Reports 1971*, p. 47, para. 94; *Delimitation of the Maritime Boundary in the Gulf of Maine Area, Judgment, I.C.J. Reports 1984*, p. 294, para. 94; *Cudak v. Lithuania*, App. No. 15869/02, Judgment of the Grand Chamber, 23 March 2010, paras. 66–67; M. Wood and O. Sender, *Identification of Customary International Law* (OUP, 2024), pp. 211–212.

- c) on numerous occasions, the Security Council has recalled “the relevant principles in the Convention”<sup>296</sup>; and
- d) the General Assembly has recalled, in other words made reference to, “the Convention” as such<sup>297</sup>. General Assembly resolution 79/232, through which the present request was made, expressly refers to the “applicable principles and rules of international law ... reflected in the [Safety Convention]”<sup>298</sup>.

3.107. Particularly relevant in this regard are the obligation to facilitate the unimpeded transit of United Nations and associated personnel and their equipment to and from the host State in Article 5 and the obligation to ensure the safety and security of the United Nations and associated personnel. Article 5, which codifies this obligation, is in these terms: “A transit State shall facilitate the unimpeded transit of United Nations and associated personnel and their equipment to and from the host State”.

3.108. The use of the verb “facilitate” indicates that the transit State must take positive measures in respect of the transit of United Nations and associated personnel and their equipment<sup>299</sup>.

3.109. Israel has an obligation to facilitate the unimpeded transit of United Nations and associated personnel and their equipment across its territory to the Occupied Palestinian Territory, which includes unimpeded transit, across Israel’s territory, from one part of the Occupied Palestinian Territory to another.

3.110. Furthermore, Israel has the obligation codified in Article 7 of the Safety Convention, subparagraph 1 of which provides: “United Nations and associated personnel, their equipment and premises shall not be made the object of an attack or of any action that prevents them from discharging their mandate”.

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<sup>296</sup> See *e.g.* Security Council resolution 1310, 27 July 2000; Security Council resolution 2236, 21 August 2015; Security Council resolution 2695, 31 August 2023.

<sup>297</sup> See *e.g.* General Assembly resolution 64/89, 19 January 2010; General Assembly resolution 78/118, 13 December 2023.

<sup>298</sup> General Assembly resolution 79/232, 19 December 2024, para. 8.

<sup>299</sup> C. Emanuelli, “La Convention sur la Sécurité du personnel des Nations unies et du personnel associé” (1995), vol. 99, *RGDIP*, p. 862.



3.111. Finally, Israel has the obligation, codified in Article 11, to take all practicable measures to prevent preparations for the commission of crimes against United Nations and associated personnel, and to exchange information and coordinate the taking of appropriate measures to prevent the commission of such crimes.

### **III. The law of occupation**

3.112. Notwithstanding that its presence in the Occupied Palestinian Territory is illegal, Israel remains bound by a number of obligations under the law of occupation which are relevant to the present advisory proceedings. Those obligations are found in the Hague Regulations and the Fourth Geneva Convention, as well as in customary international law, and require Israel, as the occupying Power, to act for the benefit of the Palestinian people by providing adequate food and medical supplies, facilitating and maintaining medical and hospital establishments and services, public health and hygiene, and facilitating the proper working of institutions devoted to the care and education of children. In the event that Israel is not capable of fulfilling these obligations, it must agree to relief schemes by other States, the United Nations or other international organizations.

3.113. Article 43 of the Hague Regulations lays down a general obligation of the occupying Power to restore and ensure as far as possible public order and safety:

“The authority of the legitimate power having in fact passed into the hands of the occupant, the latter shall take all the measures in his power to restore, and ensure, as far as possible, public order and safety, while respecting, unless absolutely prevented, the laws in force in the country.”

3.114. Article 1 of the Fourth Geneva Convention, for its part, stipulates that “[t]he High Contracting Parties undertake to respect and to ensure respect for the present Convention in all circumstances”. As the Court noted in its *2004 Advisory Opinion*, it follows from this provision that “every State party to that Convention, whether or not it is a party to a specific conflict, is under an obligation to ensure that the requirements of the instruments in question are complied with”<sup>300</sup>. This was reiterated in the *2024 Advisory Opinion*, where the Court determined that “all the States parties to the Fourth Geneva Convention have the obligation, while respecting

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<sup>300</sup> *2004 Advisory Opinion*, pp. 199–200, paras. 158–159.

the Charter of the United Nations and international law, to ensure compliance by Israel with international humanitarian laws embodied in that Convention”<sup>301</sup>.

3.115. The obligation to “ensure respect” under Article 1 is central to the entire Geneva Convention; indeed it underlies all the specific obligations laid down in the provisions that follow. For the Convention to be effective, the occupying Power must co-operate in good faith with other States, in accordance with international law, so as to guarantee that the various undertakings can be effectively fulfilled.

