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**INTERNATIONAL COURT OF JUSTICE**

**CASE CONCERNING  
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 SENEGAL**

**28 February 2025**

*[Translation by the Registry]*

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## I. PRELIMINARY REMARKS

1. On 19 December 2024, the United Nations General Assembly (hereinafter the “General Assembly”) adopted resolution 79/232 entitled “Request for an advisory opinion of the International Court of Justice on the obligations of Israel in relation to the presence and activities of the United Nations, other international organizations and third States”. By this resolution, and in accordance with Article 96 of the Charter of the United Nations, it requests the International Court of Justice

“on a priority basis and with the utmost urgency, to render an advisory opinion on the following question, 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”<sup>1</sup>.

2. By this resolution, the General Assembly asked the Court to pronounce on the following question in light of the rules and principles of international law, including the Charter of the United Nations, international humanitarian law, relevant resolutions of the Security Council and the Human Rights Council, and the Advisory Opinions of the Court of 9 July 2004 and 19 July 2024, and its Order of 26 January 2024:

“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?”<sup>2</sup>.

3. By an Order of 23 December 2024, the International Court of Justice fixed 28 February 2025 as the time-limit within which written statements could be presented to the Court, and, in this regard, decided that “the United Nations and its Member States, as well as the observer State of Palestine, are considered likely to be able to furnish information on the question submitted to the Court for an advisory opinion and may do so within the time-limits fixed in this Order”<sup>3</sup>.

4. Senegal hereby has the honour to submit a written statement in the present proceedings, as it did in those on the request for an advisory opinion on the *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory* in 2004 and the *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*. In this regard, Senegal recalls the authority attaching to the Advisory Opinions rendered by the Court on 9 July 2004 on the *Legal Consequences of the Construction of a Wall in the Occupied Palestinian*

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<sup>1</sup> United Nations General Assembly (UNGA) resolution 79/232, Request for an advisory opinion of the International Court of Justice on the obligations of Israel in relation to the presence and activities of the United Nations, other international organizations and third States, 19 Dec. 2024, para. 10.

<sup>2</sup> *Ibid.*

<sup>3</sup> *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), Order of 23 Dec. 2024, para. 1.

*Territory and on 19 July 2024 on the Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem.*

5. As Chair of the General Assembly's Committee on the Exercise of the Inalienable Rights of Palestinian People, and in view of its involvement in the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories, Senegal seeks the effective and tangible defence and protection of the rights of Palestine and the Palestinian people, who have been unjustly subjected to an illegal occupation and subjugation. *Senegal most emphatically condemns all the unjust and illegal measures which deny authorized actors access to the Occupied Palestinian Territory, which threaten their safety and, in turn, prevent United Nations bodies from carrying out their respective mandates and international organizations and third States from coming to the assistance of the Palestinian populations in the occupied territories, in particular the West Bank, East Jerusalem and the occupied Syrian Golan, as well as in neighbouring Near-Eastern countries which, out of international solidarity, are sheltering refugees from Palestine.*

6. The aim of this written statement is to recall the international obligations of Israel towards the United Nations, its agencies and bodies, other international organizations and third States, in and in relation to the Occupied Palestinian Territory, both in its capacity as an occupying Power and more broadly as a Member of the United Nations.

## **A. The current situation in the Occupied Palestinian Territory**

### **1. The current situation in Gaza**

7. The creation of Israel in 1948 was in large part facilitated by United Nations General Assembly resolution 181, adopted on 29 November 1947, which proposed a plan of partition of Palestine<sup>4</sup>. The plan aimed to divide the territory into two States, with Jerusalem under international administration. The historical background to the situation in Palestine has been summarized by the Court, first in its Advisory Opinion on the *Wall*<sup>5</sup> and subsequently in its Opinion on the *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*<sup>6</sup>.

8. The Court delivered its last Advisory Opinion on 19 July 2024. On the same day, the United Nations Office for the Coordination of Humanitarian Affairs (OCHA) issued an update on the situation in Gaza:

“Access constraints, combined with ongoing hostilities, damaged roads and the breakdown of public order and safety, continue to severely disrupt and destabilize the entry of humanitarian aid supplies and their collection and distribution by aid actors to people in need across the Gaza Strip. Between 1 and 15 July, 1,288 truckloads of aid supplies entered Gaza, according to the UN, the majority being food aid. This is an average of 86 trucks per day, which is higher than the June daily average of 76 humanitarian aid trucks per day but lower than the May average of 94 aid trucks per

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<sup>4</sup> UNGA resolution 181 (II) concerning the Future Government of Palestine, UN Doc. A/RES/181(II), 29 Nov. 1947.

<sup>5</sup> *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, I.C.J. Reports 2004 (I)*, pp. 165-167, paras. 70-77.

<sup>6</sup> *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem, Advisory Opinion of 19 July 2024*, paras. 51-71.

day. *These numbers refer to humanitarian supplies collected from the Palestinian side of any of the crossing points and exclude commercial goods.* Within Gaza, between 1 and 18 July, out of 72 planned humanitarian assistance missions coordinated with the Israeli authorities to northern Gaza, 29 were facilitated, 20 were impeded, 18 were denied access, and five were cancelled due to logistical, operational, or security reasons. In southern Gaza, out of 240 coordinated humanitarian assistance movements, 177 were facilitated by the Israeli authorities, 22 were impeded, 17 were denied, and 24 were cancelled”<sup>7</sup>.

9. The same week, on 22 July 2024, the OCHA noted the “enormous risks” faced by humanitarian aid workers operating in the Gaza Strip<sup>8</sup>. According to the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA), on that day an aid convoy bound for Gaza City came under fire<sup>9</sup>. The Commissioner-General of UNRWA, Philippe Lazzarini, later clarified that Israeli forces had opened fire on a United Nations convoy heading to Gaza City despite having co-ordinated with Israeli authorities beforehand:

“Heavy shooting from the Israeli Forces at a UN convoy heading to Gaza city. While there are no casualties, our teams had to duck and take cover. This took place yesterday. The teams were traveling in clearly marked UN armoured cars & wearing UN vests. One vehicle received at least five bullets while waiting just ahead of the Israeli Forces’ checkpoint south of Wadi Gaza. The car was severely damaged, it left the convoy. The teams re-assembled & finally reached Gaza City. Like all other similar UN movements, this movement was coordinated and approved by the Israeli Authorities. Humanitarian aid workers are #NOTaTarget. Those responsible must be held accountable”<sup>10</sup>.

10. These attacks against humanitarian personnel further hamper efforts to deliver essential aid to the population of Gaza, despite repeated calls from the international community for immediate access to basic services and humanitarian aid in Gaza<sup>11</sup>. One of the most serious consequences is a severe lack of access to drinking water, as a result of the destruction of infrastructure, repeated forced displacement of the population and fuel shortages, among other things. Added to this there has been a severe shortage of materials for shelters and non-food items for displaced families<sup>12</sup>.

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<sup>7</sup> OCHA, “Humanitarian Situation Update No. 193 | Gaza Strip”, 19 July 2024 United Nations Office for the Coordination of Humanitarian Affairs — occupied Palestinian territory (emphasis added).

<sup>8</sup> OCHA, Humanitarian Situation Update No. 194 | Gaza Strip, 22 July 2024 United Nations Office for the Coordination of Humanitarian Affairs — occupied Palestinian territory. See also UN News “2024 deadliest year ever for aid workers, UN humanitarian office reports”, 22 Nov. 2024 2024 deadliest year ever for aid workers, UN humanitarian office reports | UN News.

<sup>9</sup> UN News, “Gaza City-bound UN aid convoy comes under Israeli fire, says UNRWA”, 22 July 2024 Gaza City-bound UN aid convoy comes under Israeli fire, says UNRWA | UN News.

<sup>10</sup> Post by Commissioner-General of the UNRWA on the online platform X, dated 22 July 2024 Philippe Lazzarini sur X : “#Gaza Heavy shooting from the Israeli Forces at a UN convoy heading to Gaza city. While there are no casualties, our teams had to duck and take cover. This took place yesterday. The teams were traveling in clearly marked UN armoured cars & wearing UN vests. One vehicle” / X.

<sup>11</sup> UN News General Assembly Adopts Resolutions Demanding Immediate Ceasefire in Gaza, Israel to Allow UN Palestine Refugee Agency to Carry Out Aid Operations Unrestricted | Meetings Coverage and Press Releases, 11 Dec. 2024. See also UN Security Council, resolution 2730 (2024), UN Doc. S/RES/2730, 24 May 2024.

