

INTERNATIONAL COURT OF JUSTICE

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OBLIGATIONS OF ISRAEL IN RELATION TO THE PRESENCE AND  
ACTIVITIES OF THE UNITED NATIONS, OTHER INTERNATIONAL  
ORGANIZATIONS AND THIRD STATES IN AND IN RELATION TO THE  
OCCUPIED PALESTINIAN TERRITORY

REQUEST FOR ADVISORY OPINION

WRITTEN STATEMENT OF THE  
REPUBLIC OF COLOMBIA

28 February 2025



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## GENERAL INTRODUCTION

The Republic of Colombia ('Colombia') submits this Written Statement in accordance with the Court's Order of 23 December 2024, fixing 28 February 2025 as the time-limit for the United Nations and its Member States to furnish information on the questions submitted to the Court in General Assembly resolution 79/232 of 19 December 2024.

The request seeks the Court's guidance on the legal obligations incumbent upon Israel, in its capacity as an occupying Power and a member of the United Nations, regarding the presence and activities of the United Nations, its agencies and bodies, other international organizations, and third States in the Occupied Palestinian Territory, including East Jerusalem. This request is made in light of ongoing developments that have raised significant concerns regarding Israel's compliance with its obligations under international law.

The United Nations General Assembly has considered the reports from the Secretary-General indicating that Israel has adopted legislative and administrative measures that obstruct the work of the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) and other humanitarian entities operating in the Occupied Palestinian Territory. These measures, which include undue restrictions on the movement of personnel, impediments to the delivery of humanitarian aid, and interferences with the immunities and privileges afforded to UN agencies, have directly affected the civilian population and exacerbated an already dire humanitarian situation. The General Assembly has recalled that under international law, all States are bound to respect the privileges and immunities of the United Nations and to facilitate the unimpeded provision of humanitarian assistance in conflict situations. The actions undertaken by Israel appear to contravene these fundamental principles, raising urgent legal questions that necessitate the Court's authoritative clarification.

The legal basis for this request is firmly grounded in the principles and provisions of international law, including the Charter of the United Nations, international humanitarian law, international human rights law, and treaty obligations such as the Convention on the Privileges and Immunities of the United Nations and the Convention on the Safety of United Nations and Associated Personnel. Moreover, the request is informed by previous resolutions of both the General Assembly and the Security Council, including Resolution 2334 (2016), which reaffirmed the illegality of Israeli settlements in the Occupied Palestinian Territory, and the advisory opinion rendered by this Court on July 19, 2024. In that opinion, the Court unequivocally held that Israel's continued presence in the Occupied Palestinian Territory is unlawful, that it is under a duty to respect the Palestinian people's right to self-determination, and that all States have an obligation to ensure that this right is not obstructed.

The General Assembly, recognizing the pressing need for legal clarity on this matter, has posed a question to the Court regarding 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.

It is the position of the General Assembly that the obligations imposed upon Israel under international law are clear and unequivocal. As an occupying Power, Israel is bound by the provisions of the Fourth Geneva Convention and customary international humanitarian law, which mandate that an occupying Power must administer occupied territory in a manner that benefits the local population

and must refrain from taking actions that alter the status of the territory or deprive its inhabitants of their fundamental rights. Furthermore, as a member of the United Nations, Israel is legally obligated to respect the functions and immunities of the Organization, ensuring that its agencies and personnel can carry out their mandates without interference or restriction. Any action that impedes the delivery of humanitarian assistance or obstructs the activities of international organizations working in the Occupied Palestinian Territory constitutes a violation of these obligations and warrants the urgent attention of the Court.

In light of the foregoing, the General Assembly urges the Court to provide an advisory opinion on this matter as a matter of priority, given the ongoing deterioration of the humanitarian situation in the Occupied Palestinian Territory. Such an opinion is necessary not only to clarify the legal responsibilities of Israel in this context but also to reinforce the fundamental principles of international law, including the protection of civilian populations, the preservation of the legal order established by the United Nations, and the realization of the Palestinian people's right to self-determination. The General Assembly reaffirms its commitment to upholding these principles and calls upon all States to act in accordance with their international obligations to ensure that the rule of law prevails in the Occupied Palestinian Territory.

# WRITTEN STATEMENT OF THE GOVERNMENT OF THE REPUBLIC OF COLOMBIA

## CHAPTER 1

### INTRODUCTION

1.1. The question on which the Court was requested by the General Assembly to render an advisory opinion is as follows:

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

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?”.

1.2. Colombia considers well established that advisory proceedings should never be used as a means to submit to the Court affairs that are entirely bilateral. However, the question put before the Court in the present proceedings refers to a wide range of issues which are of general concern. Indeed, General Assembly Resolution 79/232 was adopted by a recorded vote of 137 in favour to 12 against, with 22 abstentions. As can be seen, an overwhelming number of Member States – including Colombia, decided it was important for the General Assembly to receive guidance on the question put to the Court. Moreover, in view of the heavy toll on human lives and the unspeakable suffering that the Palestinian population in Gaza lives under as a result of Israel’s actions, the General Assembly took great care in expressing the view that developments on the ground –in particular developments which could prevent the United Nations Relief and Works Agency for Palestine Refugees in the Near East from continuing its essential work in the Occupied Palestinian Territory, including East Jerusalem, as mandated by the General Assembly– demand consideration by and guidance from the Court, on a priority basis and with the utmost urgency, of certain additional questions to supplement the Court’s advisory opinion of 19 July 2024.

1.3. This is particularly apposite taking into consideration that in that Opinion the Court already held the view that the request in that instance, “[W]as put forward by the General Assembly with

reference to its own responsibilities and functions regarding the issue of the Occupied Palestinian Territory”.<sup>1</sup> The same applies *mutatis mutandis* to the present request.

1.4. Henceforth, Colombia believes that submitting this question to the Court via the advisory procedure will contribute to a proper understanding of the law concerning the matter presented to the Court.

#### **A. The Issues Raised by the Request**

1.5. The most relevant part of resolution 79/232 is operative paragraph 10, in which the General Assembly sets out two things, namely: First, the legal framework applicable to the question it is about to pose; and second, the question itself which is formulated in clear and unambiguous terms.

1.6. According to that provision, the said framework, which the Court is requested to consider while dealing with the request includes, *inter alia*, the following sources of the law: the rules and principles of international law; the Charter of the United Nations; international humanitarian law; international human rights law; privileges and immunities under international law applicable 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, “in which the Court reaffirmed the duty of an occupying Power to administer occupied territory for the benefit of the local population and affirmed that Israel is not entitled to sovereignty over or to exercise sovereign powers in any part of the Occupied Palestinian Territory on account of its occupation”.<sup>2</sup>

1.7. The importance that the General Assembly attached to the identification of these legal parameters, for the benefit of the Court, is best elucidated by one of the preambular paragraphs of the resolution containing the request, in which the General Assembly expressed its

“... *grave concern* about plans and measures, including legislation adopted, by Israel to interfere with or obstruct the presence and operations of the United Nations and United Nations entities and organizations, including the United Nations Relief and Works Agency for Palestine Refugees in the Near East, as mandated by the General Assembly, recalling the Charter of the United Nations, the Convention on the Privileges and Immunities of the United Nations, and other applicable principles and rules of international law, *inter alia* reflected in the Convention on the Safety of United Nations and Associated Personnel and the relevant United Nations resolutions, and reiterating the need for the United Nations and United Nations organizations to fully implement their mandates in the Occupied Palestinian Territory, including East Jerusalem, without interference”.<sup>3</sup>

1.8. The precise question is formulated in the second section of paragraph 10 of the resolution containing the request. The Court is asked to provide guidance as to what are the obligations incumbent upon 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.

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<sup>1</sup> *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem, Advisory Opinion of 19 July 2024*, at para. 37.

<sup>2</sup> United Nations General Assembly Resolution 79/232, 19 Dec. 2024, pp. 4-5, para. 10.

<sup>3</sup> United Nations General Assembly Resolution 79/232, 19 Dec. 2024, pp. 2-3. preambular paragraph 15.



1.9. It is further elaborated that these entail “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”<sup>4</sup> and that these relief activities are for both, the benefit of the Palestinian civilian population, and in support of the Palestinian people’s right to self-determination.

1.10. In Colombia’s view, the question thus asked is clearly and precisely formulated and has been presented in a clear way. There is no “lack of clarity in the drafting” or “uncertainty” here that would require clarification or interpretation, as those that have, on occasion, been deemed necessary by the Court.<sup>5</sup> In the present case, therefore, Colombia sees no reason for the Court to reformulate the questions put to it by the General Assembly, it being understood that the Court will interpret any such questions whenever clarification may be necessary.

## **B. The Interest of the Republic of Colombia in these Proceedings**

1.11. As a State striving for and committed to peace at home and abroad, and a founding Member of the United Nations, Colombia has a clear interest in all developments concerning the Palestinian question, in which fundamental values and cardinal principles of international law not only are at stake but are actually being eroded by the actions of the Occupying Power.

1.12. Colombia thus supported the draft resolution submitted by Norway, co-sponsored it and voted in favour at the General Assembly. In Colombia’s view, this is merely a continuation, brought about by the developments on the ground, of the proceedings culminating with the reading of the Court’s Advisory Opinion of 19 July 2024, in which Colombia participated as a State with a special interest in the questions put before the Court by the General Assembly.

1.13. Further, given that the present proceedings concern fundamental values of the international community that translate into concrete obligations which have the nature of obligations *erga omnes partes*, whether under applicable treaties or under widely accepted rules of customary international law, Colombia considers itself as possessing a legitimate interest in the protection of those values and the respect for those obligations. Taking part in the present proceedings is a way to make that interest effective.

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<sup>4</sup> United Nations General Assembly Resolution 79/232, 19 Dec. 2024, p. 5., para. 10.

<sup>5</sup> *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, I.C.J. Reports 2004*, p. 136, at pp. 153-154, para. 38.



## CHAPTER 2

### JURISDICTION AND DISCRETION TO RENDER AN ADVISORY OPINION

2.1. By virtue of Article 65, paragraph 1, of the Statute of the Court,

“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.”

2.2. Under this provision, two requirements must be met for the Court to have jurisdiction to give the requested opinion: (i) there must be a formal request from a body duly authorised to do so by the UN Charter, or in accordance to it, and (ii) the question put before the Court must be a legal question.

2.3. With regard to the first requirement, it is undisputed that the General Assembly of the United Nations is one of the “bod[ies] (...) authorized (...) to make such a request”, in application of Article 96, paragraph 1, of the Charter, which reads as follows:

“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. Additionally, it is also clear that the decision of the General Assembly to submit the questions contained in Resolution 79/232 was taken in accordance with its rules of procedure and by the required majority.

2.5. Therefore, the request of the General Assembly contained in Resolution 79/232 observes the first requirement of Article 65, paragraph 1, of the Statute of the Court.

2.6. The requirement that the question put before the Court be a legal one, is also complied with in the present case. In the *Legality of the Threat or Use of Nuclear Weapons* advisory opinion, the Court clarified that a question is a legal one when “the Court is asked to rule on the compatibility of the [request] with the relevant principles and rules of international law”<sup>6</sup>. In other words, questions “framed in terms of law and raising problems of international law”<sup>7</sup>, whereby the Court is asked to identify and apply principles and rules of international law, are “by their very nature susceptible of a reply based on law”<sup>8</sup> and therefore qualify as questions of legal character.

2.7. Colombia considers that the question raised in Resolution 79/232 was put in legal terms, since it requests the Court to decide what are certain obligations that Israel, a Member State of the United Nations, possesses. Those questions are legal questions which could form the basis of a request for an advisory opinion.

2.8. Colombia concludes that the request has been made in accordance with the provisions of the Charter and of the Statute and therefore that the Court has jurisdiction to respond to the questions contained in Resolution 79/232.

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<sup>6</sup> *Legality of the Threat or Use of Nuclear Weapons*, Advisory Opinion, I.C.J. Reports 1996, p.226, at p. 234, para. 13.

<sup>7</sup> *Western Sahara*, Advisory Opinion, I.C.J. Reports 1975, p. 12, at p. 18, para 15.

<sup>8</sup> *Ibid.*

2.9. The finding that the Court has jurisdiction to respond to the questions contained in Resolution 79/232 is the first step in the Court's analysis in order to render the requested advisory opinion. After ascertaining that it can answer the questions submitted by the General Assembly, the second step is whether or not it should.

2.10. In the *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory* Advisory Opinion, the Court summed up the principles governing this aspect of the exercise of its advisory jurisdiction in the following terms:

"The fact that the Court has jurisdiction to give an advisory opinion does not mean that it is obliged to exercise it. Article 65, paragraph 1, of the Statute provides that "[t]he Court may give an advisory opinion on any legal question at the request of whatever body may be authorized by or in accordance with the Charter of the United Nations to make such a request". As the Court has repeatedly emphasized, this "should be interpreted to mean that the Court has a discretionary power to decline to give an advisory opinion even if the conditions of jurisdiction are met" (...). However, given its functions as the principal judicial organ of the United Nations, the Court considers that its answer to a request for an advisory opinion "represents its participation in the activities of the Organization, and, in principle, should not be refused" (...).<sup>9</sup>

2.11. The Court also added:

"In accordance with its jurisprudence, only compelling reasons may lead the Court to refuse to give its opinion in response to a request falling within its jurisdiction (*Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965*, Advisory Opinion, I.C.J. Reports 2019 (I), p. 113, para. 65)."<sup>10</sup>

2.12. In this regard, in Colombia's view the issue of judicial propriety in the present proceedings requires that the Court analyses the following: (i) Whether the Court has to take into account the opposition of certain interested States to the request by the General Assembly, and, (ii) Whether, if rendered, the advisory opinion will be of assistance to the General Assembly for the proper exercise of its functions.

2.13. In relation to the first point, in the *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, the Court had to face a similar situation.<sup>11</sup> There, the Court was asked to render its opinion on what were the legal consequences arising from the construction of the wall being built by Israel in the Occupied Palestinian Territory, including in and around East Jerusalem, considering the rules and principles of international law, including the Fourth Geneva Convention of 1949, and relevant Security Council and General Assembly resolutions.

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<sup>9</sup> *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*, Advisory Opinion, I.C.J. Reports 2024, at par. 30, quoting *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Advisory Opinion, I.C.J. Reports 2004, p. 136, at p. 156, para. 44; *Accordance with International Law of the Unilateral Declaration of Independence in Respect of Kosovo*, Advisory Opinion, I.C.J. Reports 2010, p. 403, at pp. 415-416, para. 29 and *Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965*, Advisory Opinion, I.C.J. Reports 2019, p. 95, at p. 113, para. 65.

<sup>10</sup> *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*, Advisory Opinion, I.C.J. Reports 2024, at para. 31.

<sup>11</sup> *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Advisory Opinion, I.C.J. Reports 2004, p. 136, at p. 141.

2.14. The Court rendered its Advisory Opinion on 9 July 2004. In its Opinion, the Court stated that,

“As regards the request for an advisory opinion now before it, the Court acknowledges that Israel and Palestine have expressed radically divergent views on the legal consequences of Israel’s construction of the wall, on which the Court has been asked to pronounce. However, as the Court has itself noted, ‘Differences of views . . . on legal issues have existed in practically every advisory proceeding’ (*Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1 970)*, Advisory Opinion, I.C.J. Reports 1971, p. 24, para. 34).

2.15. Consequently, Colombia considers that the Court can make the same assessment in the present proceedings, and thereafter reach the same conclusion, i.e., that it can and it should exercise jurisdiction.

2.16. Furthermore, the Court itself noted that the object of a request to render an advisory opinion is normally,

“to obtain from the Court an opinion which the requesting organ [the General Assembly in the present case] 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, and one which is located in a much broader frame of reference than a bilateral dispute.”<sup>12</sup>

2.17. Similarly, the present request has been submitted in circumstances where the General Assembly has been actively considering several aspects of the situation between the State of Palestine and the State of Israel in, among others, the context of decolonization, the exercise of the Palestinian people’s right to self-determination and the dire humanitarian situation endured by the inhabitants of the Palestinian Occupied Territories, particularly in the Gaza Strip.

2.18. Hence, the purpose of issuing an advisory opinion which would be “of assistance to [the General Assembly] for the proper exercise of its functions” will evidently be served in the instant case.

2.19. Colombia is, therefore, of the opinion that a pronouncement on the matters set forth in the request would be of assistance to the General Assembly “for the proper exercise of its functions” particularly in line with the dire situation currently faced by the Palestinian civilian population in Gaza.