3.116. Other provisions of the Fourth Geneva Convention specifically address relief supply to an occupied territory, consistent with the spirit of the Geneva Convention, and the law of occupation more generally, to ensure the protection of the population of the territory.

3.117. The first paragraph of Article 50 of the Convention provides that the occupying Power “shall, with the cooperation of the national and local authorities, facilitate the proper working of all institutions devoted to the care and education of children”. This obligation is broad in scope. It applies to “a wide variety of institutions and establishments of a social, educational or medical character”, and “whatever their status under the law of the country and whether they are privately run or under State control”. The only criterion relevant to determine whether a particular institution is entitled to protection under Article 50 is “whether they are devoted to the care and education of children”<sup>302</sup>.

3.118. The obligation to “facilitate” requires not only abstaining from interference with the activities of the abovementioned institutions, but also to “support them actively and even encourage them if the responsible authorities of the country fail in their duty”<sup>303</sup>.

3.119. Article 55, paragraph 1, of the Convention further provides that:

“To the fullest extent of the means available to it, the Occupying Power has the duty of ensuring the food and medical supplies of the population; it should, in particular, bring

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<sup>301</sup> 2024 *Advisory Opinion*, para. 279. See also 1958 ICRC Commentary, p. 16 (“The proper working of the of the system of protection provided by the Convention demands in fact that the Contracting Parties should not be content merely to apply the its provisions themselves, but should do everything in their power to ensure that the humanitarian principles underlying the Conventions are applied universally”).

<sup>302</sup> 1958 ICRC Commentary, p. 286.

<sup>303</sup> *Ibid.*

in the necessary foodstuffs, medical stores and other articles if the resources of the occupied territory are inadequate.”

3.120. This obligation, too, is crucial. On the one hand, it requires the occupying Power to ensure itself, to the fullest extent of the means available to it, both food and medical supplies of the population. On the other, and in addition, the occupying Power has a duty to “bring in” such supplies if the resources of the occupied territory are inadequate.

3.121. While the Convention does not specify the method by which this latter duty is to be fulfilled, “[w]hat is essential is that the Occupying Power should, in good time and with the means available to it, take measures to procure the necessary food for the population of the occupied territory”<sup>304</sup>. Such procurement can be sought from third States willing and able to provide the necessary supplies — and indeed must be sought in this manner if no other practicable means are available for the occupying Power to comply with Article 55.

3.122. Article 56, paragraph 1, of the Fourth Geneva Convention provides:

“To the fullest extent of the means available to it, the Occupying Power has the duty of ensuring and maintaining, with the cooperation of national and local authorities, the medical and hospital establishments and services, public health and hygiene in the occupied territory, with particular reference to the adoption and application of the prophylactic and preventive measures necessary to combat the spread of contagious diseases and epidemics. Medical personnel of all categories shall be allowed to carry out their duties.”

3.123. Article 59 of the Convention provides:

“If the whole or part of the population of an occupied territory is inadequately supplied, the Occupying Power shall agree to relief schemes on behalf of the said population, and shall facilitate them by all the means at its disposal.

Such schemes, which may be undertaken either by States or by impartial humanitarian organizations such as the International Committee of the Red Cross, shall consist, in particular, of the provision of consignments of foodstuffs, medical supplies and clothing.

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

A Power granting free passage to consignments on their way to territory occupied by an adverse Party to the conflict shall, however, have the right to search the

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<sup>304</sup> *Ibid.*, p. 310.

consignments, to regulate their passage according to prescribed times and routes, and to be reasonably satisfied through the Protecting Power that these consignments are to be used for the relief of the needy population and are not to be used for the benefit of the Occupying Power.”<sup>305</sup>

3.124. This provision contains another core obligation. The occupying Power “*shall*”: (1) agree to relief schemes on behalf of the population of the occupied territory; (2) facilitate them by all means at its disposal. These obligations, which require a high degree of co-operation from the occupying Power, apply to the whole of the population or only to part of it, depending on the circumstances, insofar as it is “inadequately supplied”. Whether a population is inadequately supplied must be assessed based on the facts of each specific case.

3.125. The formulation of Article 59 makes clear that it imposes an obligation of result. The consent of the occupying Power is not required by the provision; it must always allow for relief schemes when the conditions are met<sup>306</sup>. In this connection, it bears recalling that, in *Military and Paramilitary Activities in and against Nicaragua*, the Court determined that “the provision of strictly humanitarian aid to persons or forces in another country, whatever their political affiliations or objectives, cannot be regarded as unlawful intervention, or as in any other way contrary to international law”<sup>307</sup>.

3.126. Article 59 must be read together with the other provisions of the Convention referred to above. In particular, given that the relief schemes shall consist, in particular though not exclusively, of the provision of consignments of foodstuffs, medical supplies and clothing, Article 59 presupposes a failure by the occupying Power fully to discharge its obligations under Articles 55 and 56. Moreover, there is a close connection between Article 59 and Article 1 of the Convention: the obligation of the occupying Power to agree and facilitate relief schemes is the obverse of the obligation of other States to ensure respect for the Convention.