<sup>12</sup> Gaza Humanitarian Response Update | 8-21 July 2024 United Nations Office for the Coordination of Humanitarian Affairs — occupied Palestinian territory.

11. Fuel shortages have continued to impede humanitarian operations in Gaza, jeopardizing the production of food in addition to the above-mentioned services<sup>13</sup>. For example, the quantity of fuel that entered Gaza between 1 and 21 July 2024 was barely a quarter of the 400,000 litres deemed necessary by humanitarian actors to sustain vital infrastructure<sup>14</sup>.

12. During the same period, the polio virus was detected in wastewater samples in Gaza, “an alarming yet unsurprising development given the dismantled state of the territory’s health systems after nine relentless months of war”, according to the Director-General of the World Health Organization (WHO)<sup>15</sup>.

13. The Israeli authorities nevertheless continued intermittently to close the main humanitarian route between Kerem Shalom Crossing and areas of southern Gaza<sup>16</sup>. International humanitarian organizations on the ground have therefore been working with limited resources at the same time as having to scale up their operations to respond to the needs of a population under attack<sup>17</sup>.

14. In early August 2024, the Israeli authorities blocked access to Gaza for around a third of humanitarian missions<sup>18</sup>. The United Nations humanitarian agencies condemned a policy “perpetuating a continued cycle of deprivation and distress” among the Palestinian population.

15. According to OCHA, in October 2024, attacks on health care infrastructure in northern Gaza and access constraints for humanitarian partners were severely hindering the delivery of lifesaving health services and critical supplies<sup>19</sup>. UNRWA health teams relocated to Gaza City, where only one medical point remained functional at a small school after the Agency’s medical points in the north of the Gaza Strip were destroyed. The Agency also warned that humanitarian aid entering Gaza was at its lowest level in months<sup>20</sup>. The population was without shelter, fuel and aid, and food insecurity and malnutrition rates were alarming. Yet, at the entry points to Gaza in Israel, Jordan and

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<sup>13</sup> OCHA, Humanitarian Situation Update No. 194 | Gaza Strip, 22 July 2024 United Nations Office for the Coordination of Humanitarian Affairs — occupied Palestinian territory. On the situation on 5 July 2024, see UN News, “Severe lack of fuel”, 5 July 2024 UN warns of escalating tensions on Lebanon-Israel ‘Blue Line’ frontier | UN News.

<sup>14</sup> *Ibid.*, see also UN News, “‘Children are now freezing to death’: harrowing updates from Gaza”, 9 Jan. 2025 “Children are now freezing to death”: harrowing updates from Gaza | UN News.

<sup>15</sup> United Nations Regional Information Centre for Western Europe, “Gaza menacée par la polio, une maladie dangereuse partiellement éradiquée”, 20 Aug. 2024 [en ligne]; WHO, “Children in Gaza are now at risk of polio as well as bombs — we need a ceasefire now”, 1 Aug. 2024 Children in Gaza are now at risk of polio as well as bombs — we need a ceasefire now.

<sup>16</sup> OCHA, Gaza Humanitarian Response Update | 8-21 July 2024 United Nations Office for the Coordination of Humanitarian Affairs — occupied Palestinian territory.

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

<sup>18</sup> UN News, “Gaza : Le refus d’autoriser des missions d’aide perpétue un ‘cycle continu de privation et de détresse’, selon l’ONU”, 13 Aug. 2024 [en ligne].

<sup>19</sup> OCHA, “Gaza Humanitarian Response Update | 13-26 October 2024” Gaza humanitarian response update | 13-26 October 2024 | OCHA.

<sup>20</sup> *Ibid.*

Egypt, two months of food rations for the whole population was still awaiting delivery<sup>21</sup>. This was also the case in December 2024<sup>22</sup>.

16. In mid-December 2024, the North Gaza governorate had been under tight siege for over two months, making already complex access extremely challenging<sup>23</sup>. The attempts of humanitarian partners in the Food Security Sector (FSS) to deliver aid to besieged areas were thwarted by the Israeli authorities, despite repeated requests for access<sup>24</sup>. While humanitarian aid remained the sole source of food for the vast majority of households in Gaza, the number of trucks entering each day had fallen sharply. In November, only 92 trucks on average entered each day, i.e. barely 18 per cent of the volume observed before the war<sup>25</sup>. Nearly all those trucks were carrying humanitarian aid, trade flows having been heavily restricted by the Israeli authorities<sup>26</sup>.

17. Despite the ceasefire established in late January 2025, the humanitarian crisis in Gaza is ongoing<sup>27</sup>. The situation threatens the survival of the Palestinian population, which is living in acute poverty, and is thus a grave violation of their most basic rights.

18. The situation is particularly serious, given that — as will be seen below<sup>28</sup> — Israel has banned UNRWA from accessing the area, depriving the United Nations of its principal means of carrying out its humanitarian mandate.

## **2. The current situation in the occupied West Bank, including East Jerusalem**

19. While the world's attention has been focused on the war in Gaza, the occupied West Bank has also suffered from the war. Throughout the past year violence has intensified in this territory, which has seen clashes, an increasing number of Israeli military offensives and the continuing expansion of Israeli settlements. The humanitarian and security situation has considerably worsened

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<sup>21</sup> *Ibid.*, see also World Food Programme (WFP), “Gaza updates: Hunger deepens as aid plummets”, 9 Oct. 2024 Gaza updates: Hunger deepens as aid plummets | World Food Programme.

<sup>22</sup> OCHA, Gaza Humanitarian Response Update | 24 November-7 December 2024 Gaza humanitarian response update | 24 November-7 December 2024 | OCHA.

<sup>23</sup> OCHA, Gaza Humanitarian Response Update | 8-21 December 2024 Gaza humanitarian response update | 8-21 December 2024 | OCHA.

<sup>24</sup> *Ibid.*

<sup>25</sup> Israel has controlled the calorie intake of the population of Gaza since the beginning of its blockade of the enclave, especially between 2007 and 2010. OCHA estimates for 2017 revealed that 40 per cent of Gazan household suffered from food insecurity and 80 per cent of people were reliant on foreign aid for survival. Since January 2024, the inhabitants of Northern Gaza have been forced to survive on an average of 245 calories a day. See Oxfam International, “People in northern Gaza forced to survive on 245 calories a day, less than a can of beans”, 3 April 2024 People in northern Gaza forced to survive on 245 calories a day, less than a can of beans — Oxfam | Oxfam International; Le Monde, “Israël a calculé le nombre de calories nécessaires aux Gazaouis”, 17 Oct. 2012 Israël a calculé le nombre de calories nécessaires aux Gazaouis. See also I. Patel, “Comment l’aide internationale normalise le siège israélien de Gaza depuis quinze ans”, *Middle East Eye*, 15 Aug. 2022 Comment l’aide internationale normalise le siège israélien de Gaza depuis quinze ans | Middle East Eye édition française; Neuman, M., “Gaza : Vivre et laisser maigrir”, *Crash Médecins Sans Frontières*, 14 Nov. 2012, Gaza : vivre et laisser maigrir | msf-crash.org, in particular “‘C’est comme un rendez-vous chez le diététicien. Les Palestiniens vont maigrir comme il faut mais ils ne mourront pas’, illustre Dov Weissglas, un conseiller du Premier ministre Ehud Olmert” [Dov Weissglas, adviser to Ehud Olmert, quoted in English as having said “The idea is to put the Palestinians on a diet, but not to make them die of hunger”].

<sup>26</sup> *Ibid.*

<sup>27</sup> Al Jazeera, “Fear and condemnation in Gaza as Israel threatens to resume war”, 12 Feb. 2025 Fear and condemnation in Gaza as Israel threatens to resume war | Israel-Palestine conflict News | Al Jazeera.

<sup>28</sup> See para. 28 below, as well as Part III, B, 2 of our written statement.



and the population, which has been mired in growing poverty since October 2023, needs support now more than ever<sup>29</sup>. The situation, including in East Jerusalem, has also been marked by tensions over the presence and activities of the United Nations, particular of UNRWA, since July 2024.