2.20. In addition to the foregoing, Colombia considers that an opinion rendered in this case will not interfere with ongoing efforts to overcome all the issues arising out of the war in Gaza. On the contrary, a pronouncement of the Court on the obligations of Israel under international law 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, would be of the utmost relevance to the General Assembly.

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<sup>12</sup> *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, I.C.J. Reports 2004*, p. 136, at p. 158, para. 50.

2.21. In light of the foregoing, Colombia concludes that there are no compelling reasons for it to decline to give the opinion requested by the General Assembly.

2.22. The Court's ultimate role, that is, to contribute to the settlement of legal disputes and to international peace and security, would be fulfilled in the instant case and an answer from the Court on the merits to the question submitted by the General Assembly could indeed contribute to the efforts of the international community in helping to alleviate the plight of the Palestinian people and, more broadly to achieve a lasting and comprehensive settlement of the question of Palestine, the core of the Arab-Israeli conflict, and improve the relations between the two States and peoples concerned.

2.23. The Government of Colombia, in line with its domestic policy of Total Peace, calls upon the Court to avail itself of the opportunity to clarify additional aspects that have prevented the parties from entering fruitful discussions. It is worth noting that Colombia has always maintained that a solution to the situation between both States can only be reached by a common understanding born out of peaceful and meaningful negotiations.

## CHAPTER 3

### FACTUAL BACKGROUND

3.1. In a letter dated 28 October 2024 the Secretary-General addressed the President of the General Assembly to bring to the attention of this body, the existence of a situation in which a difference had arisen between the United Nations and the State of Israel regarding, *inter alia*, the interpretation or application of the Convention on the Privileges and Immunities of the United Nations, to which Israel is a party.<sup>13</sup> The General Assembly received information on an urgent basis regarding two laws adopted by the Parliament of Israel on 28 October 2024 which, if implemented, could prevent the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) from continuing its essential work in the Occupied Palestinian Territory, including East Jerusalem, as mandated by the Assembly. Colombia shares the utmost concern expressed by the Secretary General about the serious implications for the ability of UNRWA to carry out its activities in the Occupied Palestinian Territory and more broadly in the region, as mandated by the General Assembly. Therefore, Colombia avails itself of the opportunity to furnish information on the question submitted to the Court to share its views on the situation as described.

3.2. In light of this context, this Chapter will first address the (A) Israel's status as the occupying Power in the Occupied Palestinian Territory, including in and around East Jerusalem (B), the United Nations role in the provision of essential assistance to the civilian population in the Occupied Palestinian Territory and (C) the Plans and Measures implemented by Israel that affect the presence and activities of the United Nations, its agencies and bodies, and those of other international organizations, and the representation of third States in the Occupied Palestinian Territory.

#### **A. Israel's Status as the Occupying Power in the Occupied Palestinian Territory, Including in and around East Jerusalem**

3.3. The question posed by the General Assembly pursuant to General Assembly resolution 79/232 of 19 December 2024, is premised on the indisputable fact that, despite several attempts by Israel to misrepresent its belligerent occupation in the Occupied Palestinian Territory<sup>14</sup>, such occupation is illegal, however the situation is portrayed or analysed. Therefore, Colombia submits from the outset that Israel is bound by the obligations of an occupying Power under the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949 (hereinafter the "Fourth Geneva Convention") and by customary international law, including the *Regulations Respecting the Laws and Customs of War on Land* of 1907. Given the complex reality of the conflict, these regimes should be applied in a complementary, and not exclusive manner.

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<sup>13</sup> United Nations General Assembly Resolution 79/558, 29 Oct. 2024.

<sup>14</sup> See Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, Michael Lynk, A/HRC/49/87, 12 August 2022, p. 8: Prime Minister Benjamin Netanyahu stated in 2018 that the Palestinians could have a "State-minus", where Israel would maintain security control over all of the Palestinian territory. See Ben Sales, "Netanyahu says he supports a Palestinian 'state-minus' controlled by Israeli security", Jewish Telegraphic Agency, 24 Oct. 2018. In 2022, Prime Minister Naftali Bennett said: "I oppose a Palestinian State, and I am making it impossible to conduct diplomatic negotiations that might lead to a Palestinian State". See Mazal Mualem, "Bennet, in interview blitz, reacts to Netanyahu criticisms", Al-Monitor, 31 Jan. 2022.

3.4. Under the existing rules of general international law, occupation originates from the verification of armed territorial control of a State by another (occupying Power) without its consent. It entails a *de facto* and temporary presence of the occupying Power in the territory of another State and, in turn, also a subordination, *de facto* and temporary, of the inhabitants of that territory, and of its administration and justice.<sup>15</sup>

3.5. In this regard, Article 42 of the *Regulations Respecting the Laws and Customs of War on Land* annexed to the Fourth Hague Convention of 18 October 1907, states that a territory is considered occupied when it is actually “placed under the authority of the hostile army, and the occupation extends only to the territory where such authority has been established and can be exercised”. The Court has observed that this rule reflects customary international law.<sup>16</sup> In this sense, the Court has also made clear that a State cannot be considered an occupying Power unless and until it has placed territory that is not its own under its *effective control*.<sup>17</sup>

3.6. In relation to the situation at hand, the Court has recently and in no uncertain terms held Israel to be an occupying Power, illegally present in the Palestinian territory<sup>18</sup>:

“[T]he violations by Israel of the prohibition of the acquisition of territory by force and of the Palestinian people’s right to self-determination have a direct impact on the legality of the continued presence of Israel, as an occupying Power, in the Occupied Palestinian Territory. The sustained abuse by Israel of its position as an occupying Power, through annexation and assertion of permanent control over the Occupied Palestinian Territory and continued frustration of the right of the Palestinian people to self-determination, violates fundamental principles of international law and renders Israel’s presence in the Occupied Palestinian Territory unlawful”.

3.7. Colombia considers that even a prolonged occupation, such as the situation under analysis, does not in itself change its legal status under international humanitarian law. While addressing<sup>19</sup> the status of the West Bank, and East Jerusalem, the Court observed that in the 1967 armed conflict, Israel occupied the territories situated between the Green Line and the former eastern boundary of Palestine under the British Mandate, namely the West Bank and East Jerusalem.<sup>20</sup> The Court affirmed that “subsequent events had not altered the status of the territories in question as occupied territories, nor Israel’s status as occupying Power”.<sup>21</sup>

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<sup>15</sup> D. Cumin, *Manuel de Droit de la Guerre* (Larcier, Bruxelles, 2014), pp. 239.

<sup>16</sup> In its *Wall Advisory Opinion*, the Court set out the circumstances under which a state of occupation is established: “[U]nder customary international law as reflected ... in Article 42 of the Regulations Respecting the Laws and Customs of War on Land annexed to the Fourth Hague Convention of 18 October 1907 ..., territory is considered occupied when it is actually placed under the authority of the hostile army, and the occupation extends only to the territory where such authority has been established and can be exercised” *I.C.J. Reports 2004 (I)*, p. 167, para. 78; see also *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda)*, Judgment, *I.C.J. Reports 2005*, p. 168, at p. 229, para. 172.

<sup>17</sup> *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion*, *I.C.J. Reports 2004*, p. 136, at para. 86; *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem, Advisory Opinion*, *I.C.J. Reports 2024*, at para. 90.

<sup>18</sup> *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem, Advisory Opinion*, *I.C.J. Reports 2024*, at para. 261.

<sup>19</sup> *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion*, *I.C.J. Reports 2004*, p. 136, at para 264.

<sup>20</sup> *Ibid.*, at. para. 78.

<sup>21</sup> *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem, Advisory Opinion*, *I.C.J. Reports 2024*, at para. 87.



3.8. By contrast, as outlined *ut supra*, since 2005, Israel has maintained that it was not an occupying Power, on the basis that no military troops were on the ground,<sup>22</sup> that is, until the current conflict. Furthermore, the government of Israel has indicated that following the ongoing war, Israel will no longer have “responsibility for life in the Gaza Strip”<sup>23</sup>. However, the fact remains that presently, the West Bank, East Jerusalem and the Gaza Strip are territories in which Israel retains responsibility as an occupying Power, while Israel’s obligations in the Gaza Strip have increased even more on account of its military and *effective control* imposed since October 7, 2023.<sup>24</sup>

3.9. As regards other instruments of international humanitarian law, the Court noted that Israel is not a party to the Fourth Hague Convention of 1907, to which the Hague regulations are annexed. Therefore, the Court observed that, in the words of the Convention, those Regulations were prepared “to revise the general laws and customs of war” existing at that time. Since then, however, the International Military Tribunal of Nuremberg has found that the “rules laid down in the Convention were recognized by all civilized nations, and were regarded as being declaratory of the laws and customs of war”<sup>25</sup>. The Court itself reached the same conclusion when examining the rights and duties of belligerents in their conduct of military operations, finding that the provisions of the Hague Regulations have become customary international law.<sup>26</sup>

3.10. In line with the preceding arguments, the United Nations General Assembly has deemed Israel’s occupation of the Palestinian territory as an illegal occupation.<sup>27</sup> Already in 1977, the General Assembly expressed its deep concern that “the Arab territories occupied since 1967 have continued, for more than ten years, to be under illegal Israeli occupation and that the Palestinian people, after three decades, are still deprived of the exercise of their inalienable national rights”.<sup>28</sup>

3.11. As it will be further developed in Chapter 4 of this submission, Colombia contends that, regardless of the illegality of Israel’s prolonged occupation, the occupying Power remains bound under the relevant rules and principles, including the prohibition of the acquisition of territory by threat or use of force and the right of peoples to self-determination, which are enshrined in the Charter of the United Nations and also form part of customary international law. Israel is also bound by its obligations and responsibilities<sup>29</sup> towards Palestinians, which constitute an occupied population protected under the Geneva Conventions until the Israeli presence is “brought to end as rapidly as possible”, as identified by the Court.<sup>30</sup>

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<sup>22</sup> See, Human Rights Council, A/HRC/50/21 *Report of the Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel*, 9 May 2022, para. 16.

<sup>23</sup> See, Financial Times, “Israel plans to sever links with Gaza after three-phase war”, 20 Oct. 2023. Available at: <https://www.ft.com/content/d583f2eb-44f3-48cc-9910-619eac68dcef> (Last visited: 25 Feb. 2025).

<sup>24</sup> *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem, Advisory Opinion*, I.C.J. Reports 2024, at para. 93.

<sup>25</sup> *Judgement of the International Military Tribunal of Nuremberg*, 30 Sep. and 1 Oct. 1946, p. 65.

<sup>26</sup> *Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion*, I.C.J. Reports 1996, p.226, at p. 256, para. 75.

<sup>27</sup> United Nations General Assembly Resolution 32/20, 25 Nov. 1977, preamble, para. 4; United Nations General Assembly resolution 33/29, 7 Dec. 1978, preamble, para. 4; United Nations General Assembly resolution 34/70, 6 Dec. 1979, preamble, para. 5.

<sup>28</sup> United Nations General Assembly resolution 32/20, 1977, preamble; *see also* United Nations General Assembly resolution 3414 (XXX), 5 Dec. 1975, para. 1.

<sup>29</sup> *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem, Advisory Opinion*, I.C.J. Reports 2024, at para. 264.

<sup>30</sup> *Ibidem*. para. 267.

## **B. United Nations Role in the Provision of Essential Assistance to the Civilian Population in the Occupied Palestinian Territory**

3.12. The General Assembly, recalling Economic and Social Council (ECOSOC) resolutions 2026 (LXI) of August 4th 1976<sup>31</sup> and 2100 (LXIII) of August 3rd 1977<sup>32</sup>, has provided a clear mandate to the organization, including its bodies and agencies, to “intensify its efforts [...] to improve the social and economic conditions of the Palestinian people by identifying their social and economic needs and by establishing concrete projects to that end [...] and to provide adequate funds for that purpose”<sup>33</sup>. Since then, it has annually recalled this mandate and has additionally requested that “[...] the assistance to the Palestinian people in the West Bank and Gaza should be rendered through United Nations Agencies, in consultation with the local Palestinian economic, social, educational and municipal organizations in these occupied territories”.<sup>34</sup>

3.13. In keeping with its mandates, the organization, its bodies, funds and agencies have been providing humanitarian assistance to this population, with a special focus on those particularly vulnerable, in multiple and essential areas such as health, nutrition, food security, water – sanitation and hygiene, shelter, education, among others<sup>35</sup>. Additionally, the United Nations provides essential humanitarian relief to Palestinians recognized and registered as refugees, according to the mandate of General Assembly resolution 302 (IV) of December 8<sup>th</sup>, 1949<sup>36</sup>. The organization has the central role “[t]o carry out in collaboration with local governments the direct relief and works programmes [...]”<sup>37</sup>, which includes basic services such as health, education, and food distribution in camps where Palestinian refugees concentrate, inside and outside the Occupied Palestinian Territory.<sup>38</sup>

3.14. In accordance with United Nations General Assembly Resolution 302 (IV) of December 8, 1949, the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) was established and has consistently provided assistance to Palestinian refugees in Gaza, the West Bank, and East Jerusalem. Since then, in the absence of a definitive solution to the issue of Palestinian refugees, the General Assembly has systematically renewed the mandate of UNRWA, with the most recent extension being granted by General Assembly Resolution 77/123, which extended its mandate until June 30, 2026.<sup>39</sup>

3.15. To this day, UNRWA remains the main, if not the only, large scale, reliable provider and facilitator of essential goods and services. As of 23 January 2025, the Agency covered over half of the people reached by health services since 7 October 2023. In addition, it is the largest provider of psychological support and learning. Regarding basic services, such as food, water, sanitation and

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<sup>31</sup> Economic and Social Council, Resolution 2026 (LXI), 4 Aug. 1976.

<sup>32</sup> Economic and Social Council, Resolution 2100 (LXIII), 3 Aug. 1977.

<sup>33</sup> United Nations General Assembly Resolution 33/147, 20 Dec. 1978, num. 2.

<sup>34</sup> United Nations General Assembly Resolution 35/111, 5 Dec. 1980, num. 3.

<sup>35</sup> United Nations Office for coordination of Humanitarian Affairs (OCHA), *Flash Appeal, Occupied Palestinian Territory, Humanitarian Programme Cycle*, December 2024.

<sup>36</sup> United Nations General Assembly Resolution 302 (IV), 8 Dec. 1949.

<sup>37</sup> *Ibid.* note 20, num. 7[A].

<sup>38</sup> United Nations Relief and Works Agency for Palestine Refugees in the Near East, *Palestine Refugees*, Feb. 2025. Available at:

<https://www.unrwa.org/palestine-refugees> (Last visited: 25 Feb. 2025).

<sup>39</sup> United Nations General Assembly Resolution 77/399, 12 Dec. 2022, para. 3.

hygiene (WASH), it is also one of the main providers, as well as the vehicle for the provision of these needs through resources coming from other organizations. It has reached over 1.9 million people with food and accounts for at least 44% of WASH provision in the Gaza Strip<sup>40</sup>.

3.16. UNRWA, employing approximately 32,000 people across five operational fields, has become the principal mechanism for providing assistance to refugees residing in the occupied Palestinian territories, delivering social and humanitarian services to nearly 5.9 million Palestinian refugees<sup>41</sup>, many of whom are descendants of the hundreds of thousands displaced after the creation of the State of Israel, and now live in the Gaza Strip, the West Bank, Lebanon, Syria, and Jordan.<sup>42</sup>

3.17. Colombia supports the view that UNRWA's significance extends further than its operational work, in that it also stands as a symbol of commitment to the exiled Palestinians since the first Arab-Israeli war in 1947-1948, specifically in regard to their right to return to their territories. The Agency's dismantling would also tear down this pledge, and the consequences could ripple across the region, especially in countries with large numbers of Palestinian refugees.<sup>43</sup>

3.18. Regrettably, since the events of October 2023, the situation has radically worsened. Those organizations delivering vital assistance are facing unprecedented challenges, especially in the Gaza Strip, where measures taken by the Israeli government and its recent military operations have delayed humanitarian consignments, thus raising the assistance situation in the area to "almost catastrophic"<sup>44</sup> with dire consequences for 3 million people targeted by relief programs, according to the United Nations Office for Coordination of Humanitarian Affairs (OCHA).<sup>45</sup>

### **C. Plans and Measures Implemented by Israel that Affect the Presence and Activities of the United Nations, its Agencies and Bodies, in the Occupied Palestinian Territory**

3.19. As a result of a campaign aimed at discrediting and delegitimizing UNRWA as a provider of assistance and human development services to Palestinian refugees<sup>46</sup>, on 28 October 2024 the Israeli

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<sup>40</sup> United Nations Relief and Works Agency for Palestine Refugees in the Near East, Report 156 on the Humanitarian Crisis in the Gaza Strip and the West Bank, including East Jerusalem, 23 Jan. 2025. Available at:

<https://www.unrwa.org/resources/reports/unrwa-situation-report-156-situation-gaza-strip-and-west-bank-including-east-jerusalem#1> (Last visited: 23 Feb. 2025).