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<sup>305</sup> See also Article 23, first paragraph, of the Convention: “Each High Contracting Party shall allow the free passage of all consignments or medical and hospital stores and objects necessary for religious worship intended only for civilians of another High Contracting Party, even if the latter is its adversary. It shall likewise permit the free passage of all consignments of essential foodstuffs, clothing and tonics intended for children under fifteen, expectant mothers and maternity cases”.

<sup>306</sup> See also the 1958 ICRC Commentary, p. 320 (indicating that the obligation of the occupying Power to accept relief schemes is “unconditional”); F. Lattanzi, “Humanitarian Assistance”, in A. Clapham *et al.* (eds.), *The 1949 Geneva Conventions: A Commentary* (OUP, 2015), p. 242, para. 39 (noting that the obligation under Article 59 “is not subject to any condition”).

<sup>307</sup> *Military and Paramilitary Activities in and against Nicaragua (Nicargua v. United States of America)*, *Merits, Judgment*, I.C.J. Reports 1986, p. 124, para. 242.

3.127. In addition, the relief schemes under Article 59 may be carried out either by States (other than the occupying Power) or by impartial humanitarian organizations. This latter term is broad. It includes inter-governmental organizations (through which States act jointly) which provide humanitarian assistance, such as those within the United Nations system<sup>308</sup>. It also includes the ICRC and its various components — expressly mentioned in paragraph 2 of Article 59<sup>309</sup> — as well as other non-governmental organizations<sup>310</sup>.

3.128. Finally, Article 60 makes clear that, even if the occupying Power agrees to relief schemes under Article 59, it is not relieved of its own obligations concerning the provision of humanitarian assistance to the population of the occupied territory:

“Relief consignments shall in no way relieve the Occupying Power of any of its responsibilities under Articles 55, 56 and 59. The Occupying Power shall in no way whatsoever divert relief consignments from the purpose for which they are intended, except in cases of urgent necessity, in the interests of the population of the occupied territory and with the consent of the Protecting Power.”

3.129. Breaches of the abovementioned obligations under the law of occupation may constitute war crimes. The Rome Statute of the International Criminal Court includes as such crimes, notably, “[i]ntentionally directing attacks against personnel, installations, materials, units or vehicles involved in a humanitarian assistance or peacekeeping mission in accordance with the Charter of the United Nations” (Article 8, paragraph 2, sub-paragraph (b) (iii)); “[i]ntentionally directing attacks against buildings, materials, medical units and transport, and personnel using the distinctive emblems of the Geneva Conventions in conformity with international law (Article 8, paragraph 2, sub-paragraph (b) (xxiv)); and “[i]ntentionally using starvation of civilians as a method of warfare by depriving them of objects indispensable to their survival, including willfully impeding relief supplies as provided for under the Geneva Conventions” (Article 8, paragraph, sub-paragraph (b) (xxv)).

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<sup>308</sup> When the United Nations provides humanitarian assistance, the various obligations addressed in Section II above must also be taken into account, including those arising under the 1994 Safety Convention (see paras. 3.105–3.111 above).

<sup>309</sup> See also Article 10 of the Fourth Geneva Convention: “The provisions of the present Convention constitute no obstacle to the humanitarian activities which the International Committee of the Red Cross or any other impartial humanitarian organization may, subject to the consent of the Parties to the conflict concerned, undertake for the protection of civilian persons and for their relief”.

<sup>310</sup> See also F. Lattanzi, “Humanitarian Assistance”, in A. Clapham *et al.* (eds.), *The 1949 Geneva Conventions: A Commentary* (2015), p. 241, para. 36.

3.130. In the present case, with respect to the Gaza Strip specifically, which is far from adequately supplied, Israel has an obligation to agree to relief schemes by States and other impartial humanitarian organizations, and in particular that provided by UNRWA. As explained above, UNRWA plays a critical role in that territory: without it, the entire humanitarian assistance system would collapse, with catastrophic consequences for the civilian population living in the territory. Other international organizations cannot replace UNRWA, nor can Israel<sup>311</sup>. Israel's ban of UNRWA would by itself constitute a violation of the Hague Regulations and the Fourth Geneva Convention.

#### **IV. International human rights law**

3.131. Israel has, in addition to the law of occupation, relevant obligations under international human rights law, in particular the ICCPR, the ICESCR and the Convention of the Rights of the Child (CRC), treaties to which Israel is a party and which largely reflect customary international law.

3.132. That these instruments apply in respect of the Occupied Palestinian Territory is beyond question. As the Court has already noted, the ICCPR and the ICESCR, as well as the International Convention for the Elimination of all Forms of Racial Discrimination (“**CERD**”) are applicable to the conduct of Israel in the Occupied Palestinian Territory<sup>312</sup>. The Court's reasoning concerning the territorial scope of application of the ICCPR, ICESCR and CERD is equally applicable to the CRC<sup>313</sup>.