20. On the macroeconomic front, the West Bank and Gaza face an unprecedented collapse<sup>30</sup>. Economic activity dropped by 23 per cent in the first quarter of 2024, reflecting a deep fiscal crisis exacerbated by increased mobility restrictions imposed by Israel and a strained labour market<sup>31</sup>. The Israeli Government has also been making ever higher deductions from clearance revenue intended for the Palestinian Authority, thus aggravating the economic and financial crisis<sup>32</sup>.

21. Following his visit in September 2024, the United Nations Special Co-ordinator for the Middle East Peace Process expressed his deep concern at the continuing expansion of Israeli settlements and the escalating violence in the occupied West Bank, including East Jerusalem<sup>33</sup>.

22. On the ground, measures to replace the Palestinian community with settlers and to strengthen Israeli control over the West Bank, and the demolition and confiscation of Palestinian property have intensified, resulting in structural and systematic changes to the Occupied Palestinian Territory. Between 31 October 2023 and 1 November 2024, nine new settlements and 49 new outposts have been established in Palestinian territory, an increase of 193 per cent compared to the previous year<sup>34</sup>. Altogether, 1,617 Palestinian structures were demolished in 2024, including in East Jerusalem and Al-Khalil/Hebron, with Israel systematically citing a lack of Israeli building permits<sup>35</sup>.

23. Israel has pursued its settlement policy in complete violation of its obligation to bring an end to its occupation of the Occupied Palestinian Territory, an obligation confirmed by the Court in its Advisory Opinion of 19 July 2024:

“With regard to the Court’s finding that Israel’s continued presence in the Occupied Palestinian Territory is illegal, the Court considers that such presence constitutes a wrongful act entailing its international responsibility. It is a wrongful act of a continuing character which has been brought about by Israel’s violations, through its policies and practices, of the prohibition on the acquisition of territory by force and the right to self-determination of the Palestinian people. Consequently, *Israel has an obligation to bring an end to its presence in the Occupied Palestinian Territory as rapidly as possible*. As the Court affirmed in its *Wall* Advisory Opinion, the obligation of a State responsible for an internationally wrongful act to put an end to that act is well

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<sup>29</sup> J. Bouissou, “En Palestine, de Gaza à la Cisjordanie, une économie asphyxiée”, *Le Monde*, 8 Oct. 2024 En Palestine, de Gaza à la Cisjordanie, une économie asphyxiée.

<sup>30</sup> See World Bank, “Impacts of the conflict in the Middle East on the Palestinian economy”, Economic Monitoring Report, Dec. 2024 WorldBank-PalestinianEconomicUpdate-Dec2024-final.pdf.

<sup>31</sup> *Ibid.*, p. 4.

<sup>32</sup> *Ibid.*, p. 10.

<sup>33</sup> UN Special Coordinator for the Middle East Peace Process, Briefing to the Security Council on the situation in the Middle East, 29 Oct. 2024 security\_council\_briefing\_29\_october\_2024.pdf; UN News, “We Are ‘At the Most Dangerous Juncture in the Middle East in Decades’, Warns Special Coordinator, Urging All Efforts to De-escalate Situation”, 29 Oct. 2024 We Are ‘At the Most Dangerous Juncture in the Middle East in Decades’, Warns Special Coordinator, Urging All Efforts to De-escalate Situation | Meetings Coverage and Press Releases.

<sup>34</sup> UN News, “Israel must stop the demolition of Palestinian homes in the Occupied West Bank”, 18 Dec. 2024 Israel must stop the demolition of Palestinian homes in the Occupied West Bank — OHCHR Press Release — Question of Palestine.

<sup>35</sup> *Ibid.*

established in general international law, and the Court has on a number of occasions confirmed the existence of that obligation . . .

The Court further observes that, with respect to the policies and practices of Israel referred to in question (a) which were found to be unlawful, Israel has an obligation to put an end to those unlawful acts. In this respect, *Israel must immediately cease all new settlement activity*. Israel also has an obligation to repeal all legislation and measures creating or maintaining the unlawful situation, including those which discriminate against the Palestinian people in the Occupied Palestinian Territory, as well as all measures aimed at modifying the demographic composition of any parts of the territory.”<sup>36</sup>

24. Médecins Sans Frontières has highlighted a “significant escalation in violence” in the occupied West Bank, including East Jerusalem, since October 2023<sup>37</sup>. Physical violence by both the Israeli army and settlers has become “more frequent, aggressive, and lethal”, which is reflected in an unprecedented number of Palestinians killed and injured, shattering all previous records<sup>38</sup>. According to WHO and OCHA, between 7 October 2023 and 7 October 2024, more than 700 Palestinians were killed and more than 6,000 wounded by Israeli soldiers or Israeli settlers in the West Bank, where the army conducted almost daily raids<sup>39</sup>. More than 95 per cent of these killings and injuries are attributable to the Israeli armed forces, with nearly 75 per cent of deaths occurring during violent military operations by the Israeli army in towns, villages and refugee camps, in particular in Jenin and Tulkarem. According to OCHA, two thirds of Palestinian deaths in the West Bank between October and December 2023 occurred during what the Israeli army calls “search and arrest operations”, there being no reports of armed combat in more than half of these incidents.

25. In January 2025, the spokesperson of the Office of the United Nations High Commissioner for Human Rights (OHCHR) expressed grave concerns over “the use of unlawful lethal force in Jenin, in the occupied West Bank”<sup>40</sup>, where Israel used “unnecessary or disproportionate use of force, including methods and means developed for war fighting, in violation of international human rights law”<sup>41</sup>. More than 3,000 families have been displaced, 13 new iron gates have been installed at the entrances to towns in the West Bank, and Israeli forces have shut down entrances to major Palestinian cities such as Hebron and closed checkpoints<sup>42</sup>. As a result, thousands of Palestinians have been cut off from neighbouring communities and their daily activities paralysed<sup>43</sup>. Moreover, some Israeli

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<sup>36</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, p. 73, paras. 267-268 (emphasis added).

<sup>37</sup> Médecins Sans Frontières, “Inflicting Harm and Denying Care : Patterns of Attacks and Obstructions of Healthcare in the West Bank”, Report, 6 Feb. 2025 \_inflicting-harm-and-denying-care\_-in-the-west-bank.pdf.

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

<sup>39</sup> Médecins Sans Frontières, “Cisjordanie : face à la violence des colons et de l’armée israélienne, MSF dispense des formations aux premiers secours”, 5 Nov. 2024 [en ligne].

<sup>40</sup> UN News, “UN rights office raises alarm over escalating violence in occupied West Bank”, 24 Jan. 2025 UN rights office raises alarm over escalating violence in occupied West Bank | UN News.

<sup>41</sup> *Ibid.*

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

<sup>43</sup> *Ibid.*

officials have continued to repeat comments about plans to expand settlements in the Occupied Palestinian Territory<sup>44</sup>.

26. On 26 January 2025, the Israeli Government ordered UNRWA to vacate its premises in East Jerusalem by 30 January, following the adoption of legislation by the Knesset banning UNRWA activities in Israel, including in East Jerusalem<sup>45</sup>. The UNRWA evacuated its headquarters and temporarily redeployed its international staff to Jordan<sup>46</sup>. This eviction raises concerns about the impact of humanitarian aid intended for refugees in Palestine, as UNRWA provides essential services such as education, health care and food aid to millions of Palestinians.

## **B. The role and presence of international organizations in the Occupied Palestinian Territory**

### **1. The role and presence of the United Nations, its agencies and bodies in the Occupied Palestinian Territory**

27. The United Nations plays an essential role in Palestine through a number of bodies and initiatives, in particular in meeting the basic needs of the Palestinian population but also in the area of humanitarian co-ordination, human rights and advocacy.

28. The Office of the United Nations High Commissioner for Human Rights (OHCHR) is the entity mandated to monitor and report publicly on the human rights situation in the Occupied Palestinian Territory<sup>47</sup>. It has its seat in Ramallah in the West Bank and a sub-office in Gaza and field offices in East Jerusalem and Al-Khalil (Hebron). It closely monitors developments related to Israeli settlements and submits regular reports to the Human Rights Council and the United Nations General Assembly. Its activities are based on respect for international human rights law and humanitarian law<sup>48</sup>, with an emphasis on human dignity and non-discrimination<sup>49</sup>. The OHCHR is involved in all United Nations activities in Palestine, in particular in the area of peace, security, humanitarian action and development<sup>50</sup>. It is also responsible for co-ordinating humanitarian protection through the Humanitarian Protection Cluster, under the leadership of the Humanitarian Co-ordinator, and works in partnership with the Israeli and Palestinian authorities, local and international NGOs, and human rights institutions to support victims of human rights violations<sup>51</sup>.