<sup>41</sup> United Nations General Assembly Resolution 79/149, 12 Jul. 2024, *Safety and security of humanitarian personnel and protection of United Nations personnel Report of the Secretary-General*, para. 40.

<sup>42</sup> Deutsche Welle, *Israel cancela acuerdo con la UNRWA tras veto parlamentario*, 4 Nov. 2024. Available at: <https://www.dw.com/es/israel-cancela-acuerdo-con-la-unrwa-tras-veto-parlamentario/a-70678213> (Last visited: 24 Feb. 2025).

<sup>43</sup> D. Forti, International Crisis Group, *Why Donors Should Not Suspend Aid to UNRWA*, 7 Feb. 2024. Available at: <https://www.crisisgroup.org/middle-east-north-africa/east-mediterranean-mena/israel/palestine/why-donors-should-not-suspend-aid> (Last visited: 23 Feb. 2025).

<sup>44</sup> UN news, *Gaza aid obstacles continue to delay vital relief*, 18 Jan. 2024. Available at: <https://news.un.org/en/story/2024/01/1145637> (Last visited: 22 Feb. 2025).

<sup>45</sup> United Nations Office for coordination of Humanitarian Affairs (OCHA), *Flash Appeal, Occupied Palestinian Territory, Humanitarian Programme Cycle*, December 2024.

<sup>46</sup> P. Lazzarini, United Nations Relief and Works Agency for Palestine Refugees, *The vote by the Israeli Parliament (Knesset) against UNRWA this evening is unprecedented and sets a dangerous precedent*, 28 Oct. 2024. Available at: <https://www.unrwa.org/newsroom/official-statements/vote-israeli-parliament-knesset-against-unrwa-evening-unprecedented-and> (Last visited: 22 Feb. 2025).

Parliament voted and overwhelmingly approved<sup>47</sup> the *Law for the Cessation of UNRWA Activities in the State of Israel* and the *Law for the Cessation of UNRWA Activities*. These bills enact several measures that are not only contrary to international law but could also dismantle UNRWA *de facto*.

3.20. The first of the laws in question, the *Law for the Cessation of UNRWA Activities in the State of Israel* approved by a vote of 92 in favour and 10 against<sup>48</sup>, absolutely prohibits UNRWA from operating within Israeli territory. Specifically, Articles 1 and 2 of this law state the following:

“Objective:

1. The objective of this law is to prevent any activity of UNRWA within the territory of the State of Israel. Prohibition of Activities in the State of Israel:

Prohibition of Activities in the State of Israel:

2. UNRWA (United Nations Relief and Works Agency) shall not operate any representation, provide any services, or carry out any activities, directly or indirectly, within the sovereign territory of the State of Israel”.<sup>49</sup>

3.21. This is of utmost gravity, especially considering that Israel, in open disregard of numerous resolutions from various United Nations bodies (including A/RES/79/91, E/RES/1996/40, A/52/172/Corr.1-E/1997/71/Corr.1, and A/79/347) as well as of the advisory opinions rendered by the Court in *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory* and *Legal consequences arising from the policies and practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*, regards the territories of East Jerusalem as part of the territory of its State<sup>50</sup>.

3.22. This law therefore constitutes a direct threat to the UNRWA office in East Jerusalem, which has been under Israeli occupation since its annexation in 1967, as well as to activities carried out in the *Shuafat* refugee camp.<sup>51</sup>

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<sup>47</sup> The bills were approved with 92-10 and 87-9 votes respectively. See, UN news, *Israeli laws blocking UNRWA – devastating humanitarian impact for Palestinians?*, 31 Oct. 2024. Available at: <https://news.un.org/en/story/2024/10/1156326> (Last visited: 22 Feb. 2025).

See also, Israel Policy Forum, *Understanding Israel’s New Anti-UNRWA Laws: UNRWA has been barred from Israeli territory and from having contact with Israeli officials*, 28 Oct. 2024. Available at: <https://israelpolicyforum.org/anti-unrwa-laws/> (Last visited: 22 Feb. 2025).

<sup>48</sup> S. Sokol & J. Magid, The Times of Israel, *Knesset approves laws barring UNRWA from Israel, limiting it in Gaza and West Bank*, 29 Oct. 2024. Available at:

<https://www.timesofisrael.com/knesset-approves-laws-barring-unrwa-from-israel-limiting-it-in-gaza-and-west-bank/> (Last visited: 25 Feb. 2025).

<sup>49</sup> UNRWA’s unofficial translation from the original Hebrew. Taken from: A. Guterres, Secretary-General of the United Nations, Communication addressed to Mr. Philemon Yang, President of the General Assembly of the United Nations, 28 Oct. 2024, pp. 2-3.

<sup>50</sup> *Ibid.*, p. 3.

<sup>51</sup> D. Burkhalter, Swiss info (SWI), *What does the Israeli parliament’s ban on UNRWA mean?*, 21 Nov. 2024. Available at:

<https://www.swissinfo.ch/eng/international-geneva/what-does-the-israeli-parliaments-ban-on-unrwa-mean/88150916> (Last visited: 25 Feb. 2025).

3.23. In addition, the *Law for the Cessation of UNRWA Activities* approved by a vote of 87 in favour and 9 against<sup>52</sup>, declares the expiration of the invitation extended to UNRWA based on the exchange of notes dated 14 June 1967 and simultaneously prohibits Israeli state authorities from having any contact with the Agency. The law reads as follows:

“Expiration of the Exchange of Letters between Israel and UNRWA:

1. (a) The invitation to UNRWA based on the exchange of letters between Israel and UNRWA from 14 June 1967 shall expire on 7 October 2024.

(b) The Minister of Foreign Affairs shall notify the United Nations of the expiration under subsection (a) within seven days from the date this law is passed in the Knesset.

No Contact with UNRWA:

2. No state authority, including bodies and individuals performing public duties according to law, shall have any contact with UNRWA or any of its representatives”.<sup>53</sup>

3.24. The implementation of the laws aimed at UNRWA, which entered into force on 30 January 2025, is already being experienced. The measures described above not only *de jure* prevent UNRWA activities within Israeli territory, but *de facto* restrict, hinder, or even proscribe the agency’s activities in the Palestinian territories occupied by Israel—including the Gaza Strip, the West Bank, and East Jerusalem—and, in general, across the region.<sup>54</sup>

3.25. In fact, it is currently impossible to carry out any humanitarian action in the occupied territories without the consent of the Israeli authorities, which hold extensive powers regarding settlements and territorial administration, which not only entails the exercise and consolidation of Israel’s control over the Occupied Palestinian Territory but also constitutes an irreversible act of sovereignty contrary to international law.<sup>55 56</sup>

3.26. The prohibition on establishing communication with UNRWA jeopardizes its operations in the West Bank and Gaza as, to carry out most of its activities, including the transportation and distribution of aid in those areas. The Agency needs to cooperate with the Israeli authorities and military, among other reasons, for security purposes.

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<sup>52</sup> S. Sokol & J. Magid, The Times of Israel, *Knesset approves laws barring UNRWA from Israel, limiting it in Gaza and West Bank*, 29 Oct. 2024. Available at:

<https://www.timesofisrael.com/knesset-approves-laws-barring-unrwa-from-israel-limiting-it-in-gaza-and-west-bank/> (Last visited: 25 Feb. 2025).

<sup>53</sup> UNRWA’s unofficial translation from the original Hebrew. *Taken from*: A. Guterres, Secretary-General of the United Nations, Communication addressed to Mr. Philemon Yang, President of the General Assembly of the United Nations, 28 Oct. 2024, p. 2.

<sup>54</sup> *Ibid.* p. 3.

<sup>55</sup> United Nations General Assembly Resolution 79/347, 12 Sep. 2024, *Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and the Occupied Syrian Golan*. Report of the Secretary-General, paras. 75-76.

<sup>56</sup> *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem, Advisory Opinion, I.C.J. Reports 2024*, at paras. 120-122.

3.27. Following the entry into force of this legislation, Israel ceased issuing work permits or visas<sup>57</sup> and shortened current visas required for UNRWA personnel, through 5 February 2025. In addition, due to the closure of the East Jerusalem Headquarters, all international staff had to be relocated to Amman, Jordan, and equipment and vehicles were moved out<sup>58</sup>. Furthermore, Israeli banks could possibly cut off any ties with UNRWA in order to avoid legal issues with Israeli authorities. Customs obstacles are expected to arise as well<sup>59</sup>. Paradoxically, the issues run both ways. UNRWA works in close coordination with the Israeli Defence Forces (IDF) regarding deconfliction procedures. Hence, the severance of the relation with UNRWA exposes Israeli soldiers to more risk and is likely to cause escalation in this delicate context.<sup>60</sup>

3.28. Moreover, Israel imposes strict security controls over the territories, including, among other measures, the issuance of permits for entry and exit. To this end, Israel has imposed time windows during which it allows humanitarian organizations to operate, and these organizations are required to apply for access permits in advance.<sup>61</sup>

3.29. However, the Israeli military has increasingly restricted movement through checkpoints, complicating entry and limiting the available time windows, making these more unpredictable and restrictive for humanitarian movements through the checkpoints. This has limited the time available for humanitarian teams to complete their tasks and has hindered the effectiveness of the measures implemented. For example, operational obstacles to entry have resulted in the inability to deliver essential goods, such as medical supplies and fuel, rescue civilians—including children—trapped under rubble, and recover human remains for burial.<sup>62</sup>

3.30. In addition to the operational obstacles mentioned, humanitarian workers have also faced direct violence from the Israeli military. One of the most frequent manifestations of violence against humanitarian workers has been gunfire directed at convoys approaching the checkpoints, even when these convoys are clearly identified as humanitarian and have been previously authorized by Israeli authorities.<sup>63</sup>

3.31. In 2023, 325 UNRWA staff members—218 men and 107 women—were affected by security incidents. Of this total, 140 staff members were killed in the ongoing conflict in Gaza, and one

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<sup>57</sup> D. Burkhalter, Swiss info (SWI), *What does the Israeli parliament's ban on UNRWA mean?*, 21 Nov. 2024. Available at:

<https://www.swissinfo.ch/eng/international-geneva/what-does-the-israeli-parliaments-ban-on-unrwa-mean/88150916> (Last visited: 25 Feb. 2025).

<sup>58</sup> United Nations, *Israel's new laws banning UNRWA already taking effect*, 30 Jan. 2025. Available at: <https://palestine.un.org/en/288442-israel%E2%80%99s-new-laws-banning-unrwa-already-taking-effect> (Last visited: 11 Feb. 2025).

<sup>59</sup> See, D. Makovsky, *Brinkmanship Over Israel's Ban on UNRWA*, The Washington Institute, 28 Jan. 2025. Available at: <https://www.washingtoninstitute.org/policy-analysis/brinkmanship-over-israels-ban-unrwa> (Last visited: 11 Feb. 2025).

<sup>60</sup> See, Israel Policy Forum, *Understanding Israel's New Anti-UNRWA Laws*. Available at: <https://israelpolicyforum.org/anti-unrwa-laws/>; <https://israelpolicyforum.org/anti-unrwa-laws/>. (Last visited: 11 Feb. 2025).

<sup>61</sup> United Nations (2025). Gaza: Israel niega cerca del 50% de los operativos humanitarios. UN News. <https://news.un.org/es/story/2024/09/1532961#:~:text=Durante%20el%20mes%20de%20agosto,afecta%20al%20personal%20y%20las> (Last visited: 10 Feb. 2025).

<sup>62</sup> United Nations (2025). Gaza: Israel niega cerca del 50% de los operativos humanitarios. UN News. <https://news.un.org/es/story/2024/09/1532961#:~:text=Durante%20el%20mes%20de%20agosto,afecta%20al%20personal%20y%20las>

<sup>63</sup> United Nations (2025). Gaza war: UN World Food Programme condemns Israeli attack on aid convoy. UN News. <https://news.un.org/en/story/2025/01/1158746>

in the Syrian Arab Republic. This figure represents the highest number of staff fatalities in a single year since the founding of the United Nations, including teachers, doctors, support staff, engineers, and logistics experts who were killed either in their homes or while performing their duties. Furthermore, 70 staff members were injured in security-related incidents, 57 of them due to acts of violence and armed conflict, and 13 resulting from security-related incidents. Notably, 30 staff members were assaulted while performing their duties, while 44 faced intimidation, threats of violence, and harassment. Additionally, 39 incidents of arrest and detention involving staff members were reported throughout 2023.<sup>64</sup>

3.32. In the first half of 2024, 191 staff members were affected by security incidents, including 36 staff members killed, two deaths resulting from security-related incidents, and 61 staff members injured.<sup>65</sup>

3.33. UNRWA buildings have become shelters for displaced Palestinians. As of 27 November 2024, over 100 UNRWA school buildings in Gaza were sheltering more than 415,000 people.<sup>66</sup> Despite this, it has been extensively registered how UNRWA is often targeted by Israel Defense Forces (IDF) attacks, each causing fatalities and seriously wounding civilians and personnel.<sup>67</sup> As of 13 February 2025, 738 people sheltering in UNRWA buildings have been killed and 2,401 have been wounded, along with 273 personnel killed, and 205 UNRWA installations damaged, all within the 786 incidents registered to that date<sup>68</sup>.

3.34. In addition to the humanitarian catastrophe, the above-mentioned measures might transform the Palestinians' refugee status as well. Since UNRWA was dedicated to the Palestinian refugee issue, Palestinians were barred from claiming asylum, i.e. in Europe. As determined by the European Court of Justice, in the event UNRWA fails to provide protection to Palestinians (or disappear altogether), then Palestinians would potentially be entitled to asylum there.<sup>69</sup>

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<sup>64</sup> United Nations General Assembly (2024). Safety and security of humanitarian personnel and protection of United Nations personnel Report of the Secretary-General. A /79/149. New York. Par. 40.

<sup>65</sup> United Nations General Assembly (2024). Safety and security of humanitarian personnel and protection of United Nations personnel Report of the Secretary-General. A /79/149. New York. Par. 40.

<sup>66</sup> UNRWA, 'UNRWA Situation Report #149 on the situation in the Gaza Strip and the West Bank, including East Jerusalem', 27 Nov. 2024. At: <https://www.unrwa.org/resources/reports/unrwa-situation-report-149-situation-gaza-strip-and-west-bank-including-east-jerusalem>

<sup>67</sup> See, e.g., UN OCHA, Humanitarian Situation Update #188 | Gaza Strip, 8 July 2024. Available at: [www.ochaopt.org/content/humanitarian-situation-update-188-gaza-strip](http://www.ochaopt.org/content/humanitarian-situation-update-188-gaza-strip); UN News, Global Perspective Human Stories, 'Schools 'bombed-out' in latest Gaza escalation, says UNRWA chief', 10 July 2024. Available at: <https://news.un.org/en/story/2024/07/1151921> ; UNRWA, 'UNRWA Situation Report #121 on the situation in the Gaza Strip and the West Bank, including East Jerusalem', 16 July 2024. Available at: <https://www.unrwa.org/resources/reports/unrwa-situation-report-121-situation-gaza-strip-and-west-bank-including-east-jerusalem> ; UNRWA, 'UNRWA Situation Report #122 on the situation in the Gaza Strip and the West Bank, including East Jerusalem', 19 July 2024. Available at: <https://www.unrwa.org/resources/reports/unrwa-situation-report-122-situation-gaza-strip-and-west-bank-including-east-jerusalem> ; UNRWA, 'UNRWA Situation Report #123 on the situation in the Gaza Strip and the West Bank, including East Jerusalem', 24 July 2024. Available at: <https://www.unrwa.org/resources/reports/unrwa-situation-report-123-situation-gaza-strip-and-west-bank-including-east-jerusalem> ; UNRWA, 'UNRWA Situation Report #130 on the situation in the Gaza Strip and the West Bank, including East Jerusalem'. 23 Aug. 2024. Available at: <https://www.unrwa.org/resources/reports/unrwa-situation-report-130-situation-gaza-strip-and-west-bank-including-east-jerusalem> ; UNRWA, 'UNRWA Situation Report #131 on the situation in the Gaza Strip and the West Bank, including East Jerusalem', 28 Aug. 2024. At: <https://www.unrwa.org/resources/reports/unrwa-situation-report-131-situation-gaza-strip-and-west-bank-including-east-jerusalem>.