3.133. As the Court has made clear in its 2004 and 2024 Advisory Opinions, “[s]ome rights may be exclusively matters of international humanitarian law; others may be exclusively matters of human rights law; yet others may concern both these branches of international law”<sup>314</sup>. Where international humanitarian law may be regarded as *lex specialis* with respect to a particular situation, it may be used to interpret and determine the content of human rights obligations.

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<sup>311</sup> See also para. 1.8 above.

<sup>312</sup> 2004 Advisory Opinion, p. 180, paras. 111–112; 2024 Advisory Opinion, paras. 100–101.

<sup>313</sup> Article 2, paragraph 1, of the CRC provides that States Parties shall respect and ensure the rights set forth in the Convention “to each child within their jurisdiction”.

<sup>314</sup> 2004 Advisory Opinion, p. 178, para. 106; 2024 Advisory Opinion, para. 99.

3.134. A core obligation of Israel concerns the respect for the right to life, enshrined in Article 6 of the ICCPR. That provision sets out that “[e]very human being has the inherent right to life”, which “shall be protected by law”, and that “[n]o one shall be arbitrarily deprived of his life”. Moreover, with respect to children specifically, Article 6 of the CRC, in addition to recognizing that “every child has the inherent right to life”, provides that “States Parties shall ensure to the maximum extent possible the survival and development of the child”. This provision must be read together with Article 3 of the CRC, which stipulates that “[i]n all actions concerning children ... the best interests of the child shall be a primary consideration”.

3.135. The Human Rights Committee, in its General Comment No. 36, has noted that “[t]he right to life is a right that should not be interpreted narrowly”, and that it concerns “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”<sup>315</sup>. The Committee has moreover expressed the view that “[d]eprivation of life involves intentional or otherwise foreseeable and preventable life-terminating harm or injury, caused by an act or omission”<sup>316</sup>, and that “States parties may be in violation of article 6 even if such threats and situations do not result in loss of life”<sup>317</sup>. Furthermore, with respect to persons in vulnerable situations, such as humanitarian workers, children in situations of armed conflict and displaced persons, States must adopt “special measures of protection”<sup>318</sup>.

3.136. The right to life under the ICCPR, as well as under the CRC, thus comprises not only a negative obligation not arbitrarily to deprive individuals of their life, but also to a positive duty to take effective action to prevent foreseeable harm or injury that may result in such deprivation. The due diligence required by a State in this context is even stricter when the life of vulnerable persons, especially children, is in danger.

3.137. Extreme situations such as the one obtaining at present in the Occupied Palestinian Territory, and in particular in the Gaza Strip, clearly require Israel to act pursuant to its obligations as described above. The dire humanitarian situation is such that the lives of

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<sup>315</sup> Human Rights Committee, General Comment No. 36 — Article 6 (Right to Life), 2018 (CCPR/C/GC/36), para. 3.

<sup>316</sup> *Ibid.*, para. 6.

<sup>317</sup> *Ibid.*, para. 7.

<sup>318</sup> *Ibid.*, para. 23.

hundreds of thousands of individuals are at a risk that is not only foreseeable, but certain. Israel must therefore take active measures to ensure respect for the right to life of those individuals, including by allowing the supply of urgently needed humanitarian relief to the Occupied Palestinian Territory through third parties, notably UNRWA. Failure by Israel to do so would amount to an omission in violation of Article 6 of the ICCPR and Article 6 of the CRC.

3.138. The obligation set out above is consistent with the equally applicable provisions of the law of occupation addressed in the previous section, in particular Article 59 of the Fourth Geneva Convention<sup>319</sup>.

3.139. Certain obligations under the ICESCR must also be taken into account in the present context. The Convention includes, among others, the right to an adequate standard of living, including adequate food, clothing and housing (Article 11), the right to the enjoyment of the highest attainable standard of physical and mental health (Article 12), and the right to education (Article 13).

3.140. These are all rights that risk being impaired, if not altogether denied, if the dire humanitarian situation in the Occupied Palestinian Territory continues. They must be interpreted and applied consistent with Article 2, paragraph 1, of the ICESCR, according to which the States Parties “undertake to take steps, individually and through international assistance and co-operation especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the ... Covenant by all appropriate means, including particularly the adoption of provisional measures”.

## **V. The law on the protection of persons in the event of disasters**

3.141. The catastrophic humanitarian situation in Gaza, but also in the rest of the Occupied Palestinian Territory, falls within the concept of a human-made disaster. Cooperation in the provision of relief assistance and the protection of persons in the event of such disasters has become a matter of international concern. Some obligations incumbent upon Israel in this context are also relevant in the present advisory proceedings.

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<sup>319</sup> See paras. 3.123–3.127 above.