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<sup>44</sup> Al Jazeera, “Israeli ministers join gathering calling for resettlement of Gaza”, 29 Jan. 2025 Israeli ministers join gathering calling for resettlement of Gaza | News | Al Jazeera (“Several members of the Israeli government joined a far-right conference calling for the resettlement of the Gaza Strip and occupied West Bank”); D. Karni, M. Krever, A. Salman, and K. Khadder, “Eyeing Trump support, Israeli minister pushes for West Bank settlement annexation”, CNN, 12 Nov. 2024 West Bank: Israeli minister calls for preparations to annex settlements | CNN.

<sup>45</sup> UN News, “L’UNRWA sommée par Israël de quitter Jérusalem-Est d’ici la fin du mois”, 26 Jan. 2025 L’UNRWA sommée par Israël de quitter Jérusalem-Est d’ici la fin du mois | ONU GENEVE.

<sup>46</sup> UN News, “UNRWA : évincée de son siège à Jérusalem-Est, l’agence de l’ONU s’engage à ‘ne pas céder d’un pouce’ sur le terrain”, 30 Jan. 2025 UNRWA : évincée de son siège à Jérusalem-Est, l’agence de l’ONU s’engage à « ne pas céder d’un pouce » sur le terrain | ONU GENEVE.

<sup>47</sup> See OHCHR in State of Palestine | OHCHR.

<sup>48</sup> OHCHR, OHCHR and protecting human rights in humanitarian crises | OHCHR. See also OHCHR in State of Palestine | OHCHR.

<sup>49</sup> See OHCHR in State of Palestine | OHCHR.

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

<sup>51</sup> *Ibid.*

29. In parallel, the OCHA plays a key role in the management of humanitarian aid. It has been present in Palestine since 2002, has its seat in East Jerusalem and sub-offices in Gaza and a number of towns in the West Bank. Its work is centred on five core functions: co-ordination of humanitarian interventions, mobilizing the necessary financing, humanitarian policy making, advocacy for international humanitarian law and the management of information in order to optimize crisis response<sup>52</sup>. The work of the OCHA is part of a global approach that aims to guarantee access to aid and protection for the most vulnerable communities, while upholding respect for international humanitarian law and raising awareness in the international community about the situation in Palestine<sup>53</sup>.

30. Among the United Nations specialized agencies, the WHO office for the West Bank and Gaza works in Palestine and supports the Palestinian Ministry of Health and its partners in improving the well-being of Palestinians, by working towards universal health coverage and ensuring no one is left behind<sup>54</sup>. It advises the Ministry of Health on enhancing health services, focusing on primary health care, and helps it develop and implement a national health policy based on equity and sustainability<sup>55</sup>. WHO also plays a crucial role in preparing for health emergencies and upholding the right to health<sup>56</sup>. It focuses its action on the most vulnerable populations in the West Bank and Gaza. In a context of prolonged occupation and a growing humanitarian crisis, WHO has a pivotal role in responding to urgent health needs<sup>57</sup>. It also promotes a multidisciplinary approach to address social determinants of health, such as water and sanitation, food and nutrition, housing, education and protection<sup>58</sup>. WHO has been present in the Occupied Palestinian Territory since 1994 and currently has some 60 staff working in three offices in Jerusalem, Ramallah and Gaza<sup>59</sup>.

31. Finally, the work of UNRWA was particularly exemplary of the presence and activities of the United Nations in Palestine. Created by General Assembly resolution 302 (IV)<sup>60</sup>, UNRWA's mission was to "carry out in collaboration with local governments the direct relief and works programmes as recommended by the Economic Survey Mission"<sup>61</sup>. Although initially intended to be temporary, UNRWA's mandate has been renewed 25 times since it was created, generally for three-year periods. The latest renewal covers the period up to 30 June 2026<sup>62</sup>. It should be noted that UNRWA does not operate in Israel, since its activities are limited to areas where Palestinian refugees, as recognized by the Agency, live, namely in the Gaza Strip, the West Bank including East Jerusalem, Lebanon, Syria and Jordan, with the agreement of the headquarter States<sup>63</sup>. More precisely, the

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<sup>52</sup> This is OCHA | OCHA.

<sup>53</sup> United Nations Office for the Coordination of Humanitarian Affairs - Occupied Palestinian Territory.

<sup>54</sup> See WHO, "Thirteenth General Programme of Work, 2019-2023" WHO-PRP-18.1-eng.pdf. See also, WHO, "Health conditions in the occupied Palestinian territory, including east Jerusalem, and in the occupied Syrian Golan", Report by the Director-General of 14 May 2024 Health conditions in the occupied Palestinian territory, including east Jerusalem, and in the occupied Syrian Golan.

<sup>55</sup> WHO, "Health conditions in the occupied Palestinian territory, including east Jerusalem, and in the occupied Syrian Golan", Report by the Director-General of 14 May 2024, p. 2, para. 5 Health conditions in the occupied Palestinian territory, including east Jerusalem, and in the occupied Syrian Golan.

<sup>56</sup> *Ibid.*, p. 3, para. 9.

<sup>57</sup> *Ibid.*, p. 2, para. 5.

<sup>58</sup> See WHO, "Social determinants of health", 31 May 2021, A74\_REC1.

<sup>59</sup> "WHO presence in Palestine", consulted on 10 Feb. 2025, WHO EMRO | WHO presence in Palestine | Opt | Countries.

<sup>60</sup> UNGA resolution 302 (IV) on Assistance to Palestine Refugees, 8 Dec. 1949.

<sup>61</sup> *Ibid.*, para. 7 (a).

<sup>62</sup> UNGA resolution 77/123 on Assistance to Palestine Refugees, UN Doc. A/RES/77/123, 12 Dec. 2022.

<sup>63</sup> The resolutions extending the mandate of UNRWA systematically get the vote of Jordan, Lebanon and Syria.

arrangements for Israel's co-operation with UNRWA are defined by letters of 9 November 1956<sup>64</sup> and 14 June 1967<sup>65</sup>.

## **2. The role and presence of other international organizations in the Occupied Palestinian Territory**

32. The International Committee of the Red Cross (ICRC) has been present in the occupied Palestinian territories since 1967, and has offices in Gaza and the West Bank, including East Jerusalem<sup>66</sup>. It works to alleviate the effects of the conflict and the occupation on civilians, based on the principles of neutrality, impartiality and independence. The ICRC carries out various humanitarian activities, in particular visiting Palestinian detainees to monitor their conditions of detention and maintaining family links through a family visit programme. It also supports the livelihoods of local populations and facilitates access to essential services, such as water and electricity, particularly in Gaza. Since 7 October 2023, the ICRC has scaled up its activities in Gaza by providing emergency medical assistance, deploying experts in war surgery and weapon contamination<sup>67</sup>. It also distributes basic necessities to displaced persons and helps maintain vital infrastructure, in particular in the water and sanitation sectors. Lastly, the ICRC acts as a neutral intermediary and engages in confidential dialogue with the parties to the conflict in order to promote respect for international humanitarian law. It co-operates closely with the Palestinian Red Crescent Society to supplement local humanitarian efforts.

33. The International Criminal Court (ICC) has been investigating the situation in Palestine since March 2021<sup>68</sup>. It is examining alleged war crimes and crimes against humanity committed by the Israeli authorities in particular. The investigation is focused on three main areas: the 2014 Gaza war, Israel's settlement policy in the West Bank and East Jerusalem, and the repression of Palestinian protests in Gaza in 2018 and 2019. The ICC has faced numerous obstacles since the beginning of the investigation, notably the refusal of Israel to co-operate<sup>69</sup>, campaigns to undermine the court's

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<sup>64</sup> Exchange of letters constituting an agreement between Israel and United Nations Relief and Works Agency for Palestine Refugees concerning assistance to Palestine refugees in the Gaza Strip. Israel and Beirut, 9 Nov. 1956, *UNTS* No. 4063, 1957, p. 262: "The present letter and your acceptance in writing will be considered by the Government of Israel and by UNRWA as a provisional agreement which will remain in force until replaced or cancelled".

<sup>65</sup> Exchange of letters constituting a provisional agreement between the United Nations Relief and Works Agency for Palestine Refugees in the Near East and Israel concerning assistance to Palestine Refugees. Jerusalem, 14 June 1967, *UNTS* No. 8955, 1968, p. 185.