<sup>68</sup> UNRWA, Situation Report #158 on the situation in the Gaza Strip and the West Bank, including East Jerusalem, 13 Feb. 2025. At: <https://www.unrwa.org/resources/reports/unrwa-situation-report-159-situation-gaza-strip-and-west-bank-including-east-jerusalem>

<sup>69</sup> C. Schaer, *As Israeli ban on UNRWA looms, what next for aid into Gaza?*, 22 Jan. 2025. At: <https://www.dw.com/en/israel-bans-unrwa-impact-on-gaza-aid/a-71365514>. See also, European Court of Justice, Case

3.35. The Israeli government has signaled two alternatives for replacing UNRWA, both of which are flawed and insufficient<sup>70</sup>. The first option is for other UN agencies to take over UNRWA's role. However, any other agency lacks the required infrastructure, capabilities and experience to handle the specific mandates. Besides, some experts estimate that it would take at least 1 to 3 years to replace UNRWA's role<sup>71</sup>. The second alternative outlined by Israel consists of simply leaving UNRWA's work in the hands of independent charities and commercial suppliers with private security. This solution also lacks the extensive infrastructure and experience needed to provide large-scale aid, especially in the current circumstances. Also, critically, delegating security to private entities means less accountability and control over the operations, a far from desirable situation not subject to clear international rules and oversight<sup>72</sup>.

3.36. In addition to the attacks suffered by UNRWA, other United Nations agencies and bodies have reported a severe disruption caused by the activities of the Israeli military. For instance, the World Health Organization (WHO) reported that,

“In the Gaza Strip, a public health catastrophe is ongoing amid continuing bombardment, mass displacement, overcrowding of shelters, unprecedented levels of food insecurity, severe damage to the water and sanitation infrastructure, and limited medical and humanitarian supplies able to enter Gaza. Repeated denials of humanitarian missions across Gaza restrict efforts to resume critical services provided by hospitals”

The WHO thus identified that this humanitarian crisis imposes challenges such as water unavailability, the outbreak of diseases, an increase of rehabilitation needs, specifically in pediatric cases, among others<sup>73</sup>. Additionally, the organization reported several attacks on medical infrastructure, medical personnel and health facilities and actions conducted by Israeli military forces which impede and obstacle the provision of health services in the Occupied Palestinian Territory<sup>74</sup>.

3.37. For its part, the United Nations International Children Emergency Fund (UNICEF) issued a report informing that in the Gaza Strip, children have lost access to basic and vital services while continuously being exposed to traumatic events generated by the armed confrontation, without a specialized psychological referral. Furthermore, children are especially vulnerable to injuries causing multiple disabilities. In the West Bank, including East Jerusalem, the extensive operations executed by Israeli military forces, coupled with settler violence and large-scale demolitions have exposed children to conflict-related violence, grave violations, and displacement, impeding their access to basic services.<sup>75</sup>

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C-563/22. 13 June 2024. paras. 63-70. At: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:62022CJ0563#document1>

<sup>70</sup> International Crisis Group, *Keep UNRWA Alive in Gaza and the West Bank*. 18 Nov. 2024. At: <https://www.crisisgroup.org/middle-east-north-africa/east-mediterranean-mena/israelpalestine/keep-unrwa-alive-gaza-and-west>

<sup>71</sup> J. Jensehaugen et al., *Consequences of the Israeli UNRWA Ban*. PRIO Middle East Center – MIDEAST Policy Brief 01, 2025.

<sup>72</sup> International Crisis Group, *Keep UNRWA Alive in Gaza and the West Bank*. 18 Nov. 2024. Available at: <https://www.crisisgroup.org/middle-east-north-africa/east-mediterranean-mena/israelpalestine/keep-unrwa-alive-gaza>

<sup>73</sup> World Health Organization (WHO), *WHO operational response plan: occupied Palestinian Territory*, April – December 2024, pp. 4 & 5

<sup>74</sup> *Ibid.* note 26, p.6

<sup>75</sup> United Nations International Children Emergency Found (UNICEF), *Humanitarian Situation Report N°34*, 1 January to 31 December 2024, Pp. 2&3



3.38. In the same vein, the International Organization for Migration (IOM) reported that at least 90% of the population in the Gaza Strip have been displaced, especially children<sup>76</sup>. Additionally, it reports that civil population “[...] physical and mental health is severely impacted. Civilians cannot meet even the most basic human needs — water, shelter, food and healthcare. Essentials, including through humanitarian aid, continue to be denied.”<sup>77</sup>.

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<sup>76</sup> International Organization for Migration (IOM), Gaza response -as of 31 December 2024, <https://mena.iom.int/gaza-response>

<sup>77</sup> International Organization for Migration (IOM, Occupied Palestinian Territory, 14 months of IOM Gaza - October 2023, December 2024, <https://www.un.org/unispal/document/iom-regional-emergency-response-14-months-of-iom-gaza-response-october-2023-december-2024/>



## CHAPTER 4

### 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

4.1. As explained in the preceding chapter, Israel has engaged in escalating conducts, which amount to serious impediments for the United Nations, its agencies and bodies, as well as third States, to fulfil their respective mandates and obligations under international law in support of the right of the Palestinian people to self-determination. Colombia submits that such conduct is inconsistent with Israel's status as occupying Power, unlawful as the occupation itself is, and constitute a breach of its obligations as State Member of the United Nations and under international humanitarian and human rights law.

4.2. Colombia stresses the obligation of all Member States to act in accordance with the purposes and principles of the United Nations found in Article 2 of the Charter. These include respecting the sovereign equality of other States,<sup>78</sup> the peaceful settlement of disputes in a manner that does not endanger international peace and security,<sup>79</sup> the prohibition on the threat and use of force<sup>80</sup>, the obligation to give the United Nations every assistance in any action it takes in accordance with the Charter<sup>81</sup>, and the fulfillment in good faith of the obligations assumed in accordance with the Charter.<sup>82</sup>

4.3. Member States are also bound to recognize the international personality of the United Nations<sup>83</sup>, as well as its privileges and immunities. Whereas Article 104 of the Charter provides that the "[t]he Organization shall enjoy in the territory of each of its Members such legal capacity as may be necessary for the exercise of its functions and the fulfilment of its purposes", Article 105 states that "[t]he Organization shall enjoy in the territory of each of its Members such privileges and immunities as are necessary for the fulfilment of its purposes... and that 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".<sup>84</sup>

4.4. Colombia underlines as well that all Members have pledged themselves<sup>85</sup> to take joint and separate action in cooperation with the Organization for the achievement of the purposes set forth in

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<sup>78</sup> U.N. Charter art. 2, ¶ 1.

<sup>79</sup> Ibid. Art. 2.3; see also id. Art. 33.

<sup>80</sup> Ibid. Art. 2.4

<sup>81</sup> Ibid. Art. 2.5

<sup>82</sup> Ibid. Art. 2.2.

<sup>83</sup> *Reparation for injuries suffered in the service of the United Nations, Advisory Opinion, I.C.J. Reports 1949, p. 174, at p. 179* The Court clarified that, in addition to legal capacity under domestic law, the Organization, being "the supreme type of international organization", also enjoys international personality and is "a subject of international law".

<sup>84</sup> *Ibid.* ("In the opinion of the Court, the Organization was intended to exercise and enjoy, and is in fact exercising and enjoying, functions and rights which can only be explained on the basis of the possession of a large measure of international personality and the capacity to operate upon an international plane. It is at present the supreme type of international organization, and it could not carry out the intentions of its founders if it was devoid of international personality. It must be acknowledged that its Members, by entrusting certain functions to it, with the attendant duties and responsibilities, have clothed it with the competence required to enable those functions to be effectively discharged. Accordingly, the Court has come to the conclusion that the Organization is an international person. [...] What [this] mean[s] is that it is a subject of international law and capable of possessing international rights and duties, and that it has capacity to maintain its rights by bringing international claims.")

<sup>85</sup> UN Charter, Art. 56

Article 55 of the Charter, which include universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.

4.5. Consequently, bearing in mind the duty of cooperation of all State Members with the Organization, Colombia will submit its considerations on a series of specific obligations that Israel remains bound to comply with as an occupying Power with regard to the presence and activities of the United Nations in and in relation to the Occupied Palestinian Territory.

**A. Obligation to Bring an End to Any Impediment Resulting from the Illegal Presence in the Occupied Palestinian Territory to the Exercise of the Palestinian People of their Right to Self-determination**

4.6. The right of peoples to self-determination is enshrined in the Charter of the United Nations<sup>86</sup> and also forms part of customary international law. The Court has recognized that the obligation to respect the right to self-determination is owed *erga omnes* and that all States have a legal interest in protecting that right.<sup>87</sup> Colombia further posits that it has the character of a *jus cogens* norm.

4.7. The principle of self-determination of peoples has also been reaffirmed by the General Assembly in resolution 2625 (XXV) according to which “Every State has the duty to refrain from any forcible action which deprives peoples [...] of their right to self-determination.”<sup>88</sup> In addition, Article 1 common to the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights reiterates the right of all peoples to self-determination, and lays upon the States Parties the obligation to promote the realization of that right and to respect it, in conformity with the Charter.

4.8. In the context of decolonization, the General Assembly has repeatedly emphasized the significance of the right to self-determination as an “inalienable right”.<sup>89</sup> The General Assembly has also underlined that “there is no alternative to the principle of self-determination” in the process of decolonization.<sup>90</sup>

4.9. For its part, the Court has had the opportunity to confirm that in the Oslo Accords, Israel and the State of Palestine agreed to exercise their powers and responsibilities pursuant to the Accords “with due regard to internationally-accepted norms and principles of human rights and the rule of law”.<sup>91</sup> In addition, the Court recalled that the “legitimate rights” of the Palestinian people recognized in the Oslo Accords include the right to self-determination.<sup>92</sup>

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<sup>86</sup> Article 1, paragraph 2, of the Charter.

<sup>87</sup> *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, I.C.J. Reports 2004 (I)*, p. 199, para. 155; *Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965, Advisory Opinion, I.C.J. Reports 2019 (I)*, p. 139, para. 180.

<sup>88</sup> Available here: [https://treaties.un.org/doc/source/docs/A\\_RES\\_2625-Eng.pdf](https://treaties.un.org/doc/source/docs/A_RES_2625-Eng.pdf) (last visited: 14 Feb. 2025).

<sup>89</sup> See for example, resolution 40/25 of 29 November 1985, para. 3; resolution 42/14 of 6 November 1987, para. 4; resolution 49/40 of 9 December 1994, para. 1.

<sup>90</sup> For example, resolution 57/138 (A) of 11 December 2002, para. 3; resolution 59/134 (A) of 10 December 2004, para. 2).

<sup>91</sup> Oslo II Accord, Art. XIX.

<sup>92</sup> *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, I.C.J. Reports 2004 (I)*, p. 183, para. 118.

4.10. There is therefore no doubt whatsoever as to the existence of a right to self-determination vested in the Palestinian people. In line with this, Colombia submits that Israel's obligations in the Occupied Palestinian Territory are to be interpreted in line with such right.

4.11. Indeed, the Court had the opportunity to assert that the existence of a right to self-determination vested in the Palestinian people must inform the actions of Israel as the occupying Power that is therefore exerting effective control over the Occupied Palestinian Territory. Indeed, in its Advisory Opinion of 2024<sup>93</sup> the Court affirmed that,

“[...] the legality of the occupying Power's presence in the occupied territory must be assessed in light of other rules. In particular, occupation consists of the exercise by a State of effective control in foreign territory (see paragraphs 91-92 above). In order to be permissible, therefore, such exercise of effective control must at all times be consistent with the rules concerning the prohibition of the threat or use of force, including the prohibition of territorial acquisition resulting from the threat or use of force, *as well as with the right to self-determination* [...]” (Emphasis added).

4.12. The Court has confirmed that several policies and practices of Israel undermine the integrity of the Palestinian people in the Occupied Palestinian Territory, significantly impeding the exercise of its right to self-determination.<sup>94</sup> In line with this holding, the Court has confirmed that Israel has an obligation to restrain from any impediment resulting from the illegal presence in the Occupied Palestinian Territory to the exercise of the Palestinian people of their right to self-determination.

4.13. Furthermore, it is clear that international humanitarian law governs Israel's powers and duties in the Occupied Palestinian Territory including, in particular, the rules contained in the Fourth Geneva Convention, to which Israel is a Party, and customary international law. As the Court observed in its *Wall* Advisory Opinion, “the Fourth Geneva Convention is applicable in any occupied territory in the event of an armed conflict arising between two or more High Contracting Parties”.<sup>95</sup>

4.14. Israel's obligations as an occupying Power include any obligation 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. Certainly, several articles in Section III of the Fourth Geneva Convention refer to these obligations incumbent upon the occupying Power, including Article 55 on food and medical supplies to the population, Article 59 on collective relief, Article 61 on distribution of relief consignments, or Article 63 on relief societies.

4.15. Colombia contends that Israel, by proceeding to the cessation of UNRWA activities in the Occupied Palestinian Territory, is causing millions of Palestine refugees who have been benefiting from UNRWA services and assistance, including operating schools, primary health clinics and hospitals, as well as from other humanitarian actors, to no longer be able to continue to receive them, as the Secretary General of the United Nations has confirmed.<sup>96</sup> This would be in contravention of Israel's obligations as an occupying power according to the Fourth Geneva Convention. In particular, for example, Israel will be in violation of Article 50 of the Convention, which provides that the occupying Power shall

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<sup>93</sup> *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory including East Jerusalem, Advisory Opinion, I.C.J. Reports 2024*, p. 34, para. 109.

<sup>94</sup> *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory including East Jerusalem, Advisory Opinion, I.C.J. Reports 2024*, p. 67, para. 239.

<sup>95</sup> *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, I.C.J. Reports 2004 (I)*, p. 177, para. 101.

<sup>96</sup> See Note A/79/684, S/2024/892.

facilitate the proper working of all institutions devoted to the care and education of children; as well as of Article 55 whereby the occupying Power has the duty of ensuring the food and medical supplies of the population.

4.16. In addition, by impeding the humanitarian actors from fulfilling their mandate - including in particular UNRWA - and other actions that Israel has taken against those providing humanitarian assistance to the Palestinian people, Israel is creating a situation where Palestinians are entirely dependent on Israel for their subsistence and thereby preventing the enjoyment of their right to self-determination.

4.17. In this regard, the Court has clearly stated that all the States Parties to the Fourth Geneva Convention have the obligation, while respecting the Charter of the United Nations and international law, to ensure compliance by Israel with international humanitarian law as embodied in that Convention.<sup>97</sup>

4.18. In this vein, the Court has confirmed that:

“It is also for all States, while respecting the United Nations Charter and international law, to see to it that any impediment, [...] to the exercise by the Palestinian people of its right to self-determination is brought to an end.”

4.19. Hence, the Court clarified that all States parties to the Fourth Geneva Convention are under an obligation to ensure that any impediment resulting from the illegal presence of Israel in the Occupied Palestinian Territory to the exercise of the Palestinian people of its right to self-determination is brought to an end.

4.20. Colombia therefore is of the view that in the present proceedings the Court can recur to its own jurisprudence, and to the Advisory Opinions it has issued in connection with Israel’s illegal occupation in Palestine, to reiterate that Israel has an obligation to bring an end to any impediment resulting from the illegal presence in the Occupied Palestinian Territory to the exercise of the Palestinian people of their right to self-determination, including any impediment to UNRWA and other humanitarian agencies to carry out their mandate.

4.21. The Court should uphold that all States Parties to the Fourth Geneva Convention are under an obligation to ensure that any impediment resulting from the illegal presence of Israel in the Occupied Palestinian Territory to the exercise of the Palestinian people of its right to self-determination is brought to an end.

## **B. Obligation to Maintain the *status quo* and Refrain from Altering the Laws In Force in the Occupied Territory**

4.22. The Court has recalled that under the law of occupation the control of the occupied territory by the occupying Power must be temporary in character.<sup>98</sup> The Court also explained that the law is based on the principle that the occupying Power shall preserve the *status quo ante* in the occupied

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<sup>97</sup> *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory including East Jerusalem, Advisory Opinion, I.C.J. Reports 2024*, p. 76, para. 279.