3.142. The International Law Commission adopted in 2016 a set of draft articles on the protection of the event of disasters, many of each reflect obligations arising from customary international law and human rights instruments<sup>320</sup>. As the commentary to the draft articles indicates, these draft articles “contemplate, albeit in general terms, the rights of individuals affected by disasters, as established by international law”<sup>321</sup>. Draft article 5 clearly reaffirms in this regard that “[p]ersons affected by disasters are entitled to the respect and protection of their human rights in accordance with international law”<sup>322</sup>, including in particular the right to life under the ICCPR and the right to an adequate standard of living under the ICESCR, which “continue even in the context of a disaster”, as well as the “right to humanitarian assistance”<sup>323</sup>. That which was explained in the previous section concerning Israel’s obligations under international human rights law, therefore, remains applicable in this context.

3.143. The draft articles define a “disaster” as a “calamitous event or series of events resulting in widespread loss of life, great human suffering and distress, mass displacement, or large-scale material or environmental damage, thereby seriously disrupting the functioning of society”. It should go without saying that the current situation in the Occupied Palestinian Territory as described in Chapter 1, and in particular in the Gaza Strip, meets this definition.

3.144. The draft articles as a whole “focus primarily on the activities of States and intergovernmental organizations ... and other entities enjoying specific international legal competence in the provision of disaster relief assistance in the context of disasters”<sup>324</sup>. Moreover, they are intended to cover areas where the disaster occurs as well as those within the assisting States and transit States<sup>325</sup>.

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<sup>320</sup> The draft articles are also consistent with the guiding principles annexed to General Assembly resolution 46/182 of 19 December 1991, entitled “Strengthening of the coordination of humanitarian emergency assistance of the United Nations”.

<sup>321</sup> ILC Draft articles on the protection of persons in the event of disasters, with commentaries (A/71/10), p. 27, para. (2). The commentary further notes that “[t]he importance of human rights protection disaster situations is demonstrated by the increased attention paid to the issue by human rights bodies established under the United Nations, as well as by regional international courts” (*ibid.*).

<sup>322</sup> *Ibid.*, p. 34. See also Institut de Droit international, Resolution on Humanitarian Assistance (2003), Article II(1): “Leaving the victims of disaster without humanitarian assistance constitutes a threat to human life and an offence to human dignity and therefore a violation of fundamental human rights”.

<sup>323</sup> *Ibid.*, pp. 34–35, para. (6). See also F. Lattanzi, “Humanitarian Assistance”, in A. Clapham *et al.* (eds.), *The 1949 Geneva Conventions: A Commentary* (OUP, 2015) p. 233, para. 7.

<sup>324</sup> ILC Draft articles on the protection of persons in the event of disasters, with commentaries (A/71/10), p. 27, para. (3).

<sup>325</sup> *Ibid.*, p. 27, para. (5).

3.145. Certain specific obligations reflected in the draft articles are particularly relevant to the present advisory proceedings, notably: the obligation of States to cooperate among themselves, with the United Nations, the ICRC and other assisting actors (draft article 7)<sup>326</sup>; the duty of the affected State to ensure the protection of persons and the provision of disaster relief, taking into accounts its primary role in the direction, control, coordination and supervision of relief assistance (draft article 10); the duty of the affected State to seek external assistance (draft article 11)<sup>327</sup>; the obligation not arbitrarily to withhold consent to external assistance (draft article 13)<sup>328</sup>; the obligation to facilitate external assistance (draft article 15); the obligation to take appropriate measures to ensure the protection of relief personnel and of equipment and goods (draft article 16); and the obligation to consult as regards the termination of external assistance (draft article 17)<sup>329</sup>.

3.146. The Declaration of principles for international humanitarian relief to the civilian population in disaster situations, adopted by 21st International Conference of the Red Cross in 1969 — a deep-rooted instrument in this area of the law — establishes that “[a]ll States are requested to exercise their sovereign and other legal rights so as to facilitate the transit, admission and distribution of relief supplies provided by impartial international humanitarian organisations for the benefit of civilian populations in disaster areas when disaster situations imperil the life and welfare of such populations”<sup>330</sup>.

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<sup>326</sup> Draft article 8 further specifies that such cooperation includes “humanitarian assistance, coordination of international relief actions and communications, and making available relief personnel, equipment and goods, and scientific, medical and technical resources”.

<sup>327</sup> The commentary notes that such assistance may be sought from other States, the United Nations, and other potential assisting actors, as appropriate (A/71/10, p. 46, para. (1)). The commentary further clarifies that this obligation “also derives from an affected States’ obligations under international human rights instruments and customary international law” (*ibid.*, p. 47, para. (3)), and that it coheres “with the guiding principle of humanity as applied in the international legal system” (*ibid.*, p. 47, para. (4); see also draft article 6).