<sup>66</sup> ICRC, Frequently asked questions on the ICRC's work in Israel and the occupied territories, 31 Jan. 2025, FAQs: Our work in Israel and the occupied territories | ICRC.

<sup>67</sup> ICRC, "Israel and the Occupied Territories: Key Facts and Figures (7 October 2023-31 January 2025)", 12 Dec. 2024, Israel and the Occupied Territories: Key Facts and Figures (7 October 2023-31 January 2025) | International Committee of the Red Cross.

<sup>68</sup> Prosecutor's Office, "Statement of ICC Prosecutor, Fatou Bensouda, respecting an investigation of the Situation in Palestine", 3 March 2021, Statement of ICC Prosecutor, Fatou Bensouda, respecting an investigation of the Situation in Palestine | International Criminal Court.

<sup>69</sup> BBC, "Israel 'will not co-operate' with ICC war crimes investigation", 9 April 2021 Israel "will not co-operate" with ICC war crimes investigation.

credibility, threats of reprisals, pressure and interference<sup>70</sup>, and funding cuts<sup>71</sup>. However, the ICC receives the observations and information submitted to it, and in particular the many *amici curiae*, such as those from the Palestinian NGO Al-Haq and the Palestinian Centre for Human Rights<sup>72</sup>. In November 2024, Trial Chamber I issued arrest warrants against Benjamin Netanyahu and Yoav Gallant, Prime Minister and Minister of Defence respectively, for alleged war crimes and crimes against humanity committed since 8 October 2023 and up to at least 20 May 2024<sup>73</sup>.

### C. Senegal's interest in the present proceedings

34. Senegal has always been a staunch supporter of Palestinian self-determination, and its relations with Palestine are among the most long-standing and strongest in Africa. These historic ties are part of an ongoing diplomatic engagement, illustrated in 1975 when Senegal became the first African country to host an official diplomatic representation of Palestine. Two years later, in 1977, Léopold Sédar Senghor became the first sub-Saharan president to receive Yasser Arafat, who held a Senegalese diplomatic passport at the time.

35. Senegal's role is not limited to bilateral relations. Senegal, which is committed to multilateral co-operation, has chaired the United Nations Committee on the Exercise of the Inalienable Rights of the Palestinian People continuously since its establishment in 1975<sup>74</sup>, consolidating its position as the voice of the Palestinian struggle on the international stage. It has also systematically voted in favour of the United Nations' just resolutions recognizing the rights of Palestinians and condemning the Israeli occupation<sup>75</sup>.

36. At the extraordinary summit of the Organization of Islamic Cooperation (OIC), President Bassirou Diomaye Faye called for urgent international action to establish peace in Palestine and Lebanon, denouncing the "intolerable" violence inflicted on civilians and urging the United Nations Security Council to impose an immediate ceasefire<sup>76</sup>. He declared the situation in Palestine a

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<sup>70</sup> S. Vasiliev, "Tackling Israel's Interference with the International Criminal Court", *Verfassungsblog*, 21 Oct. 2024 Tackling Israel's Interference with the International Criminal Court; H. Davies, B. McKernan, and Y. Abraham, "Spying, hacking and intimidation: Israel's nine-year 'war' on the ICC exposed", *The Guardian*, 28 May 2024 Spying, hacking and intimidation: Israel's nine-year 'war' on the ICC exposed | Israel | The Guardian; C. Mokhiber, "Turmoil at the ICC as fears rise over Israel and the U.S. interference", *Mondoweiss*, 5 Nov. 2024 Turmoil at the ICC as fears rise over Israel and the U.S. interference — Mondoweiss; D. Superville and J. Goodman, "Trump signs order imposing sanctions on International Criminal Court over investigations of Israel", *The Associated Press*, 7 Feb. 2025 Trump signs order imposing sanctions on International Criminal Court over investigations of Israel | AP News.

<sup>71</sup> "Israel/Gaza: Threats against the ICC promote a culture of impunity, say UN experts", 10 May 2024, Israel/Gaza: Threats against the ICC promote a culture of impunity, say UN experts | OHCHR

<sup>72</sup> ICC, "Palestinian Centre for Human Rights, Al-Haq, Al Mezan Center for Human Rights, Al-Dameer Association for Human Rights, Submission Pursuant to Rule 103", *Situation in the State of Palestine*, ICC-01/18-96, 16 March 2020.

<sup>73</sup> ICC, "Situation in the State of Palestine: ICC Pre-Trial Chamber I rejects the State of Israel's challenges to jurisdiction and issues warrants of arrest for Benjamin Netanyahu and Yoav Gallant", 21 Nov. 2024 Situation in the State of Palestine: ICC Pre-Trial Chamber I rejects the State of Israel's challenges to jurisdiction and issues warrants of arrest for Benjamin Netanyahu and Yoav Gallant | International Criminal Court.

<sup>74</sup> Teranga News, "Le Sénégal reconduit à la tête du Comité pour l'exercice des droits du Peuple palestinien : Le Sénégal pour l'édification d'un État palestinien", 9 Feb. 2022 Le Sénégal reconduit à la tête du Comité pour l'exercice des droits du Peuple palestinien — Teranga News.

<sup>75</sup> See in particular UNGA resolution 3379 (1975) on the Elimination of all forms of racial discrimination, 10 Nov. 1975; resolution 67/19 (2012) on the Status of Palestine in the United Nations, 4 Dec. 2012; resolution ES-20/21 (2023) on the Protection of civilians and upholding legal and humanitarian obligations, 30 Oct. 2023.

<sup>76</sup> APA News, "Palestine, Lebanon wars: Senegalese leader urges int'l action", 11 Nov. 2024, Palestine, Lebanon wars: Senegalese leader urges int'l action | APAnews — African Press Agency.

humanitarian tragedy of unprecedented proportions, and stressed the need for a co-ordinated international response to bring an end to the suffering of the civilian population.

37. Faced with the ongoing violations of the rights of Palestinians in the Occupied Palestinian Territory, Senegal considers that it is its responsibility to help clarify the legal obligations incumbent on Israel, the occupying Power. The request for an advisory opinion from the Court on this subject is part of efforts to strengthen the international legal framework and promote a just settlement based on law and justice.

38. President Bassirou Diomaye Faye also addressed the 79th regular session of the United Nations General Assembly in New York on 25 September 2024, where he described the war in Palestine as an “open wound on the international conscience”<sup>77</sup>. He recalled that entire generations of Palestinians were growing up under the yoke of oppression, deprived of their fundamental right to a viable State. He also denounced the repeated violations of international law and called on the international community to assume its responsibilities to restore justice and protect the civilian population. Underlining the central role Senegal sought to play in the defence of the rights of Palestinians, President Faye urged the United Nations Security Council to impose an immediate ceasefire and to show determination in bringing an end to hostilities in the region. He also warned against the inertia of the United Nations in the face of these conflicts.

39. Committed to the principles of sovereignty, the right of peoples to self-determination and justice, Senegal plays an active part in international forums to promote respect for international law and equity in relations within the international community. Senegal considers international law to be an essential tool to ensure international peace, justice and stability. It campaigns for respect for international conventions, the protection of human rights and the promotion of humanitarian law in conflict zones. This approach is based on the conviction that the international order can only be viable if the rules governing it are respected by all, and that is why Senegal is participating in these advisory proceedings before the International Court of Justice.

## **II. THE COURT HAS JURISDICTION TO GIVE THE ADVISORY OPINION REQUESTED AND THERE ARE NO COMPELLING REASONS FOR IT NOT TO EXERCISE ITS JURISDICTION**

40. It should first be recalled that the General Assembly is authorized to request the advisory opinion under Article 96, paragraph 1, of the Charter. This right of the General Assembly — which, unlike other organs of the United Nations, is not limited by the “scope of [its] activities”<sup>78</sup> — has been interpreted on several occasions by the Court as authorizing the General Assembly to seek an advisory opinion on any legal question<sup>79</sup>. The competence of the General Assembly is limited only by Article 12, paragraph 1, of the United Nations Charter, which reads as follows: “While the Security Council is exercising in respect of any dispute or situation the functions assigned to it in the

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<sup>77</sup> A. Diaye, “Situation en Palestine : ‘Une plaie ouverte sur la conscience internationale’ estime Bassirou Diomaye Faye”, *AA News*, 26 Sept. 2024 Situation en Palestine : “Une plaie ouverte sur la conscience internationale” estime Bassirou Diomaye Faye.