<sup>98</sup> *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory including East Jerusalem, Advisory Opinion, I.C.J. Reports 2024*, pp. 47-48, para. 159.

territory and that this is evidenced, *inter alia*, by the limited range of powers vested in the occupying Power under the law of occupation.<sup>99</sup>

4.23. That the occupying Power has to respect, as far as possible, the *status quo* in the occupied territory and refrain from introducing permanent changes is a rule which some experts refer to as the “conservationist principle”, which is contemplated in Article 43 of the Hague Regulations<sup>100</sup> and Article 64 of the Fourth Geneva Convention<sup>101</sup>.

4.24. The Court also affirmed that a conduct by the occupying Power that displays an intent to exercise permanent control over the occupied territory may indicate an act of annexation.<sup>102</sup> Furthermore, Article 43 of the Hague Regulations and Article 64 of the Fourth Geneva Convention confirm that the occupying Power has the obligation to maintain public order and public life and, at the same time, respect the laws of the occupied territory. It is possible to limit such obligations only in exceptional cases.<sup>103</sup>

4.25. Colombia, while reiterating its conviction on the unlawfulness of Israel’s occupation of the Palestinian territories, is of the view that the law of occupation guarantees a balanced system of rights and obligations of the occupying Power. This is aptly summarized by the International Court of Justice in the *Armed Activities on the Territory of the Congo case*<sup>104</sup> where it stated the following:

“178. The Court thus concludes that Uganda was the occupying Power in Ituri at the relevant time. *As such it was under an obligation, according to Article 43 of the Hague Regulations of 1907, to take all the measures in its power to restore, and ensure, as far as possible, public order and safety in the occupied area, while respecting, unless absolutely prevented, the laws in force in the DRC.* This obligation comprised the duty to secure respect for the applicable rules of international human rights law and international humanitarian law, to protect the inhabitants of the occupied territory against acts of violence, and not to tolerate such violence by any third party.” (Emphasis added).

4.26. As the Court has already declared, Israel has adopted certain policies and practices which are not in conformity with the legal regime governing occupation. Moreover, the Court has stated that

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<sup>99</sup> *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory including East Jerusalem, Advisory Opinion, I.C.J. Reports 2024*, p. 47, para. 159.

<sup>100</sup> This article reads as follows:

“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”.

<sup>101</sup> Article 64 reads as follows:

“The penal laws of the occupied territory shall remain in force, with the exception that they may be repealed or suspended by the Occupying Power in cases where they constitute a threat to its security or an obstacle to the application of the present Convention. Subject to the latter consideration and to the necessity for ensuring the effective administration of justice, the tribunals of the occupied territory shall continue to function in respect of all offences covered by the said laws.

The Occupying Power may, however, subject the population of the occupied territory to provisions which are essential to enable the Occupying Power to fulfil its obligations under the present Convention, to maintain the orderly government of the territory, and to ensure the security of the Occupying Power, of the members and property of the occupying forces or administration, and likewise of the establishments and lines of communication used by them”.

<sup>102</sup> *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory including East Jerusalem, Advisory Opinion, I.C.J. Reports 2024*, p. 47-48, para. 159.

<sup>103</sup> Among such cases, Article 64, paragraph 2 of the Convention incorporates the need to ensure the normal administration of the occupied territory.

<sup>104</sup> *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda), Judgment, I.C.J. Reports 2005*, para. 178.

Israel's policies and practices are designed to establish facts on the ground that are irreversible, which entrench the annexation of large parts of the Occupied Palestinian Territory and impede the exercise of the right to self-determination by the Palestinian people.<sup>105</sup>

4.27. The Court has further affirmed that these policies and practices, and the creation of facts on the ground have significant effects on the legal status of the occupation and thereby on the illegality of the continued presence of Israel in the Occupied Palestinian Territory. The Court also noted that the Security Council and the General Assembly both have expressed similar views with respect to Israel's policies and practices designed to change the legal status, geographical nature and demographic composition of the Occupied Palestinian Territory.<sup>106</sup>

4.28. For its part, the Oslo Accords further precluded the parties from initiating or taking any step that would change the status of the West Bank and the Gaza Strip pending the outcome of the permanent status negotiations.<sup>107</sup>

4.29. It is therefore clear that through its actions including the enactment of the Law to cease UNRWA operations, Israel has failed to comply with its obligation to maintain the *status quo* and to refrain from altering the laws in force in the Occupied Palestinian Territories.

### **C. Obligations Concerning the Protection of the Civilian Population**

4.30. In his identical letters dated 9th December 2024 and addressed to the President of the General Assembly and the Security Council, the Secretary-General of the United Nations expressed that the fact that humanitarian agencies are providing services and assistance to Palestine refugees does not absolve Israel from its obligations to ensure that the necessary services and assistance are provided, and recalls Article 60 of the Fourth Geneva Convention, which provides that "relief consignments shall in no way relieve the occupying Power of any of its responsibilities under Articles 55, 56 and 59".

4.31. Colombia agrees with the statements of the Secretary General and thus considers that, the fact that UNRWA has been providing services and assistance to Palestinian refugees in the Occupied Palestinian Territory does not absolve Israel from its obligations to ensure that the necessary services and assistance are provided. In the event that UNRWA is compelled to cease its activities in the Occupied Palestinian Territory, Israel would still continue to be under these obligations.

#### **(1) INTERNATIONAL HUMAN RIGHTS LAW IS APPLICABLE IN THIS SITUATION**

4.32. As a preliminary consideration to the submissions in this section, Colombia posits that, aside from international humanitarian law and applicable customary international law, the State of Israel is a party to several legal instruments containing human rights obligations, including the International Covenant on Economic, Social and Cultural Rights of 16 December 1966 (the "ICESCR"), the International Covenant on Civil and Political Rights of 19 December 1966 (the "ICCPR"), and the

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<sup>105</sup> *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory including East Jerusalem, Advisory Opinion, I.C.J. Reports 2024*, paras. 162-173 and 230-243.

<sup>106</sup> *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory including East Jerusalem, Advisory Opinion, I.C.J. Reports 2024*, p. 69, para. 246.

<sup>107</sup> Oslo II Accord, Art. XXXI (7).



International Convention on the Elimination of All Forms of Racial Discrimination of 21 December 1965 (“CERD”).

4.33. States have typically argued that when in conflict, the application of international humanitarian law supersedes human rights law. Colombia contends that this *lex specialis* approach is not supported. As recalled by the Court in its *Legal Consequences arising from the Policies and Practices of Israel* Opinion “international human rights instruments are applicable in respect of acts done by a State in the exercise of its jurisdiction outside its own territory”. Furthermore, the Court in its *Wall* Opinion, outlined three possible connections between both regimes, indicating that:

“(…) the Court considers that the protection offered by human rights conventions does not cease in case of armed conflict, (…) some rights may be exclusively matters of international humanitarian law; others may be exclusively matters of human rights law; yet others may be matters of both these branches of international law.”<sup>108</sup>

4.34. The application of international humanitarian law does not preclude the application of multilateral human rights treaties. In situations where the occupying Power has effective control, the human rights regime should be applicable to a greater level given the similarities between peacetime and a military occupation where hostilities have diminished to a degree where civilian life has partially resumed. For example, issues that are not regulated under international humanitarian law, such as education, employment discrimination, among others, are dealt with under human rights law.<sup>109</sup> Hence, Colombia is of the opinion that the Court could consider this matter under both regimes.

(2) OBLIGATION TO REFRAIN FROM ANY ACTION TAKEN TO IMPEDE THE PROVISION OF BASIC SERVICES AND HUMANITARIAN ASSISTANCE TO THE CIVILIAN POPULATION

4.35. As recalled by the Court in its Advisory Opinion on the *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territories*<sup>110</sup> and as both Israel and Palestine are Party to the Fourth Geneva Convention<sup>111</sup>, the international regime of occupation enshrined in this treaty has full application. Furthermore, as the basic norms of international humanitarian law such as the 1<sup>st</sup> Additional Protocol to the Geneva Conventions have been identified in this context as *jus cogens*<sup>112</sup>, the provisions of this treaty relating to international armed conflict and the international regime of occupation are applicable. Colombia underlines the crucial obligation for all the contracting parties to ensure and guarantee humanitarian relief and basic services to the civilian population, as it is at the core of their protection. In that sense, Israel has a positive obligation to ensure and guarantee humanitarian assistance and the provision of basic services to civilians in this context.

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<sup>108</sup> *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Advisory Opinion, I.C.J. Reports 2004, at p. 136, para. 106.

<sup>109</sup> S. Jaber and I. Bantekas, ‘The Status of Gaza as Occupied Territory under International Law’ (2023), 73 *International & Comparative Law Quarterly* 1069. Available at: <https://www.cambridge.org/core/journals/international-and-comparative-law-quarterly/article/abs/status-of-gaza-as-occupied-territory-under-international-law/654DB8FE844ED96C47AAA3B213D438F0> (Last visited: 24 Feb. 2025).

<sup>110</sup> *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Advisory Opinion, I.C.J. Reports 2004, paras. 89-101.

<sup>111</sup> United Nations, *State of Ratifications Geneva Convention Relative to the Protection of Civilian Persons in Time of War*, <https://treaties.un.org/pages/showdetails.aspx?objid=0800000280158b1a> (Last visited: 24 Feb. 2025).

<sup>112</sup> UN International Law Commission, 71st session, Draft Conclusions. *Peremptory norms of general international law (jus cogens)*, Geneva, 29 April-7 June and 8 July-9 August 2019.

4.36. In the context of international armed conflict, the Fourth Geneva Convention binds Israel to a general obligation of free passage of humanitarian consignments. Article 23 of the Convention states that:

“Each High Contracting Party shall allow the free passage of all consignments of medical and hospital stores and objects necessary for religious worship intended only for civilians of another High Contracting Party, even if the latter is 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>113</sup>

4.37. This obligation may only be conditioned for specific matters listed in paragraph 2 of Article 23. This disposition reads as follows:

“The obligation of a High Contracting Party to allow the free passage of the consignments indicated in the preceding paragraph is subject to the condition that this Party is satisfied that there are no serious reasons for fearing: a) that the consignments may be diverted from their destination, b) that the control may not be effective, or c) that a definite advantage may accrue to the military efforts or economy of the enemy through the substitution of the above-mentioned consignments for goods which would otherwise be provided or produced by the enemy or through the release of such material, services or facilities as would otherwise be required for the production of such goods.”<sup>114</sup>

These exceptions cannot be interpreted as allowing Israel to proceed with any action that impedes the consignments to be forwarded to the civilian population, actions which clearly defeat the object and purpose of the treaty, as enshrined in Article 18 of the Vienna Convention on the Law of Treaties<sup>115</sup>.

4.38. Given Israel’s role as occupying Power, and, in to the extent that it exerts the administrative control of the Occupied Palestinian Territory, it is bound to an obligation to ensure the availability of essential supplies for the survival of civilians. According to the Fourth Geneva Convention, Israel has the duty “[t]o the fullest extent of the means available (...) of ensuring the food and medical supplies of the population; it should, in particular, bring the necessary foodstuffs, medical stores and other articles if the resources of the occupied territory are inadequate”<sup>116</sup>. Additional Protocol I to the Geneva Conventions extends the scope of this obligation, considering that:

“In addition to the duties specified in Article 55 of the Fourth Convention concerning food and medical supplies, the occupying Power shall, to the fullest extent of the means available to it and without any adverse distinction, also ensure the provision of clothing, bedding, means of shelter, other supplies essential to the survival of the civilian population of the occupied territory and objects necessary for religious worship”.

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<sup>113</sup> Geneva Convention Relative to the Protection of Civilian Persons in Time of War, 1949, Article 23 para. 1

<sup>114</sup> Geneva Convention Relative to the Protection of Civilian Persons in Time of War, 1949, article 23 para. 2

<sup>115</sup> Vienna Convention on the Law of Treaties, 1969, Article 18: “A State is obliged to refrain from acts which would defeat the object and purpose of a treaty when: (a) it has signed the treaty or has exchanged instruments constituting the treaty subject to ratification, acceptance or approval, until it shall have made its intention clear not to become a party to the treaty; or (b) it has expressed its consent to be bound by the treaty, pending the entry into force of the treaty and provided that such entry into force is not unduly delayed.”

<sup>116</sup> Geneva Convention Relative to the Protection of Civilian Persons in Time of War, 1949, Article 55 para. 1.

That said, Israel must refrain from “divert[ing] relief consignments from the purpose they are intended, except in the cases of urgent necessity, in the interests of the population of the occupied territory(...)”<sup>117</sup>.

4.39. As the civilian population in the Occupied Palestinian Territory are inadequately supplied, Israel should agree to relief schemes – which could be undertaken either by third States or by international organizations<sup>118</sup> - on behalf of the [civilian] population and shall facilitate them by all means at its disposal<sup>119</sup>. Furthermore, Israel “shall permit the free passage of these consignments and shall guarantee their protection”<sup>120</sup>.

4.40. Finally, Israel has the duty, “[t]o the fullest extent of the means available to do it, [...] of ensuring and maintaining, with 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 epidemics.”<sup>121</sup>. It shall also ensure that medical personnel of all categories are available to fully carry out their duties in favour of civilian population<sup>122</sup>.

(3) OBLIGATION TO REFRAIN FROM ATTACKING, DESTROYING, REMOVING OR RENDERING USELESS OBJECTS THAT ARE INDISPENSABLE TO THE SURVIVAL OF THE CIVILIAN POPULATION

4.41. The report of the Independent International Commission of Inquiry on the Occupied Palestinian Territory dated 11 September 2024, summarized the factual and legal findings regarding attacks carried out since 7 October 2023 on medical facilities and personnel.<sup>123</sup>

4.42. According to the report,<sup>124</sup> attacks on health-care facilities are an intrinsic element of the Israeli security forces’ broader assault on Palestinians in Gaza and the physical and demographic infrastructure of Gaza, as well as of efforts to expand the occupation. Air strikes against hospitals caused considerable damage to buildings and surroundings, hospital premises and prevented the entry of goods and medical equipment. Furthermore, as hospitals and schools were also used as shelters from hostilities, this fact led to an even greater risk for civilians during attacks. The destruction by Israeli security forces of the healthcare infrastructure of Gaza has had a severely detrimental effect on the accessibility, quality and availability of healthcare services, drastically increasing mortality and morbidity, in violation of the right to physical and mental health, which is intrinsically linked to the right to life.<sup>125</sup>

4.43. As the ICRC has elaborated<sup>126</sup>, in principle, objects indispensable to the survival of the civilian population are civilian objects and may not be attacked as such. Additional Protocols I and II provide examples of objects indispensable to the survival of the civilian population such as foodstuffs,

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<sup>117</sup> Geneva Convention Relative to the Protection of Civilian Persons in Time of War, 1949, Article 60.

<sup>118</sup> Geneva Convention Relative to the Protection of Civilian Persons in Time of War, 1949, Article 59, para. 1.

<sup>119</sup> *Ibid.*

<sup>120</sup> Geneva Convention Relative to the Protection of Civilian Persons in Time of War, 1949, Article 59 (3).

<sup>121</sup> Geneva Convention Relative to the Protection of Civilian Persons in Time of War, 1949, Article 56.

<sup>122</sup> *Ibid.* Article 56, para. 1.

<sup>123</sup> *Report of the Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel*, 11 Sep. 2024, p. 3.

<sup>124</sup> *Ibid.*, p.18.

<sup>125</sup> *Ibid.*, p.24.

<sup>126</sup> ICRC. International Humanitarian Law Databases. Available at. [https://ihl-databases.icrc.org/en/customary-ihl/v1/rule54#Fn\\_560A1CEA\\_00024](https://ihl-databases.icrc.org/en/customary-ihl/v1/rule54#Fn_560A1CEA_00024) (Last visited: 24 Feb. 2025).

agricultural areas for the production of foodstuffs, crops, livestock, drinking water installations and supplies, and irrigation works.<sup>127</sup> This list of examples is not exhaustive as indicated by the words “such as” in the relevant provisions. When the Elements of Crimes for the International Criminal Court were negotiated, it was identified that the ordinary meaning of the word “starvation” were beyond the restrictive meaning of starving as killing by deprivation of water and food, and also covered the more general meaning of deprivation or insufficient supply of some essential commodity, of something necessary to survival<sup>128</sup>. As a result, other examples that were mentioned during those negotiations included indispensable non-food items such as medicines and, in some cases, blankets.<sup>129</sup> It is important to point out in this respect that both Additional Protocols I and II consider food and medical supplies as essential to the survival of the civilian population, while Additional Protocol I also mentions clothing, bedding and means of shelter.