<sup>328</sup> See also Institut de Droit international, Resolution on Humanitarian Assistance (2003), Article VIII(1) (“Affected States are under an 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 rights of the victims or would amount to a violation of the ban on starvation of civilians as a method of warfare”).

<sup>329</sup> *Ibid.*, Article VIII(1) (“Affected States are under an 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 rights of the victims or would amount to a violation of the ban on starvation of civilians as a method of warfare”).

<sup>330</sup> 21st International Conference of the Red Cross, Istanbul, September 1969, Resolution 26, para. 5

3.147. Jordan recalls that the Palestinian people have the right to self-determination, which includes its existence as an independent State. The “affected State” for purposes of applying the law on the protection of persons in the event of disasters, therefore, must be understood as referring to Palestine. At the same time, insofar as Israel exercises effective control over the Occupied Palestinian Territory (an occupation which is illegal as such and must be ended), the obligations relating to the protection of persons in the event of disasters are incumbent upon it<sup>331</sup>.

3.148. Consistent with Israel’s obligations under international law addressed in previous sections (notably those arising under the principle of self-determination, international humanitarian law and international human rights law), the law on the protection of persons in the event of disasters further clarifies the actions which Israel is required to undertake in order to guarantee the provision of humanitarian relief in the Occupied Palestinian Territory, and notably in the Gaza Strip. These rules put emphasis, in particular, Israel’s obligation to cooperate in good faith with the United Nations, other international organizations and third States and to facilitate humanitarian assistance, including by facilitating transit through its territory into the Occupied Palestinian Territory.

3.149. Moreover, they underscore the obligations of Israel not arbitrarily to withhold consent, and to consult in good faith as regards the termination of assistance with all the actors involved. These last two obligations are particularly relevant in the context of UNRWA’s activities and presence in the Occupied Palestinian Territory, which, as explained in Chapter 1, Israel aims to end. Such conduct would not be compatible with Israel’s obligations in the present circumstances.

## **VI. The Court’s binding orders on provisional measures in the *South Africa v. Israel* case**

3.150. Israel also has relevant obligations arising from the Court’s orders indicating provisional measures in the ongoing case concerning the *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)*.

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<sup>331</sup> See also paras. 3.37–3.39 above (as regards Israel’s obligation to negotiate in good faith with the United Nations before any decision concerning the end of UNRWA’s activities).

3.151. Jordan recalls at the outset that, as the Court has consistently made clear since the *LaGrand* case<sup>332</sup>, orders indicating provisional measures under Article 41 of the Statute are binding on the parties to a contentious case. Israel has thus an international obligation to abide by the orders issued by the Court in the abovementioned case, and its responsibility for their breach — which would entail a breach of the Statute — may be engaged if it fails to do so. Jordan further notes that those orders remain binding on Israel until the Court renders its final decision in the proceedings instituted by South Africa<sup>333</sup>.

3.152. In its first order dated 26 January 2024, the Court indicated, *inter alia*, the following measure:

“The State of Israel shall 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 Gaza Strip”<sup>334</sup>.

3.153. In a subsequent order, rendered on 28 March 2024, the Court further indicated that Israel must:

“Take all necessary and effective measures to ensure, without delay, in full co-operation with the United Nations, the unhindered provision at scale by all concerned of urgently needed basic services and humanitarian assistance, including food, water, electricity, fuel, shelter, clothing, hygiene and sanitation requirements, as well as medical supplies and medical care to Palestinians throughout Gaza, including by increasing the capacity and number of land crossing points and maintaining them open for as long as necessary”<sup>335</sup>.

3.154. Finally, in its order of 24 May 2024, the Court determined that Israel shall “[m]aintain open the Rafah crossing for unhindered provision at scale of urgently needed basic services and humanitarian assistance”<sup>336</sup>.

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<sup>332</sup> *LaGrand* (Germany v. United States of America), Judgment, I.C.J. Reports 2001, pp. 502–503, para. 102.

<sup>333</sup> See, for example, *Anglo-Iranian Oil Co. case (jurisdiction)*, Judgment of July 22<sup>nd</sup>, 1952, I.C.J. Reports 1952, p. 114; *Nuclear Tests (Australia v. France)*, Judgment, I.C.J. Reports 1974, p. 272, para. 61; *Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Georgia v. Russian Federation)*, Preliminary Objections, Judgment, I.C.J. Reports 2011, p. 140, para. 186.

<sup>334</sup> *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)*, Order of 26 January 2024, para. 86 (4).

<sup>335</sup> *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. 51(2)(a).

<sup>336</sup> *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) and (c).

3.155. Israel is thus required, by virtue of these orders, to take a variety of actions with respect to the Gaza Strip. First, Israel must take all necessary and effective measures to enable the unhindered provision of basic services and humanitarian assistance, including food, water, electricity, fuel, shelter, clothing, hygiene and sanitation requirements, medical supplies and medical care. These measures must be taken as a matter of urgency, without delay, and should include increasing the capacity and number of land crossings points. Second, in fulfilling these obligations, Israel is required to co-operate in full with the United Nations.