<sup>78</sup> United Nations Charter, Art. 96, para. 2.

<sup>79</sup> See *Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965, Advisory Opinion, I.C.J. Reports 2019 (I)*, p. 112, para. 56; *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem, Advisory Opinion of 19 July 2024*, paras. 23-24.

present Charter, the General Assembly shall not make any recommendation with regard to that dispute or situation unless the Security Council so requests”<sup>80</sup>.

41. Second, the Court may respond to a request for an advisory opinion only if the questions put to it have a legal character<sup>81</sup>. The question now before the Court clearly meets this criterion in that it concerns the “obligations”, understood as the international legal obligations, of a State in respect of an international organization of which it is a member, other international organizations and third States. It is a question “framed in terms of law and raising problems of international law”, which “are by their very nature susceptible of a reply based on law”<sup>82</sup>. The Court therefore has jurisdiction to respond. Moreover, the Court remains free to interpret the questions in a way that would align them with the legal nature of the proceedings<sup>83</sup>, in particular when a question lacks clarity or its legal character is ambiguous<sup>84</sup>.

42. Accordingly, Senegal considers that the Court has jurisdiction to give the advisory opinion requested.

43. Despite its jurisdiction being established, and although it has never exercised its discretionary power, the Court could decide, in accordance with Article 65 of its Statute, not to render this opinion in order to protect the integrity of its judicial function as the principal judicial organ of the United Nations<sup>85</sup>, where “compelling reasons” so warrant<sup>86</sup>.

44. The representatives of the United States of America and Israel raised objections in this respect, taking the view that resolution 79/232 and the resulting advisory opinion would not bring a lasting peace any closer, would not improve the lives of Palestinians and might impede progress towards peace<sup>87</sup>. Without dwelling on the arguments regarding the alleged bias of the Court and its alleged weaponization<sup>88</sup>, Senegal respectfully refers to the observations of the Court in its Opinion of 19 July 2024<sup>89</sup>, and considers that there are no compelling reasons for the Court to refuse to give the advisory opinion sought by the General Assembly.

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<sup>80</sup> United Nations Charter, Art. 12, para. 1.

<sup>81</sup> United Nations Charter, Art. 96; Statute of the International Court of Justice, Art. 65. See also *Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965, Advisory Opinion*, I.C.J. Reports 2019 (I), p. 112, para. 57; *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*, Advisory Opinion of 19 July 2024, paras. 25-26.

<sup>82</sup> *Western Sahara, Advisory Opinion*, I.C.J. Reports 1975, p. 18, para. 15.

<sup>83</sup> *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion*, I.C.J. Reports 2004 (I), p. 154, para. 38.

<sup>84</sup> *Ibid.*

<sup>85</sup> *Interpretation of Peace Treaties with Bulgaria, Hungary and Romania, First Phase, Advisory Opinion*, I.C.J. Reports 1950, p. 72.

<sup>86</sup> *Accordance with International Law of the Unilateral Declaration of Independence in respect of Kosovo, Advisory Opinion*, I.C.J. Reports 2010 (II), p. 416, para. 30.

<sup>87</sup> UNGA, *Official Records*, 54th plenary meeting, 79th session, A/79/PV.54, pp. 46-47 (Mr Shrier, USA).

<sup>88</sup> *Ibid.*, pp. 47-48 (Mr Danon, Israel).

<sup>89</sup> *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*, Advisory Opinion of 19 July 2024, paras. 31-50.



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

45. Israel is subject to a number of obligations in relation to the presence and activities of the United Nations and other international actors in and in relation to the Occupied Palestinian Territory.

46. The question of Israel's obligations as an occupying Power with regard to the presence and activities of international actors in the Occupied Palestinian Territory cannot be addressed without first recalling the legal status of the territory concerned. It is this status that makes it possible to determine the rights and obligations of Israel.

47. The question of Israel's occupation of Palestinian territory has already been brought to the attention of the Court. In its Advisory Opinion on the *Wall*, the Court observed the following, based on customary international law as reflected in Article 42 of the 1907 Hague Regulations:

“The territories situated between the Green Line . . . and the former eastern boundary of Palestine under the Mandate were occupied by Israel in 1967 during the armed conflict between Israel and Jordan. Under customary international law, these were therefore occupied territories in which Israel had the status of occupying Power. Subsequent events in these territories . . . have done nothing to alter this situation. All these territories (including East Jerusalem) remain occupied territories and Israel has continued to have the status of occupying Power”<sup>90</sup>.

48. In its Advisory Opinion of 19 July 2024, the Court then reaffirmed that developments subsequent to the Opinion on the *Wall* had in no way altered the status of these territories as occupied territories or called into question the status of Israel as an occupying Power<sup>91</sup>.

49. The Court also expressed its view for the first time on the status of the Gaza Strip. Recalling that an occupation may be maintained even without a physical military presence, as long as the occupying Power maintains effective control and imposes its authority within a reasonable time if it considers it necessary<sup>92</sup>, the Court noted that Israel maintains its control over various aspects in the Gaza Strip, in particular borders, airspace, territorial waters and some essential infrastructure<sup>93</sup>.

50. Based on the findings of two independent international commissions of inquiry on the Occupied Palestinian Territory<sup>94</sup>, the Court concluded that Israel

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<sup>90</sup> *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, I.C.J. Reports 2004 (I)*, p. 167, para. 78.

<sup>91</sup> *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem, Advisory Opinion of 19 July 2024*, para. 87.

<sup>92</sup> *Ibid.*, para. [91].

<sup>93</sup> *Ibid.*, paras. 89-90.

<sup>94</sup> United Nations, Report of the Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel, UN Doc. A/77/328, 14 Sept. 2022, para. 19; Report of the detailed findings of the independent commission of inquiry established pursuant to Human Rights Council resolution S-21/1, UN doc. A/HRC/29/CRP.4, 24 June 2015, para. 29.

“remained capable of exercising, and continued to exercise, certain key elements of authority over the Gaza Strip, including control of the land, sea and air borders, restrictions on movement of people and goods, collection of import and export taxes, and military control over the buffer zone, despite the withdrawal of its military presence in 2005. This is even more so since 7 October 2023”<sup>95</sup>.

51. Accordingly, the Court was of the view that Israel’s withdrawal from the Gaza Strip had not released it of all its obligations under the international law of occupation, which remained commensurate with the degree of Israel’s continued effective control over that territory<sup>96</sup>. In this regard, and taking into account all international law applicable to it, Israel owes international obligations to international organizations and third States in and in relation to the Occupied Palestinian Territory.

52. Senegal will highlight the following obligations:

- the general and unconditional obligation to co-operate with the United Nations;
- the obligation to respect the privileges and immunities of the United Nations, its agencies and bodies, including UNRWA, and third States;
- the obligation to comply with the decisions and the international law clarified by the advisory opinions of the International Court of Justice, and with the relevant resolutions of the General Assembly;
- the obligation to facilitate humanitarian action in the occupied territories;
- the obligation to protect humanitarian personnel and facilities in the occupied territories;
- the obligation to take the necessary measures to ensure access to health care for all people, including in the occupied territories, and the obligation to ensure the well-being of all people living in the territory under its control, including through access to health care;
- the obligation to facilitate the proper functioning of institutions devoted to the care and education of children, and the obligation to allow children access to education, including in the occupied territories.

#### **A. The general and unconditional obligation to co-operate with the United Nations**

53. The United Nations Charter is an international convention that creates obligations incumbent on the States that are parties to it. Moreover, it is undoubtedly the most important international convention in the current international legal order. It falls to the Court, the principal judicial organ of the United Nations, to pronounce on the scope and particularities of the obligation of co-operation that it contains<sup>97</sup>. Within this framework, the Court has previously adopted a functional and dynamic interpretation of the Charter<sup>98</sup>, taking the view that “an international

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<sup>95</sup> *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*, Advisory Opinion of 19 July 2024, para. [93].

<sup>96</sup> *Ibid.*, para. 94.

<sup>97</sup> United Nations Charter, Art. 92.

<sup>98</sup> *Reparation for Injuries Suffered in the Service of the United Nations, Advisory Opinion, I.C.J. Reports 1949*, p. 182.

instrument has to be interpreted and applied within the framework of the entire legal system prevailing at the time of the interpretation”<sup>99</sup>.