4.44. Article 54(2) of Additional Protocol I sets forth a clear prohibition on attacking, destroying, removing, or rendering useless objects indispensable to the survival of the civilian population.<sup>130</sup>

4.45. According to the Commentary on the Additional Protocols, “this provision develops the principle formulated in paragraph 1 [of Article 54] of prohibiting starvation of the civilian population; it describes the most usual ways in which this may be applied”.<sup>131</sup>

4.46. Article 54(2) prohibits attacks against objects “for the specific purpose of denying them for their sustenance value to the civilian population or to the adverse Party, whatever the motive, whether in order to starve out civilians, to cause them to move away, or for any other motive”.<sup>132</sup>

4.47. Under the Statute of the International Criminal Court, “intentionally using starvation of civilians as a method of warfare by depriving them of objects indispensable to their survival” is a war crime in international armed conflicts.<sup>133</sup>

4.48. In the view of Colombia, the State of Israel, both by its acts and omissions, is in clear disregard of the prohibition of starvation as a method of warfare, pursuant to Art. 54 (1), of Additional Protocol I and Article 14, Additional Protocols II. Moreover, Colombia believes that its urgent to assure compliance of this obligation given that the population in the Gaza Strip is facing acute food insecurity and risks famine<sup>134</sup>. State practice shows the importance and observance given to this rule, as several nations forbid starvation to civilians in their military manuals, including Israel<sup>135</sup>. While siege warfare

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<sup>127</sup> Additional Protocol I, Article 54(2); Additional Protocol II, Article 14

<sup>128</sup> ICRC. International Humanitarian Law Databases. Available at: [https://ihl-databases.icrc.org/en/customary-ihl/v1/rule54#Fn\\_560A1CEA\\_00024](https://ihl-databases.icrc.org/en/customary-ihl/v1/rule54#Fn_560A1CEA_00024) (Last visited: 24 Feb. 2025).

<sup>129</sup> K. Dörmann, “Preparatory Commission for the International Criminal Court: The Elements of War Crimes – Part II: Other Serious Violations of the Laws and Customs Applicable in International and Non-International Armed Conflicts”, *International Review of the Red Cross*, Vol. 83, 2001, pp. 475–476.

<sup>130</sup> Additional Protocol I, Article 54(2) (adopted by consensus) cited in Vol. II, Ch. 17, § 188.

<sup>131</sup> Y. Sandoz et al., *Commentary on the Additional Protocols*, ICRC, Geneva, 1987, § 2098.

<sup>132</sup> Additional Protocol I, Article 54(2) (adopted by consensus) (cited in Vol. II, Ch. 17, § 188).

<sup>133</sup> ICC Statute, Article 8(2)(b)(xxv).

<sup>134</sup> Report of the Secretary-General, 20 May 2024, UN Doc A/79/85-E/2024/60, at para. 20. See also, BBC, *Gaza Strip in maps: How 15 months of war have drastically changed life in the territory*. Available at:

<https://www.bbc.com/news/world-middle-east-20415675> (Last visited: 24 Feb. 2025).

<sup>135</sup> See, International Committee of the Red Cross. Customary International Humanitarian Law, Vol. II: Rules, Rule 53. Available at: [https://ihl-databases.icrc.org/en/customary-ihl/v1/rule53#refFn\\_91359A25\\_00005](https://ihl-databases.icrc.org/en/customary-ihl/v1/rule53#refFn_91359A25_00005). (Last visited: 24 Feb. 2025).

is allowed for military purposes, it cannot be directed to the civilian population. According to the ICRC's analysis on the matter, Israel's own Manual of the Laws of War, states that "the inhabitants must be allowed to leave the city during siege"<sup>136</sup>.

4.49. It is to be noted that when considering an exception to the prohibition on attacking objects indispensable to the survival of the civilian population, Additional Protocol I provides that objects can be attacked if they qualify as military objectives. This may be the case if the objects are used as sustenance solely for combatants or otherwise in direct support of military action. State practice recognizes, however, that when such objects are not used as sustenance solely for combatants but nevertheless in direct support of military action, the prohibition of starvation renders the attack of such objects prohibited if the attack may be expected to cause starvation among the civilian population. Noticeably, this practice includes that of Israel, a State not party to Additional Protocol I.<sup>137</sup>

4.50. The State practice reveals that numerous military manuals, including that of Colombia,<sup>138</sup> dictate that it is prohibited to attack, destroy, remove, or render useless objects indispensable to the survival of the civilian population.

4.51. In addition to the obligations above, the Genocide Convention also binds Israel. Article I requires Israel to both prevent and punish genocide, with genocidal acts listed in Article II. In its first Order on Provisional Measures on 26 January 2024, the Court ordered Israel to take "all measures within its power to prevent the commission of all acts within the scope of Article II" and to adopt "immediate and effective measures to enable the provision of urgently needed basic services and humanitarian assistance to address the conditions of life faced by Palestinians".<sup>139</sup> In a second Order on 28 March 2024, not only did the Court reaffirm its previous provisional measures, it further demanded that Israel:

"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>140</sup>  
(Emphasis added)

4.52. In light of the above, Colombia considers that the actions of Israel violate international humanitarian law and the rights of the population under its effective control. Therefore, Colombia contends that Israel as the occupying Power, must refrain from targeting medical facilities, staff and vehicles and cease the military use of medical facilities, in compliance with international humanitarian law, and ensure rapid, safe and unhindered access for medical staff and ambulances to wounded persons,

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<sup>136</sup> Ibid.

<sup>137</sup> International Committee of the Red Cross. Customary International Humanitarian Law, Vol. II: Rules, Rule 53. Israel, *Manual on the Laws of War*, at § 316). Available at: [https://ihl-databases.icrc.org/en/customary-ihl/v1/rule53#refFn\\_91359A25\\_00005](https://ihl-databases.icrc.org/en/customary-ihl/v1/rule53#refFn_91359A25_00005). (Last visited: 24 Fe. 2025)

<sup>138</sup> Ibid., Colombia, *Basic Military Manual*, at § 339.

<sup>139</sup> *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip* (South Africa v. Israel), Order on Request for the Indication of Provisional Measures (ICJ, 26 January 2024. Measures (1) and (4)

<sup>140</sup> *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip* (South Africa v. Israel), Order on Request for the Modification of the Order of 26 January 2024 Indicating Provisional Measures (ICJ, 28 March 2024) Measure (2) (a).

along with the reconstruction of the health-care system of Gaza. Furthermore, it must immediately provide medical treatment to the highest attainable standard.

(4) OBLIGATIONS TOWARDS REFUGEES AND CIVILIANS IN URGENT NEED OF LIFE-SAVING  
HUMANITARIAN ASSISTANCE

4.53. International Humanitarian Law provides for clear State obligations towards civilians and refugees in urgent need of life-saving humanitarian assistance. Colombia, in accordance with the International Committee of the Red Cross' approach to humanitarian assistance<sup>141</sup>, considers that the parties involved in a conflict have a primary obligation to address the needs of the population under their control, which include food, medical supplies, and means of shelter essential for survival. While impartial humanitarian organizations can assist, this does not relieve the parties of their obligation<sup>142</sup>.

4.54. From the start, the “complete siege”<sup>143</sup> strategy announced by the Israeli government amounts to a direct breach of this obligation, and while the siege was partially lifted following the ceasefire and more aid has been allowed in Gaza, intentional measures day-to-day seriously hinder the operations for the provision of humanitarian aid<sup>144</sup>.

4.55. Further, Colombia considers that the obligations hereinafter should be considered under the light of the overall duty established by Article 43 of the 1907 Hague Regulations, which mandates the occupant to “...take all the measures in his power to restore, and ensure, as far as possible, public order and safety...”.

4.56. This provision, reflecting customary international law<sup>145</sup>, encompasses a broader scope than mere security. Its true application, closely intertwined with welfare, obliges an occupant to assume responsibilities to guarantee a prompt return to normal, civil life<sup>146</sup>. The occupant is bound to this comprehensive obligation, and relatedly, to the specific obligations regarding urgent aid.

4.57. Bearing that in mind, Colombia is of the view that, Israel as occupying Power, is obliged to comply with the essential obligations in regard to life-saving humanitarian assistance, both directly and by permitting third-party humanitarian assistance.

4.58. As already mentioned in the preceding section, under Article 55 of Fourth Geneva Convention, Israel must ensure to the fullest extent of its capabilities an adequate supply of crucial goods and resources, such as food, medical supplies, shelter, among others. Furthermore, given its

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<sup>141</sup> International Committee of the Red Cross, ‘ICRC Q&A and Lexicon on humanitarian access’, *International Review of the Red Cross* (2014), 96 (893), 359–375.

<sup>142</sup> Geneva Convention Relative to the Protection of Civilian Persons in Time of War, 1949, Article 55; Additional Protocol I, Article 69.

<sup>143</sup> UN OCHA, ‘Reported Impact Snapshot’, 11 Feb. 2025. Available at: <https://www.unocha.org/publications/report/occupied-palestinian-territory/reported-impact-snapshot-gaza-strip-11-february-2025-1500> (Last visited: 24 Feb. 2025).

See also, IPC Global Initiative - Special Brief Gaza Strip, 8 Nov. 2024. Available at: [www.ipcinfo.org/fileadmin/user\\_upload/ipcinfo/docs/IPC\\_Gaza\\_Strip\\_Acute\\_Food\\_Insecurity\\_Malnutrition\\_Sept2024\\_Aug2025\\_Special\\_Brief.pdf](https://www.ipcinfo.org/fileadmin/user_upload/ipcinfo/docs/IPC_Gaza_Strip_Acute_Food_Insecurity_Malnutrition_Sept2024_Aug2025_Special_Brief.pdf) (Last visited: 24 Feb. 2025).

<sup>144</sup> Report of the Secretary-General, UN Doc, 20 May 2024, A/79/85-E/2024/60, at paras. 23-24.

<sup>145</sup> Trial of the Major War Criminals, International Military Tribunal in Nuremberg, published in (1947) 41 AJIL 172, at 248-249.

<sup>146</sup> M. Sassoli, ‘Article 43 of The Hague Regulations and Peace Operations in the twenty-first century’, *HPCR Harvard University*, at p. 3-4.

stranglehold over the Gaza Strip, Israel must ensure the delivery of these goods in a prompt manner, avoiding any undue or unnecessary delays.

4.59. Colombia stresses that Israel is bound as well by Article 56 of the Fourth Geneva Convention, which provides for the obligation to ensure public health and hygiene in cooperation with the local authorities. This comprehensive obligation entails several duties that require, in general, ensuring the proper functioning of medical services and healthcare access, through feasible measures that safeguard the health of the occupied population. It also extends to the protection and respect to all medical personnel.

4.60. Considering the above, Article 59, of Fourth Geneva Convention compels Israel to *allow humanitarian relief to reach the population and to facilitate it by all the means at its disposal*. This *collective relief* obligation is triggered once the occupying Power is unable and/or unwilling to provide for the needs of the population under its control. The State of Israel has been first, unwilling, and second, unable, to provide for adequate humanitarian assistance in the scale required by the situation. Furthermore, Colombia maintains that the obstacles and bans imposed on the UN, its bodies and agencies, and other impartial organizations performing humanitarian activities constitute a breach of this and related obligations.

4.61. Under this framework, and the information at hand that shows the dramatic situation in Gaza, Colombia asserts that a clear set of obligations regarding urgent humanitarian assistance are in place and are being grievously breached by the State of Israel.

#### (5) OBLIGATION TO RESPECT THE PROHIBITION OF FORCIBLE TRANSFER OF THE PROTECTED POPULATION

4.62. According to the first paragraph of Article 49 of the Fourth Geneva Convention:

“Individual or mass forcible transfers, as well as deportations of protected persons from occupied territory to the territory of the Occupying Power or to that of any other country, occupied or not, are prohibited, regardless of their motive”.

4.63. In this regard, it is worth noting that under this provision, all forced transfers of protected persons (occurring not only through the use of physical force but also when individuals have no option but to leave)<sup>147</sup> are prohibited, including those carried out within the occupied territory. While evacuation from an area is exceptionally permitted if the safety of the population or imperative military reasons demand it, such measures must be temporary and must be reversed as soon as the reasons justifying them have diminished. Furthermore, evacuation cannot involve the transfer of protected people outside the bounds of the occupied territory, unless it is impossible to avoid such displacement for material reasons.<sup>148</sup>

4.64. In clear contradiction with the provision outlined above, both Israel’s actions and settlement policies have led to the expulsion and forcible displacement of the Palestinian population

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<sup>147</sup> International Criminal Tribunal for the former Yugoslavia (2006). *Prosecutor v. Milomir Stakić*. Case No. IT-97-24-A. Appeals Chamber. Judgment of 22 March 2006. Para. 279.

<sup>148</sup> *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory including East Jerusalem, Advisory Opinion, I.C.J. Reports 2024*, paras.144-146.

from their lands, resulting in the alteration of the demographic composition of the occupied territories.<sup>149</sup>

4.65. As the occupying Power, Israel has implemented measures such as the large-scale confiscation of land and the denial of access to natural resources, thereby depriving the local populations of their basic means of livelihood and forcing them to leave. This situation has been exacerbated by a series of measures taken by Israeli authorities and military forces, which have increased pressure on the Palestinian population to abandon parts of the Occupied Palestinian Territory against their will. Each year, Israel displaces hundreds of Palestinians from the Occupied Palestinian Territory, typically as a result of the demolition of their properties or due to zoning and planning policies, as well as relocation plans associated with them.<sup>150</sup>

4.66. For example, between April 2021 and March 2022, building demolitions caused the displacement of over 700 Palestinians.<sup>151</sup> Likewise, in May 2022, the Israeli Supreme Court rejected petitions against eviction orders issued to approximately 1,150 Palestinian residents of an area designated by Israel as a military firing zone.<sup>152</sup> Similarly, between June 2022 and May 2023, over 1,000 Palestinians were displaced after Israeli authorities demolished, confiscated, or sealed their properties.<sup>153</sup> Furthermore, in addition to the displacements already effectuated, these practices place more Palestinians at risk of forced displacement in the future.<sup>154</sup>

4.67. Moreover, Israeli security forces have prohibited victims of arbitrary detentions – a practice carried out on a massive scale throughout the 75 years of Israeli occupation – who have been released from returning to their places of residence in the occupied areas. This prohibition constitutes forced displacement, and the attacks carried out against civilians attempting to return to their families amount to forcible transfers, acts which constitute war crimes and crimes against humanity.<sup>155</sup>

4.68. In conclusion, Israel's policies and practices, particularly those related to forced evictions, widespread home demolitions, and restrictions on residence and movement, often leave little choice for members of the Palestinian population residing in the occupied territories, forcing them to abandon their place of residence. The nature of Israel's actions, including the frequent confiscation of land after demolitions of Palestinian properties for reassignment to Israeli settlements, indicates that these measures are not temporary in nature and, therefore, cannot be considered permitted evacuations. Thus, following the findings of the Court, Israel's policies and practices are in violation of the prohibition on

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<sup>149</sup> *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory including East Jerusalem, Advisory Opinion, I.C.J. Reports 2024*, para.142.

<sup>150</sup> *Ibid.*, at para.143.

<sup>151</sup> United Nations General Assembly and Economic and Social Council (2022). 'Economic and social repercussions of the Israeli occupation on the living conditions of the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem, and of the Arab population in the occupied Syrian Golan'. 8 June 2022, UN Doc A/77/90-E/2022/66. New York. para. 43.

<sup>152</sup> United Nations General Assembly (2023). 'Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and in the occupied Syrian Golan: Report of the United Nations High Commissioner for Human Rights'. UN Doc A/ HRC/52/76. New York. paras. 52-53. *See also*, HCJ (2022). 413/13 *Abu 'Aram v. Minister for Defence*.

<sup>153</sup> United Nations General Assembly (2023). 'Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and the occupied Syrian Golan: Report of the Secretary-General'. UN Doc A/78/554. New York. para. 31.

<sup>154</sup> *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory including East Jerusalem, Advisory Opinion, I.C.J. Reports 2024*, at para. 143.

<sup>155</sup> United Nations General Assembly (2024). 'Report of the Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel'. UN Doc A/79/232. New York. Paras. 101, 110.



the forcible transfer of the protected population as set out in the first paragraph of Article 49 of the Fourth Geneva Convention.<sup>156</sup>

#### **D. Obligation to Respect United Nations Privileges and Immunities, in Accordance with International Law**

4.69. As outlined at the introduction of Chapter 4, Article 105, paragraph 1, of the Charter provides that “[t]he Organization shall enjoy in the territory of each of its Members such privileges and immunities as are necessary for the fulfilment of its purposes”. Paragraph 2 of the same Article provides that “...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”.