3.156. The provisional measures indicated by the Court are consistent with Israel's obligations under international law addressed above in the present Written Statement. In particular, similarly to the Court's orders, the law of occupation requires Israel, as an occupying Power, to agree to relief schemes on behalf of the population of the Occupied Palestinian Territory (including the Gaza Strip), and to facilitate such schemes by all means at its disposal<sup>337</sup>. Moreover, under the law of the United Nations, Israel has an obligation to co-operate with the latter, including in particular with UNRWA, to allow for the provision of humanitarian relief<sup>338</sup>.

## **VII. Diplomatic and consular law**

3.157. Many States that provide or wish to provide urgently needed supplies essential to the survival of the Palestinian civilian population, as well as of basic services and humanitarian and development assistance, often do so with the support of their diplomatic and consular missions in Israel, Palestine, or both. These are, in the Occupied Palestinian Territory, sometimes called "representations"<sup>339</sup>.

3.158. Israel has certain obligations under international law – the law on diplomatic and consular relations, as reflected in customary international law, the Vienna Convention on Diplomatic Relations (VCDR) and the Vienna Convention on Consular Relations (VCCR) – with respect to such missions.

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<sup>337</sup> See paras. 3.112–3.130 above

<sup>338</sup> See paras. 3.27–3.31 above.

<sup>339</sup> VCDR, Article 2; VCCR, Article 2. See also *Immunities and Criminal Proceedings (Equatorial Guinea v. France)*, Judgment, I.C.J. Reports 2020, p. 320, para. 63 *et seq.*

3.159. At the outset, it must be recalled that it is the receiving State which, by virtue of the sovereignty it possesses over its territory, has the right to consent, as well as to withdraw such consent, to the establishment of diplomatic or consular missions on its territory. Israel does not have sovereignty over the Occupied Palestinian Territory (including East Jerusalem); it is merely an occupying Power, whose occupation and continued presence on that territory is moreover illegal and must therefore cease. It follows that Israel cannot, under any circumstances, purport to close the diplomatic or consular mission of a third State in the Occupied Palestinian Territory. Such an action would constitute a violation of international law.

3.160. Insofar as Israel continues to exercise control over the Occupied Palestinian Territory, Israel is bound to respect the inviolability and immunities accorded by international law to diplomatic and consular premises and agents<sup>340</sup>

3.161. As a third State, Israel also has obligations relating to transit to and from diplomatic and consular missions in the Occupied Palestinian Territory, insofar as transit through Israel's own territory is required. Under Article 40 of the VCDR, Israel must accord inviolability and other immunities that may be required to diplomatic agents who pass through or are on its territory if the latter are proceeding to take up or return to their posts, or when returning to their home country (paragraph 1). Similarly, Israel must not hinder the passage of members of administrative and technical or service staff of a mission (paragraph 2). Moreover, official correspondence and other official communications in transit must be accorded the same freedom and protection as is accorded by the receiving State. The same applies to diplomatic couriers and diplomatic bags (paragraph 3). Similar obligations exist, *mutatis mutandis*, under Article 54 of the VCCR.

## VIII. Conclusion

3.162. The present chapter has examined the different areas of international law which give rise to the obligations of Israel in relation to the presence and activities of the United Nations,

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<sup>340</sup> See also J. Salmon, *Manuel de droit diplomatique* (Bruylant, 1994), pp. 431–433, referring, *inter alia*, to Security Council resolution 664 (1990) (ordering Iraq to “rescind its orders for the closure of diplomatic and consular missions in Kuwait and the withdrawal of the immunity of their personnel”) and resolution 667 (1999) (demanding Iraq to comply with the VCDR and the VCCR, and condemning its “aggressive acts ... against diplomatic premises and personnel in Kuwait”).

other international organizations and third States, in and in relation to the Occupied Palestinian Territory. The findings of the Court in its two prior Advisory Opinions relating to the Occupied Palestinian Territory facilitate the analysis required to answer the present question submitted to it.

3.163. Some of the relevant Israeli obligations arise not only from one but from different areas and sources of international law, in particular those aiming at to ensure and facilitate the provision of humanitarian and development assistance, for the benefit of the Palestinian population. The right of the Palestinian people to self-determination, which constitutes a peremptory and *erga omnes* norm in international law, is at the core of the question. This is so because it relates not only to the exercise of the free choice of its political status, but also to its very existence as such in its territory, which requires it not to be deprived of its means of subsistence and the enjoyment of its sovereign rights over its wealth and natural resources.

3.164. The following chapter summarizes the obligations Israel has vis-à-vis the United Nations, other international organizations and third States, either to all of them or to specifically one or the other of those actors.