54. The fact that the purposes and principles set out in Articles 1 and 2 of the Charter are worded in a general manner should not imply that they articulate only political objectives rather than legally binding obligations. On the contrary, these are fundamental obligations that are binding on Member States<sup>100</sup>. Moreover, the Cour has noted that

“[t]he Charter has not been content to make the Organization created by it merely a centre ‘for harmonizing the actions of nations in the attainment of these common ends’ . . . It has defined the position of the Members in relation to the Organization by requiring them to give it every assistance in any action undertaken by it (Article 2, para. 5), and to accept and carry out the decisions of the Security Council; by authorizing the General Assembly to make recommendations to the Members; by giving the Organization legal capacity and privileges and immunities in the territory of each of its Members; and by providing for the conclusion of agreements between the Organization and its Members”<sup>101</sup>.

55. The obligation of Member States, under Article 2, to give every assistance to the United Nations in any action undertaken by it is crucial and is the cornerstone of the very idea of “united” nations. It is an unconditional obligation to “co-operate” with the United Nations.

56. Article 56 expressly provides that Member States must fully co-operate with the United Nations when it states that “[a]ll Members pledge themselves to take joint and separate action in co-operation with the Organization for the achievement of the purposes set forth in Article 55”.

57. This obligation is therefore to be read in light of Article 55 of the Charter, which establishes the general aims of this obligatory co-operation between Member States and the United Nations. It commits Member States to co-operate with the United Nations in actions intended to promote

- “(a) higher standards of living, full employment, and conditions of economic and social progress and development;
- (b) solutions of international economic, social, health, and related problems; and international cultural and educational cooperation; and
- (c) universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.”

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<sup>99</sup> *Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970)*, Advisory Opinion, I.C.J. Reports 1971, p. 19, para. 53.

<sup>100</sup> United Nations Charter, Arts. 1 and 2.

<sup>101</sup> *Reparation for Injuries Suffered in the Service of the United Nations*, Advisory Opinion, I.C.J. Reports 1949, pp. 178-179.

58. This obligation expressly requires each State to take action both individually (or separately) and jointly in co-operation with the United Nations itself<sup>102</sup>. By the same token, they are also prohibited from opposing actions implemented by the United Nations in carrying out its mandate, and must, on the contrary, facilitate such actions.

59. Article 2 of the Charter reinforces the obligation of co-operation in providing in particular that:

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

.....

5. All Members shall give the United Nations every assistance in any action it takes in accordance with the present Charter, and shall refrain from giving assistance to any state against which the United Nations is taking preventive or enforcement action”.

60. It therefore follows from a combined reading of Articles 1, 2, 55 and 56 that these provisions establish a binding and unconditional legal obligation for each Member State to co-operate in achieving the aims of the United Nations. This obligation includes compliance with the resolutions and recommendations of United Nations bodies setting out the actions the organization intends to take, in so far as they are binding in the relations between the United Nations and its Member States. As regards the question whether a text adopted by the United Nations outside Chapter VII of the Charter is binding, Senegal notes that, under the terms of Article 2, paragraph 5, of the Charter, where a resolution or recommendation determines an action to be taken by the United Nations, each State has an obligation to give it “every assistance”, which means at the very least that a State is in breach of this obligation each time it opposes such an action.

61. As a Member of the United Nations since 11 May 1949, Israel is necessarily bound by the obligations established by the Charter, the first among them being the obligation to co-operate, as defined above. In the context of the Occupied Palestinian Territory, the scope and particularities of this obligation to co-operate consist in a number of obligations relating to the presence and the activities of the United Nations, and the agencies and bodies of the United Nations.

62. First, the obligation to co-operate clearly involves an obligation for Israel to comply with the resolutions of the General Assembly, the Security Council and the Human Rights Council concerning the presence and activities of the United Nations and the various international actors connected to it in the Occupied Palestinian Territory. The dossier transmitted to the Court by the United Nations Secretariat, which comprises over a thousand documents, bears ample witness to the situation in Palestine, a situation that the United Nations is committed to addressing in accordance with its mandate. A number of these resolutions call on Israel to facilitate the work of UNRWA and other United Nations agencies<sup>103</sup>, to ensure continuous and regular humanitarian access and the

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<sup>102</sup> Documents of the United Nations Conference on International Organization, San Francisco, 1945, No. 15 Documents of the United Nations Conference on International Organization, San Francisco, 1945 — Documents de la Conférence des Nations Unies sur l’organisation internationale, San Francisco, 1945. See also L. Boisson de Chazournes, J. Rudall, “Co-Operation” in *The UN Friendly Relations Declaration at 50: An Assessment of the Fundamental Principles of International Law*, 2020, Cambridge University Press, p. 116.

<sup>103</sup> UNGA, resolution 10/25 on Support for the mandate of the United Nations Relief and Works Agency for Palestine Refugees in the Near East, 11 Dec. 2024; United Nations Security Council, resolution 1860, UN Doc. S/RES/1860 (2009), 8 Jan. 2009.

importation of supplies without hindrance and without tax into the Occupied Palestinian Territory<sup>104</sup>, and to comply with Articles 100, 104 and 105 of the United Nations Charter and the Convention on the Privileges and Immunities of the United Nations<sup>105</sup>.

63. In practice, this means that Israel cannot oppose the action of the United Nations agencies and bodies that need access to the Occupied Palestinian Territory in order to fulfil their missions, in particular those intended to provide humanitarian aid, without violating the very terms of the Charter recalled above.

64. Yet this is exactly what Israel is doing, in blatant violation of its obligations.

65. It is true that since the beginning of its offensive in Gaza in October 2023, Israel has presented the United Nations as a biased organization, seeking to obstruct its military and security objectives and protect members of Hamas. Prime Minister Benjamin Netanyahu referred to the United Nations as a “swamp of antisemitic bile”<sup>106</sup>. If it is Israel’s intention to evade its obligations based on these allegations, it falls to the Court to consider them and to determine whether it is true that Israel is entitled to suspend its obligation under the Charter to co-operate with the United Nations on the grounds of alleged bias or alleged antisemitism.

66. Senegal, for its part, is of the view that Israel cannot be relieved of its obligation to co-operate with the United Nations based on the criticism it has levelled against the organization. Nor can it minimize or circumvent the obligation imposed on all Members of the United Nations by

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<sup>104</sup> UNGA, resolution 46/182 on Strengthening of the coordination of humanitarian emergency assistance of the United Nations, 19 Dec. 1991; resolution 78/73 on Operations of the United Nations Relief and Works Agency for Palestine Refugees in the Near East, 7 Dec. 2023; resolution 77/122 on Operations of the United Nations Relief and Works Agency for Palestine Refugees in the Near East, 12 Dec. 2022; resolution 76/78 on Operations of the United Nations Relief and Works Agency for Palestine Refugees in the Near East, 9 Dec. 2021; resolution 75/94 on Operations of the United Nations Relief and Works Agency for Palestine Refugees in the Near East, 10 Dec. 2020; resolution 73/94 on Operations of the United Nations Relief and Works Agency for Palestine Refugees in the Near East, 7 Dec. 2018; resolution 72/82 on Operations of the United Nations Relief and Works Agency for Palestine Refugees in the Near East, 14 Dec. 2017; resolution 71/93 on Operations of the United Nations Relief and Works Agency for Palestine Refugees in the Near East, 22 Dec. 2016; resolution 70/85 on Operations of the United Nations Relief and Works Agency for Palestine Refugees in the Near East, 15 Dec. 2015; resolution 69/88 on Operations of the United Nations Relief and Works Agency for Palestine Refugees in the Near East, 16 Dec. 2014; resolution 68/78 on Operations of the United Nations Relief and Works Agency for Palestine Refugees in the Near East, 16 Dec. 2013; resolution 67/116 on Operations of the United Nations Relief and Works Agency for Palestine Refugees in the Near East, 14 Jan. 2013; resolution 66/74 on Operations of the United Nations Relief and Works Agency for Palestine Refugees in the Near East, 12 Jan. 2012; resolution 64/89 on Operations of the United Nations Relief and Works Agency for Palestine Refugees in the Near East, 19 Jan. 2010; resolution 63/93 on Operations of the United Nations Relief and Works Agency for Palestine Refugees in the Near East, 18 Dec. 2008; resolution 61/114 on Operations of the United Nations Relief and Works Agency for Palestine Refugees in the Near East, 15 Jan. 2007; resolution 60/102 on Operations of the United Nations Relief and Works Agency for Palestine Refugees in the Near East, 8 Dec. 2005.