4.70. Article 105, paragraph 3, further provides that “[t]he 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”.

4.71. Further to that paragraph, the General Assembly of the United Nations adopted the Convention on the Privileges and Immunities of the United Nations (“General Convention”) on 13 February 1946, to which Israel acceded on 21 September 1949, without reservations. In addition, following the request from the Palestine Liberation Organization (PLO) to UNRWA to continue to provide its assistance to the Palestinian people in the Gaza Strip and the Jericho Area and in the remainder of the West Bank, an exchange of letters was concluded between PLO and UNRWA in 1994, and an agreement between UNRWA and the Palestinian Authority regarding the location of UNRWA Headquarters in the West Bank and Gaza Strip area was concluded in 1996.

4.72. The United Nations and its officials, pursuant to these provisions of the Charter and the General Convention, enjoy the privileges and immunities stipulated therein.

4.73. As far as the applicability of Article 105 of the UN Charter and the General Convention to UNRWA is concerned, Colombia recalls that the United Nations is an international organization established by the Charter. In accordance with Article 22 of the UN Charter, the General Assembly may establish such subsidiary organs as it deems necessary for the performance of its functions. Pursuant to this authority, the General Assembly established UNRWA through its resolution 302 (IV) of 8 December 1949. Accordingly, UNRWA is a subsidiary organ of the General Assembly and an integral part of the United Nations.

4.74. The General Assembly most recently renewed UNRWA’s mandate to 30 June 2026 in resolution 77/123 of 12 December 2022.

4.75. Colombia argues that as a subsidiary organ and an integral part of the United Nations, UNRWA enjoys the privileges and immunities that are accorded to the United Nations and its officials under Article 105 of the UN Charter and Article II, Section 7 (b), of the General Convention.

4.76. Colombia submits, that Israel, as a State party to the General Convention, is bound the obligations assumed therein and must fulfil in good faith those obligations with respect to UNRWA. Section 34 of the General Convention, in particular, states that, “it is understood that, when an

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<sup>156</sup> *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory including East Jerusalem, Advisory Opinion, I.C.J. Reports 2024*, at para. 147.

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.”

4.77. Furthermore, as a Member of the United Nations, Israel continues to be required, pursuant to Article 2, paragraph 5 of the Charter, to give UNRWA every assistance in any action it takes in accordance with the Charter, including by fulfilling its obligations under the General Convention and the Exchange of Letters in its relations with UNRWA

4.78. With respect to the *Law to Cease UNRWA Operations*, already referenced in this Chapter, application of paragraph 2 of said Law on no contact, would impede UNRWA’s mandated activities in the Occupied Palestinian Territory, including East Jerusalem which is detrimental to the required interaction with the authorities of Israel. Therefore, any actions from Israel leading to absence of interaction, where such contacts are required to fulfil Israel’s obligations to ensure that UNRWA enjoy its privileges, immunities and facilities, would not be consistent with the relevant provisions of the General Convention.

4.79. Regarding paragraph 3 of the Law to Cease UNRWA Operations, any criminal proceedings against UNRWA employees, with respect to their official acts, would be inconsistent with Article V, Section 18 (a) and Article VI, Section 22 (b) of the General Convention which grant United Nations officials and experts on mission performing missions for UNRWA, respectively, immunity from legal process of every kind in respect of words spoken or written and acts done by them in the course of their functions.

4.80. Concerning East Jerusalem, Colombia recalls that the Court concluded that Israel is not entitled to sovereignty over or to exercise sovereign powers in any part of the Occupied Territory on account of its occupation.<sup>157</sup> Consequently, the implementation in East Jerusalem of the Law to Cease UNRWA Operations would not be consistent with the international legal status of East Jerusalem. The application of this Law in East Jerusalem would appear to have implications on several privileges and immunities of UNRWA that arise from its continuing presence in East Jerusalem, including immunity from legal proceedings, inviolability of its premises and archives, and the free movement of UNRWA personnel in the Occupied Palestinian Territory.

4.81. UNRWA continues to be mandated by the General Assembly to carry out its activities pursuant to General Assembly resolution 302(IV) of 8 December 1949, as renewed up to 30 June 2026 by General Assembly resolution 77/123 of 12 December 2022.

4.82. Colombia concurs with the assessment by the Office of Legal Affairs (OLA) in its letter of 8 January 2025, addressed to the Ministry of Foreign Affairs of Israel, and submits that in accordance with its obligations under the General Convention with respect to UNRWA presence in the Occupied Palestinian Territory, including East Jerusalem, Israel must refrain from curtailing or affecting the privileges and immunities necessary to enable UNRWA operations, as mandated by the General Assembly.

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<sup>157</sup> *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory including East Jerusalem, Advisory Opinion, I.C.J. Reports 2024.*

## **E. Obligations Applicable Under International Law Regarding International Organizations**

4.83. Colombia is of the view that International Humanitarian Law, and in particular the Fourth Geneva Convention and The Hague Regulations, and international human rights law also apply to Israel as the occupying Power with regard to the work of international organizations in benefit of the civilian population in the Occupied Palestinian Territory.

4.84. Israel's obligations as an occupying Power include any obligation 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. Certainly, as recalled previously in this Chapter, several provisions in Section III of the Fourth Geneva Convention refer to these obligations incumbent upon the occupying Power, including, Article 55 on food and medical supplies to the population, Article 59 on collective relief, Article 61 on distribution of relief consignments, or Article 63 on relief societies.

4.85. Several organizations carry out their work in the Occupied Palestinian Territory. Among others, the WFP (World Food Programme), FAO (Food and Agriculture Organization), and the WHO (World Health Organization). Non-governmental organizations also play an important role in the occupied Palestinian territory, like the IRC (International Rescue Committee), Save the Children, MSF (Doctors Without Borders) and the ICRC (International Committee of the Red Cross)

4.86. These international Organizations and humanitarian organizations, especially the Palestinian ones, face severe barriers in Gaza caused by Israel's actions in terms of restricting aid delivery. The policies developed and implemented by the Israeli government have forced neutral humanitarian organizations, either to suspend their work in the occupied Palestinian territory or endure dangerous conditions for their personnel to provide relief to the Palestinian population

4.87. Israel's has an obligation, according to Article 59 of the Fourth Geneva Convention, to accept and facilitate by all means at its disposal, the delivery of impartial humanitarian aid to civilians in the occupied territory. Israel could only reject the humanitarian aid if the population in the occupied Palestinian territory had previously received sufficient assistance or if the humanitarian organization was not impartial and humanitarian in nature.

4.88. As stated, Colombia contends that by Israel proceeding to the cessation of UNRWA activities in the Occupied Palestinian Territory, millions of Palestinian refugees benefiting from UNRWA services and assistance, as well as from other humanitarian actors, would no longer be able to continue to receive them, as confirmed by the UN Secretary General.<sup>158</sup> This would be in contravention of Israel's obligations as an occupying Power according to the Fourth Geneva Convention. In particular, Israel will be in violation of Article 50 of the Convention, which provides that the occupying Power shall facilitate the proper working of all institutions devoted to the care and education of children, as well as of Article 55 whereby the occupying Power has the duty of ensuring the food and medical supplies of the population.

4.89. The United Nations General Assembly has recognized the key role that international and humanitarian organizations play in the occupied Palestinian territory:

“21. The United Nations system continues to provide the bulk of humanitarian assistance in the Occupied Palestinian Territory. Those organizations, including the United Nations agencies, funds and programmes, significantly scaled up the provision of life-saving aid

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<sup>158</sup> See Letter from the Secretary-General to the President of the General Assembly and the President of the Security Council regarding UNRWA's operations in the Occupied Palestinian Territories, 9 Dec. 2024, UN Doc A/79/684, S/2024/892.

after October 2023, with the aim of reaching 2.7 million people in the Occupied Palestinian Territory, including some 2.1 million people in Gaza. The assistance provided includes emergency assistance in the areas of agriculture, food, education, health, water and sanitation, non-food items and income generation. Protection has also been provided as the foundation for the overall response, with a focus on addressing gender-based violence and on the protection of children. Despite these efforts, the humanitarian response has been severely constrained, falling critically short in addressing the full scale of needs. Before the 19 January ceasefire, humanitarian partners had faced severe challenges, including severe restrictions on humanitarian access, hostilities, including attacks by Israeli forces on humanitarian convoys and killings of humanitarian personnel, the breakdown of law and order within Gaza, armed looting of humanitarian supplies and attacks by gangs on convoys”<sup>159</sup>.

4.90. The Human Rights Council has also recognized the importance of the work of the humanitarian agencies in the occupied Palestinian territory, and particularly of their personnel:

“Stressing the need for all parties, in conformity with the relevant provisions of international humanitarian law, to cooperate fully with the United Nations and other humanitarian agencies and organizations and to ensure the rapid and unhindered access of humanitarian personnel, and the delivery of supplies and equipment, in order to allow such personnel to perform efficiently their task of assisting affected civilian populations, including refugees and internally displaced persons...”<sup>160</sup>

4.91. The operative paragraph in the Human Rights Council’s Resolution in 2019 stresses the urgency to continue the mandate of these organizations in favour of the Palestinian population and its right to self-determination:

“27. Urges all States and the specialized agencies and organizations of the United Nations system to continue to support and assist the Palestinian people in the early realization of their inalienable human rights, including their right to self-determination, as a matter of urgency, in the light of the onset of the fiftieth year of the Israeli occupation and the continued denial and violation of the human rights of the Palestinian people”.<sup>161</sup>

4.92. Consequently, Colombia posits that by impeding the fulfilment of their mandate through, *inter alia*, restrictive orders, attacks on their personnel and security obstacles, Israel is preventing the Palestinian population’s access to food, health and medical services, and humanitarian aid in general, in clear violation of human rights and international humanitarian law.

4.93. International Organizations need guarantees to carry out their mandate in the occupied Palestinian territory. They and their personnel cannot be subjected to enduring the dangerous conditions imposed by the Israeli government. As expressed by WHO, after the ceasefire was enacted:

“WHO is ready to scale up the response together with UN health partners including UNFPA, UNICEF, UNRWA and 67 Health Cluster partners. However, it is critical that the security obstacles hindering operations are removed. WHO will need conditions on the

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<sup>159</sup> General Assembly Resolution A/79/739 “Demand for ceasefire in Gaza”.

<sup>160</sup> Human Rights Council, ‘Human rights situation in the Occupied Palestinian Territory, including East Jerusalem’, 18 March 2019, UN Doc A/HRC/40/L.27

<sup>161</sup> Ibid.

ground that allow systematic access to the population across Gaza, enabling the influx of aid via all possible borders and routes, and lifting restrictions on the entry of essential items. Also essential are active protection of civilians and health-care workers, expediting medical evacuations through all possible routes for over 12 000 patients (and their companions) who urgently require specialized care, strengthening and speeding up the referral system to East Jerusalem and the West Bank, and addressing road repairs, rubble removal, and the remediation of unexploded ordnances”<sup>162</sup>.

4.94. In this vein, impeding or impairing the work of international organizations and humanitarian organizations working in benefit of the civilian population in the Occupied Palestinian Territory, is severely impacting the civilian population and its possibility to access food, health services, and aid in general, and with that the exercise of their right to self-determination. Consequently, Colombia advances that by restraining such assistance Israel is violating international law including, in particular, the UN Charter, the ICCPR, human rights law and international humanitarian law.

#### **F. Obligation to Refrain from Ceasing or Restricting the Activities of the United Nations Relief and Works Agency for Palestine Refugees in the Near East**

4.95. As mentioned in Chapter 3, in its Advisory Opinions of 2004 and 2024, the Court confirmed that Israel, as the occupying Power, is bound by the Fourth Geneva Convention and by customary international law, as well as by international human rights law and human rights obligations that are complementary to those that emanate from the law of occupation.

4.96. In that regard, as per the Fourth Geneva Convention, Israel has the obligation to administer the territory for the benefit of the local population. As previously referenced, Israel must, *inter alia*, ensure that protected persons in the occupied territories are not deprived of the benefits of the Convention (Article 47); maintain and educate children who are orphaned or separated from their parents (Article 50); not restrict the opportunities offered to workers (Article 52); ensure and maintain the food and medical supplies of the population and bring in the necessary foodstuffs, medical stores and other articles if the resources of the occupied territory are inadequate (Article 55); ensure and maintain, with the co-operation of national and local authorities, the medical and hospital establishments and services, public health and hygiene, and combat the spread of contagious diseases and epidemics (Article 56); and agree to and facilitate relief schemes, on behalf of the population in the occupied territory when the whole or part of it is inadequately supplied (Article 59).

4.97. As recalled, General Assembly Resolution 302 (IV) of 1949 recognized that continued assistance for the relief of the Palestine refugees was necessary to prevent conditions of starvation and distress among them and to further conditions of peace and stability, and decided to establish UNRWA with the main purpose of carrying out, “in collaboration with local governments, the direct relief and works programmes, as recommended by the Economic Survey Mission”. Notwithstanding the humanitarian and relief work provided by these actors in the field, the General Assembly deemed it necessary to establish a dedicated agency with a specific and unique mandate to assist the Palestine refugees in need.

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<sup>162</sup> WHO Statement, ‘The ceasefire in Gaza brings hope, but immense challenges lie ahead to restore the health system’, 19 January 2025.

4.98. Indeed, the work of UNRWA is without prejudice to the one carried out by the International Committee of the Red Cross, the League of Red Cross Societies and the American Friends Service Committee, the United Nations International Children's Emergency Fund, the World Health Organization, and many other religious, charitable and humanitarian organizations that provide assistance and relief to the Palestinian refugees.

4.99. Even though UNRWA was conceived as temporary, the General Assembly has recognized that repatriation or compensation of the refugees has not yet been effected, that the United Nations Conciliation Commission for Palestine has been unable to find a means of achieving progress in the implementation of paragraph 11 of General Assembly resolution 194 (III), and that the Palestinian refugees continue to require assistance to meet basic health, education and living needs.

4.100. In that regard, the importance of the continuation of the work of UNRWA and its unimpeded operation and provision of services, including emergency assistance, for the well-being, protection and human development of the Palestinian refugees and for the stability of the region, pending the just resolution of the question of the Palestine refugees, cannot be overstated. This is the reason why the General Assembly has decided to repeatedly renew UNRWA's mandate, currently until 2026, as per General Assembly Resolution 77/123.

4.101. Colombia is of the view that the conditions and the gaps that gave rise to the General Assembly's decision to create UNRWA are still present today, and that the circumstances that led to its creation have only deteriorated in the last years, rendering its work irreplaceable and even more necessary than when it was created.

4.102. Furthermore, UNRWA has been conducting activities for more than seventy years in the Occupied Palestinian Territory and the General Assembly has repeatedly acknowledged the commitment of the Agency to operate in line with the humanitarian principles of neutrality, humanity, independence and impartiality.<sup>163</sup> In its annual resolution entitled "Assistance to Palestine refugees", the General Assembly<sup>164</sup> has acknowledged the following:

"[T]he essential role that the Agency has played for more than seven decades since its establishment in ameliorating the plight of the Palestine refugees through the provision of education, health, relief and social services and ongoing work in the areas of camp infrastructure, microfinance, protection and emergency assistance."

4.103. Currently, UNRWA provides assistance to nearly six million refugees. The Agency's work goes beyond emergency humanitarian assistance, as it is the main provider of essential and state-like services for Palestinian refugees and people in need in the Occupied Palestinian Territories. It provides health and social services, psychosocial support, education, food, vaccination and immunization, water, sanitation and hygiene services, maintenance of water wells, shelter for internally displaced persons and refugees, employment opportunities and microfinance projects. It also operates critical infrastructure and facilities including for water and sanitation, schools, hospitals and basic health centres.

4.104. In its report "Demand for ceasefire in Gaza", the Secretary-General showed that UNRWA "remains the principal provider and the backbone of emergency assistance in Gaza, supporting over half of the overall humanitarian response" and that it has distributed food to 1.9 million individuals

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<sup>163</sup> UN General Assembly Resolution A/RES/79/88, *Assistance to Palestine refugees*. 4 Dec. 2024.

<sup>164</sup> *Ibid.*

facing severe hunger, conducted approximately 16,000 primary health consultations daily, sheltered approximately 400,000 internally displaced persons, delivered water supply operations to approximately 600,000 persons. Furthermore, before the 2023 – and ongoing – conflict, it operated nearly 300 schools, serving 300,000 students and has recently introduced a formal education initiative for Gaza’s approximately 660,000 school-age children.<sup>165</sup>

4.105. The Report finds that UNRWA remains the backbone of all humanitarian response in Gaza and across all the Palestinian territory, and that no organization can replace or substitute its capacity and mandate to serve Palestinian refugees and civilians in urgent need of life-saving humanitarian assistance. Moreover, the Secretary-General has clearly stated that without UNRWA, there would be a void that would be impossible to fill and that,

“...no other entity has the capacity or reach to deliver lifesaving aid and social and development services at the scale and the breadth needed in Gaza, and in the Occupied Palestinian Territory in general.”