## **CHAPTER 4**

### **SUBMISSIONS**

For the reasons set out in this Written Statement, the Hashemite Kingdom of Jordan respectfully makes the following submissions to the Court:

- (a) With regard to the United Nations, other international organizations and third States, the following obligations are incumbent on Israel:
  - (i) The obligation to co-operate to bring to an end as rapidly as possible its unlawful presence in the Occupied Palestinian Territory, in order to allow the full exercise of the right of the Palestinian people to self-determination;
  - (ii) The obligation to co-operate in order to guarantee the respect of the territorial integrity and the demographic composition of the Palestinian people;
  - (iii) The obligation to abrogate any legislative and administrative measure which has the effect of preventing the exercise of the right to self-determination by the Palestinian people;
  - (iv) The obligation not to deprive the Palestinian people of its own means of subsistence;
  - (v) The obligation to co-operate in solving problems of a humanitarian character in and in relation to the Occupied Palestinian Territory;
  - (vi) The obligation to facilitate the unimpeded transit of humanitarian assistance, notably by UNRWA, to and from the Occupied Palestinian Territory and between one part of it to another;
  - (vii) The obligation, to comply with the relevant rules of the ICCPR, the ICESCR, the CRC and international customary law on human rights in the Occupied Palestinian Territory;

- (viii) The obligation, as an occupying Power, to act for the benefit of the Palestinian people by providing adequate food and medical supplies, facilitating and maintaining medical and hospital establishments and services, public health and hygiene, and to facilitate, in co-operation with the national and local authorities, the proper working of institutions devoted to public health and to the care and education of children;
  - (ix) The obligation under customary international law relating to the protection of persons in the event of disasters, including the obligation to co-operate in good faith with third States, with the United Nations, with the International Committee of the Red Cross and the components of the Red Cross and the Red Crescent Movement, and with other assisting actors, and to facilitate the transit, admission and distribution of relief supplies;
  - (x) The obligation, arising from the Court's orders on provisional measures in the *South Africa v. Israel* case, to take immediate and effective measures to enable the provision of urgently needed basic services and humanitarian assistance to the Gaza Strip, and to co-operate to that end;
  - (xi) The obligation to cease all the internationally wrongful acts it is committing in and in relation to the Occupied Palestinian Territory and to pay appropriate compensation as a reparation for those breaches of its international obligations.
- (b) With regard to the United Nations and other international organizations in particular, the following obligations are incumbent on Israel:
- (i) The obligation to respect United Nations resolutions (by the Security Council, the General Assembly, and other organs) which declare the right of the Palestinian people to self-determination, including its right to have its own State, and which set out different specific actions aiming at allowing the Palestinian people the full exercise of this right;
  - (ii) The obligation to respect the mandate of UNRWA established by the General Assembly and to co-operate with a view to it being fulfilled;

- (iii) The obligation to respect the privileges and immunities of the United Nations, including UNRWA, UN officials and experts on mission, in and in relation to the Occupied Palestinian Territory, in accordance with the Convention on Privileges and Immunities of the United Nations and customary international law on the subject;
- (iv) The obligation to abrogate any legislative and administrative acts which have the effect of preventing UNRWA from performing its activities, in particular the Law on the Cessation of UNRWA Activities (2024) and the Law for the Cessation of UNRWA Activities in the State of Israel (2024) and the obligation not to apply them pending their abrogation;
- (v) The obligation to apply the Exchange of Letters constituting a provisional arrangement between UNRWA and Israel of 14 June 1967 and to consult and negotiate with the United Nations prior to any preparatory steps to denouncing it;
- (vi) The obligation to protect the humanitarian personnel and the obligation to protect UN facilities against destruction;
- (vii) The obligation to conduct impartial and transparent investigations to hold those responsible accountable for any violations against UN personnel, including UNRWA personnel and facilities, and to take necessary measures to ensure accountability for such attacks and implement preventative measures to avoid their recurrence in the future;
- (viii) The obligation not to impede or render difficult the participation of the Palestinian representatives in the activities of the United Nations, other international organizations and conferences of States parties to multilateral treaties;
- (ix) The obligation to give every assistance in any action which the United Nations, including notably UNRWA, takes in and in relation to the Occupied Palestinian Territory;
- (x) The obligation to comply with the relevant Security Council resolutions relating to the current situation in the Occupied Palestinian Territory;

- (xi) The obligation to consider in good faith the recommendations of the General Assembly in relation to the current situation of the Occupied Palestinian Territory
- (c) With regard to third States in particular, the following obligations are incumbent on Israel:
  - (i) The obligation not to hinder the support from third States to the exercise of the right of the Palestinian people to self-determination, including economic, social, cultural, technical, and development assistance;
  - (ii) The obligation not to hinder the diplomatic, consular, and other relations of third States with the State of Palestine, and to respect the privileges and immunities of third States in their representation before the Palestinian authorities.



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Ayman H. Safadi

Deputy Prime Minister and Minister of Foreign Affairs and Expatriates

Representative of the Hashemite Kingdom of Jordan

28 February 2025