4.106. Furthermore, there is consensus among senior United Nations officials that UNRWA is essential for providing lifesaving services for the Palestinian refugees, and that no UN agency can replace its work. The heads of 15 UN and Humanitarian Organizations jointly declared that there is no alternative to UNRWA.<sup>166</sup> Similar statements have been issued by the directors of the World Health Organization<sup>167</sup>, the International Organization for Migration<sup>168</sup>, as well as representatives of the Office of the Coordination of Humanitarian Affairs<sup>169</sup>, UNICEF<sup>170</sup>, the Office of the UN High Commissioner for Human Rights<sup>171</sup>, and the World Food Programme<sup>172</sup>, among others. The Senior Humanitarian and Reconstruction Coordinator for Gaza has further affirmed that,

“There is no humanitarian assistance, delivery, let alone the provision of assistance, from education to health and social services, without UNRWA. UNRWA is part of the fabric of the Palestinian society in Gaza. UNRWA is undisputed, indispensable and is part of the future. Despite its unprecedented challenges, it remains indispensable”<sup>173</sup>.

4.107. During the 421st Meeting of the Committee on the Exercise of the Inalienable Rights of the Palestinian People (CEIRPP) on 5 February 2025, the UN Special Rapporteur on the Right to Food highlighted that, before 7 October 2023, 50% of civilians in the Gaza Strip were already food insecure

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<sup>165</sup> UN General Assembly Resolution A/79/739, *Demand for ceasefire in Gaza*, 30 Jan. 2025, para. 23.

<sup>166</sup> Available at: <https://www.unrwa.org/newsroom/official-statements/statement-principals-inter-agency-standing-committee-stop-assault-on-Palestinians-in-Gaza> (Last visited: 14 Feb. 2025).

<sup>167</sup> Available at: <https://x.com/DrTedros/status/1851028508329349400> (Last visited: 14 Feb. 2025).

<sup>168</sup> Available at: [https://www.timesofisrael.com/liveblog\\_entry/international-organization-for-migration-says-cant-replace-unrwa-but-will-step-up-support/#:~:text=%E2%80%9CUNRWA%20is%20absolutely%20essential%20to,General%20Amy%20Pope%20tells%20reporters](https://www.timesofisrael.com/liveblog_entry/international-organization-for-migration-says-cant-replace-unrwa-but-will-step-up-support/#:~:text=%E2%80%9CUNRWA%20is%20absolutely%20essential%20to,General%20Amy%20Pope%20tells%20reporters). (Last visited: 14 Feb. 2025).

<sup>169</sup> Available at: <https://www.unognewsroom.org/story/en/2402/un-geneva-press-briefing-29-october-2024-2> (Last visited: 14 Feb. 2025).

<sup>170</sup> Ibid. (Last visited: 14 Feb. 2025).

<sup>171</sup> Available at: <https://news.un.org/en/story/2024/10/1156236> (Last visited: 14 Feb. 2025).

<sup>172</sup> Available at: <https://www.wfp.org/news/wfp-sounds-alarm-urgent-action-needed-food-insecurity-gaza-reaches-critical-levels> (Last visited: 24 Feb. 2025).

<sup>173</sup> Available at: <https://www.unocha.org/publications/report/occupied-palestinian-territory/remarks-senior-humanitarian-and-reconstruction-coordinator-gaza-sigrid-kaag-cairo-conference-gaza-02-december-2024> (Last visited: 14 Feb. 2025).

and 80% depended on humanitarian aid and warned that this might be “the fastest starvation campaign in the modern history”.<sup>174</sup>

4.108. Furthermore, based on the statements of senior officials from UN agencies and other humanitarian organizations working in the Occupied Palestinian Territory, Colombia believes that any restriction to the work of UNRWA would not only deprive millions of Palestinians of life-saving and basic services and rights and would risk mass starvation in the Gaza Strip, but it would also hinder the work of other humanitarian and development partners in the field. In a recently published report<sup>175</sup>, the Secretary General maintained that UNRWA “facilitates inter-agency coordination and hosts humanitarian partners, thereby ensuring the continuity of essential services”.

4.109. In his identical letters dated 9 December 2024 addressed to the President of the General Assembly and the Security Council, the Secretary-General of the United Nations, in addition to stating that the two laws enacted by the Knesset of Israel on 28 October 2024 cannot be invoked as justification for Israel’s failure to meet its obligations under international law, and that, if implemented, they would have devastating consequences for Palestine refugees, reiterated that “there is currently no realistic alternative to UNRWA which could adequately provide the services and assistance required”.

4.110. In addition, recalling Article 59, paragraph 1 of the Fourth Geneva Convention, the Secretary-General said that,

“[i]f Israel is not in a position to meet the needs of Palestine refugees, it has an obligation to allow and facilitate the activities of the United Nations, including UNRWA, and other humanitarian agencies, until the needs of Palestine refugees in the Occupied Palestinian Territory are met”.

4.111. Moreover, in his response to the Permanent Representative to Israel on 8 January 2025, the Secretary-General set out the “unique mandate, long-established experience in the Occupied Palestinian Territory, tailored assistance to the Palestine refugees and unparalleled access to Palestine refugees in the Occupied Palestinian Territory” of UNRWA, further explaining why there is no existing alternative to UNRWA to provide humanitarian assistance.

4.112. Colombia also recalls that Resolution ES-10/25 of 11 December 2024 of the General Assembly, emphasized UNRWA’s capabilities in the following terms:

“Underscores in this regard the critical role also to be played by the Agency in implementing *urgently* needed recovery and stabilization efforts in a post-ceasefire period in the Gaza Strip, considering its personnel capacity, operational agility, network of facilities, decades of proven humanitarian and human development expertise and cost-effective operations in comparison to other organizations.”

4.113. In light of the situation explained above, Colombia is of the view that ceasing or restricting its work and operations will inevitably lead to the deprivation of millions of Palestinian refugees of essential services, including water, sanitation and hygiene, food, education and health, among other things, and can even lead to mass starvation, which is considered a war crime in international law, given

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<sup>174</sup> Available at: <https://www.un.org/unispal/421st-committee-meeting-5-february-2025/#:~:text=5%20February%202025-.421st%20Committee%20Meeting%20%E2%80%93%205%20February%202025,its%20annual%20Programme%20of%20Work.> (Last visited: 14 Feb. 2025).

<sup>175</sup> UN General Assembly Resolution A/79/739, *Demand for ceasefire in Gaza*, 30 Jan. 2025.



that: (i) The conditions that gave rise to the creation of UNRWA still exist and that no permanent or stable solution has been found to the situation of Palestine refugees; (ii) there is no realistic, viable or credible alternative for substituting UNRWA's work; (iii) the critical humanitarian situation in the occupied Palestinian territories, especially in the Gaza Strip, and considering that over 80% of its population depend on humanitarian assistance; and (iv) UNRWA's unique mandate, its role in the coordination of humanitarian assistance in the region, and its partnership work with other humanitarian actors.

4.114. Through its actions against UNRWA and other actors, Israel would be depriving the civilian population in the occupied Palestinian Territory of life-saving humanitarian and development assistance, basic services and urgently needed supplies essential to the survival of the civilian population, thus violating its obligations as the occupying Power, including but not limited to those contained in Articles 47 to 78 of the Fourth Geneva Convention.

4.115. Indeed, by arbitrarily withholding consent to allow UNRWA to continue its work and operation in providing humanitarian assistance in critical time, Israel is condemning the people in Gaza to an escalation of the humanitarian crisis. As per the report of the Secretary General on Protection of Civilians in Armed Conflict in 2013, "[w]hile under international humanitarian law the consent of the affected State is required for relief operations to be undertaken, it is generally accepted that such consent must not be arbitrarily withheld"<sup>176</sup>. This understanding applies especially when consent is withheld in circumstances as the ones faced by the Palestinian refugees. Such withholding of consent can only amount to a violation by Israel to its obligations under international law with respect to the civilian population in question.

4.116. Certainly, Israel's actions directly contradict the principles enshrined in international humanitarian law and in particular the ones reflected in Section III of the Fourth Geneva Convention, whereby the occupying Power must respect and protect the rights of the protected persons. Article 47, for example, clearly states that protected persons shall not be deprived of the benefits of the Convention. For its part, Article 46 of The Hague Regulations confirms that "family honour and rights, the lives of persons, and private property, as well as religious convictions and practice, must be respected." This rule is complemented by the first paragraph of Article 27 of the Fourth Geneva Convention, which provides that protected persons shall be humanely treated.

4.117. The Court itself has confirmed the extent of the obligations on the Occupying Power *vis-à-vis* the population, when it stated that:<sup>177</sup>

"By virtue of its status as an occupying Power, a State assumes a set of powers and duties with respect to the territory over which it exercises effective control. In this context, the occupying Power bears a duty to administer the territory *for the benefit of the local population*." (Emphasis added).

4.118. For Colombia it is clear that by its actions against the humanitarian agencies and in particular against UNRWA, Israel has not complied with its obligations as the occupying Power, including its obligation to refrain from ceasing or restricting the activities of UNRWA and has thus violated international law.

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<sup>176</sup> Report of the Secretary-General on the Protection of Civilians in Armed Conflict, 22 Nov. 2013, UN Doc S/2013/689, para. 58.

<sup>177</sup> *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory including East Jerusalem, Advisory Opinion, I.C.J. Reports 2024*, p. 33, para. 105.

## **G. Obligation Not to Impede or Impair the Work in Benefit of the Civilian Population of Third States in the Occupied Palestinian Territory**

4.119. Colombia is of the view that international humanitarian law, and in particular the Fourth Geneva Convention and The Hague Regulations, and international human rights law also apply to Israel as the occupying power with regard to the work of third States in benefit of the civilian population in the Occupied Palestinian Territory.

4.120. Furthermore, Colombia believes that, when implementing Article 6 of the International Covenant on Civil and Political Rights, States have a positive obligation to take all necessary steps to ensure that all individuals within its territory and subject to its jurisdiction effectively enjoy the rights recognized in the Covenant, including the right to life.

4.121. In this vein, Colombia considers that due attention should be given to the duty that States have to cooperate. One of the principles of the UN Charter is:

“[t]o achieve international cooperation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion”.

4.122. Colombia posits that the duty to cooperate also vests an obligation on third States to carry out work in benefit of the civilian population in the Occupied Palestinian Territory.

4.123. Moreover, on the duty to cooperate, Article 2 of the International Covenant on Economic, Social and Cultural Rights reads as follows:

“Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and cooperation, 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 present Covenant by all appropriate means, including particularly the adoption of legislative measures.”

4.124. The Committee on Economic, Social and Cultural Rights emphasized that, in accordance with Articles 55 and 56 of the Charter of the United Nations, with well-established principles of international law, and with the provisions of the ICESCR, “international cooperation for development and thus for the realization of economic, social and cultural rights is an obligation of all States”.<sup>178</sup>

4.125. The General Assembly, through its Resolution 2625 (XXV) adopted the Declaration on Principles of International Law concerning friendly relations and cooperation among States in accordance with the Charter. In the Declaration, the General Assembly considered the progressive development and codification of, among other principles, the duty of States to cooperate with one another in accordance with the Charter.

4.126. Regarding the dire Palestinian situation, it is worth noting that, for the most part, States in a position or willing to provide assistance and cooperation for the benefit of the civilian population in

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<sup>178</sup> Committee on Economic, Social and Cultural Rights, General Comment 3, The nature of States parties' obligations (5th session, 1990), U.N. Doc. E/1991/23, annex III at 86 (1991), reprinted in Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, U.N. Doc. HRI/GEN/1/Rev.6 at 14 (2003).

the Occupied Palestinian Territory, do so through or acting in partnership with humanitarian and development partners on the field, including United Nations agencies, funds and programmes, and very frequently with UNRWA.

4.127. Consequently, Colombia posits that by putting an end to the operations and activities currently carried out by UNRWA in Gaza, Israel is not only impeding the provision of humanitarian assistance by the Agency, itself but also restricting the possibility for third States to provide assistance through a specialized entity under a multilaterally agreed mandate.

4.128. Bearing in mind Israel's obligations as the occupying Power and its duty to allow for and provide for the assistance to the civilian population in the territory under control, but especially in light of the grave humanitarian crisis and dire humanitarian needs of the civilian population in the Occupied Palestinian Territory, it is Colombia's considered position that States have a duty to cooperate with one another in accordance with the Charter of the UN and that States have a positive obligation to take all necessary steps to ensure that all individuals within its territory and subject to its jurisdiction effectively enjoy the rights recognized in the International Covenant on Civil and Political Rights, including the right to life.

4.129. In this vein and taking into account that the vast majority of the civilian population in the Occupied Palestinian Territory, amounting to 80% in the Gaza Strip, depend on foreign humanitarian assistance, it is clear that impeding or impairing the work of third States in benefit of the civilian population in the Occupied Palestinian Territory would entail depriving the civilian population of basic and essential services. Therefore, Colombia advances that by restricting or hindering such assistance Israel is violating international law, including in particular the UN Charter, the ICCPR, human rights law and international humanitarian law.



## CHAPTER 5

### CONCLUDING REMARKS

5.1. Colombia submits that as an occupying Power and United Nations Member State, as well as a party to both the Fourth Geneva Convention and the Genocide Convention, and in addition to its duties ensuing from human rights law, international humanitarian law and customary international law, Israel remains bound by its obligations and responsibilities in the Occupied Palestinian Territory until the Israeli presence is “brought to end as rapidly as possible” as noted by the Court.

5.2. It is Colombia’s considered position that States have a duty to take joint and separate action in cooperation with the Organization for the achievement of the purposes set forth in Article 55 of the Charter, and that all States, have an obligation to ensure that all individuals within their territory and subject to their jurisdiction, particularly those under occupation, effectively enjoy universal respect for, and observance of, human rights and fundamental freedoms for all, without distinction.

5.3. Israel’s measures and actions directly contravene the belligerent occupier’s core principles and obligations enshrined in international humanitarian law, and in particular, the ones reflected in Section III of the Fourth Geneva Convention, whereby the occupying Power must act during the occupation, in the best interests of protected persons under its effective control.

5.4. Colombia firmly believes that the work UNRWA has performed since its creation is essential, now more than ever, to avoid humanitarian catastrophe and the escalation of violence across the Middle East and the world. Colombia is of the view that ceasing or restricting its work and operations will inevitably lead to the deprivation of millions of Palestinian refugees of essential services, including water, sanitation and hygiene, food, education and health, among other things, and can even lead to mass starvation, which is considered a war crime in international law. In that vein, respectfully invites the Court to protect the irreplaceable work of UNRWA, in particular, from plans and measures taken by Israel that risk its dismantling.

5.5. By arbitrarily withholding consent to allow UNRWA to continue its work and operation in providing humanitarian assistance in critical time, Israel is condemning the people in Gaza to an escalation of the humanitarian crisis. Being generally accepted that such consent must not be arbitrarily withheld in circumstances as the ones faced by the Palestinian refugees, such withholding of consent can only amount to a violation by Israel to its obligations under international law with respect to the civilian population in question.

5.6. As UNRWA continues to be mandated by the General Assembly to carry out its activities pursuant to General Assembly resolution 302(IV) of 8 December 1949, renewed up to 30 June 2026 by General Assembly resolution 77/123 of 12 December 2022, Colombia submits that in accordance with the General Convention with respect to UNRWA’s presence in the Occupied Palestinian Territory, including East Jerusalem, Israel must refrain from curtailing or affecting the privileges and immunities necessary to enable UNRWA operations, as mandated by the General Assembly.

5.7. Finally, the Republic of Colombia expresses its confidence that these advisory proceedings will provide sufficient information and evidence to enable the Court to determine the obligations that under international law Israel is bound to fulfil as an occupying Power and as a member of the United Nations at the critical juncture referred to by the General Assembly in its opinion request. The Republic of Colombia believes in the paramount importance of the Court's role, as the main judicial body of the Organization, in fostering, through its clarification of States' obligations under international law, co-operation between States and with the United Nations, including its agencies and bodies, and other international organizations to address the urgent humanitarian situation in the Occupied Palestinian Territory, and in support of the Palestinian people's right to self-determination, as is fully consistent with the good faith obligations incumbent on all United Nations Member States in accordance with the Charter.

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28 February 2025