<sup>105</sup> In particular, the General Assembly, *inter alia*, calls upon Israel every year to “cease obstructing the movement of the staff, vehicles and supplies of the Agency and to cease the levying of extra fees and charges” after a brief description of the violations by Israel. See: UNGA, resolution 74/85 on Operations of the United Nations Relief and Works Agency for Palestine Refugees in the Near East, 26 Dec. 2019; resolution 72/82 on Operations of the United Nations Relief and Works Agency for Palestine Refugees in the Near East, 14 Dec. 2017; resolution 71/93 on Operations of the United Nations Relief and Works Agency for Palestine Refugees in the Near East, 22 Dec. 2016; resolution 65/100 on Operations of the United Nations Relief and Works Agency for Palestine Refugees in the Near East, 20 Jan. 2011; resolution 62/104 on Operations of the United Nations Relief and Works Agency for Palestine Refugees in the Near East, 10 Jan. 2008; resolution 59/119 on Operations of the United Nations Relief and Works Agency for Palestine Refugees in the Near East, 15 Dec. 2004; resolution 55/127 on Operations of the United Nations Relief and Works Agency for Palestine Refugees in the Near East, 27 Feb. 2000.

<sup>106</sup> Speech by Benjamin Netanyahu at the UNGA in New York, 27 Sept. 2024, il\_fl.pdf, p. 9.

the Charter. Far from co-operating in good faith with United Nations bodies, Israel's conduct constitutes a clear violation of the Charter.

67. Through its conduct, in contravention of international law, Israel is not merely evading its obligations; it is also undermining the credibility of the United Nations and compromising its ability to maintain international peace and security. The decision of a number of States to suspend funding to UNRWA is a painful example of this. Such a stance by Israel cannot be ignored or accepted: it is eroding the very foundations of multilateralism and fostering a regional and international context of instability and prolonged crisis.

## **B. The obligation to respect privileges and immunities**

### **1. The privileges and immunities of the United Nations**

68. Article 105 of the United Nations Charter sets out the principle of the enjoyment of "such privileges and immunities as are necessary" by the United Nations, its representatives, its Members and officials in the territory of each of its Member States:

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

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

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

69. The Convention on the Privileges and Immunities of the United Nations was adopted on 13 February 1946 at the first session of the General Assembly, shortly after the creation of the United Nations. The Court stated in its Advisory Opinion on *Reparation for Injuries Suffered in the Service of the United Nations* that the Convention "creates rights and duties between each of the signatories and the Organization"<sup>107</sup>. Israel acceded to the Convention on the Privileges and Immunities of the United Nations on 21 September 1949, without reservation. Israel is thus bound by the Convention.

70. The immunity of international organizations is justified by functional necessity: the United Nations, its bodies and its staff enjoy privileges and immunities because they are essential for the fulfilment of their missions and functions. Article 105 does not only justify these privileges and immunities being granted, it also defines the scope as being all that is necessary for the fulfilment of the missions of the United Nations.

71. The position of States in this regard is reflected in national laws and jurisprudence, in particular when the State concerned is the host country of an international organization.

72. In Israel, international organizations enjoy immunity by decree of the Minister for Foreign Affairs. In an employment dispute involving the United Nations Development Programme and the

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<sup>107</sup> *Reparation for Injuries Suffered in the Service of the United Nations*, Advisory Opinion, I.C.J. Reports 1949, p. 179.

United Nations Food and Agriculture Organization, the Regional Labour Tribunal of Jerusalem stated that “[a]s opposed to the immunity of foreign States, which is regulated by customary international law together with treaty law, the immunity of international organizations is regulated by international agreements”<sup>108</sup>. In another judgment of the same year, the Jerusalem District Court ruled that “[r]ecognizing the immunity of the UN in Israel is founded on international conventional law”<sup>109</sup>.

73. Accordingly, the privileges and immunities of the United Nations and its agencies and bodies active in the Occupied Palestinian Territory are founded in the United Nations Charter and the Convention.

## **2. The privileges and immunities of UNRWA**

74. The legal status of UNRWA derives from several distinct sources of law. In particular, the legal status of UNRWA in Israel, and therefore in the Occupied Palestinian Territory, flows from both resolution 302 (IV) “Assistance to Palestine Refugees” of the General Assembly, which created the Agency, and from the United Nations Charter, Article 22 of which provides that “[t]he General Assembly may establish such subsidiary organs as it deems necessary for the performance of its functions”.

75. This status is supplemented by the Headquarters Agreement with Israel, the Convention on the Privileges and Immunities of the United Nations, which Israel expressly recognized, and by all the United Nations resolutions that define UNRWA’s missions.

76. The specific relationship between Israel and UNRWA is governed by the Headquarters Agreement and the Convention on Privileges and Immunities — privileges and immunities that are enjoyed by members of UNRWA — and by two exchanges of letters constituting an agreement (hereinafter the “Agreement”) between the two parties. The first exchange of letters is dated 9 November 1956 and concerns assistance for Palestine refugees in the Gaza Strip, while the second exchange, dated 14 June 1967, concerns “Assistances to Palestine Refugees” more generally.

77. Under the terms of this Agreement, Israel undertook to “facilitate the task of UNRWA to the best of its ability, subject only to regulations or arrangements which may be necessitated by considerations of military security” and agreed

- “(a) To ensure the protection and security of the personnel, installations and property of UNRWA;
- (b) To permit the free movement of UNRWA vehicles into, within and out of Israel and the areas in question<sup>110</sup>;
- (c) To permit the international staff of the Agency to move in, out and within Israel and the areas in question; they will be provided with identity documents and any other passes which might be required;

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<sup>108</sup> *Hmoud v. UNDP and FAO*, case No. 1987-09, Judgment of 1 Jan. 2011, para. 7.

<sup>109</sup> *X v. UNRWA and Others*, civil case No. 2524/08, Judgement of 2 May 2011, para. 5.

<sup>110</sup> The words “subject only to regulations or arrangements which may be necessitated by considerations of military security” appear in the preamble of the letter of 14 June 1967 and therefore apply to all the obligations recognized by Israel.

- (d) To permit the local staff of the Agency to move within the areas in question under arrangements made or to be made with the military authorities;
- (e) To provide radio, telecommunications and landing facilities;
- (f) Pending a further supplementary agreement, to maintain the previously existing financial arrangements with the governmental authorities then responsible for the areas in question, concerning:
  - (i) Exemptions from customs duties, taxes and charges on importation of supplies, goods and equipment;
  - (ii) provision free of charge of warehousing, labour for offloading and handling, and transport by rail or road in the areas under our control;
  - (iii) such other costs to the Agency as were previously met by the governmental authorities concerned.
- (g) To recognize that the Convention on the Privileges and Immunities of the United Nations of 13 February 1946, to which Israel is a party, shall govern the relations between the Government and UNRWA in all that concerns UNRWA's functions."

78. The Agreement also provides that supplementary agreements will, if necessary, govern all matters relating to operations carried out by the Agency under the Agreement but for which there is no provision therein. It is also stated that the Agreement will remain in force until replaced or cancelled.

79. Accordingly, Israel must comply with a number of international obligations towards UNRWA. In particular:

- UNRWA, its property and assets, wherever located and by whomsoever held, shall enjoy immunity from every form of legal process except in so far as UNRWA has expressly waived its immunity, according to Article II, Section 2, of the Convention on Privileges and Immunities.
- The premises of UNRWA shall be inviolable. Its property and assets, wherever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation and any other form of interference, whether by executive, administrative, judicial or legislative action, according to Article II, Section 3, of the Convention on Privileges and Immunities.
- UNRWA shall have the right to use codes and to despatch and receive its correspondence by courier or in bags, which have the same immunities and privileges as diplomatic couriers and bags, according to Article III, Section 10, of the Convention on Privileges and Immunities.
- Officials of UNRWA shall be immune from legal process in respect of words spoken or written and all acts performed by them in their official capacity, shall be exempt from taxation on the salaries and emoluments paid to them by the United Nations, shall be immune, together with their spouses and relatives dependent on them, from immigration restrictions and alien registration, according to Article V, Section 18, of the Convention on Privileges and Immunities.
- UNRWA may issue laissez-passer to its officials. These laissez-passer shall be recognized and accepted as valid travel documents by the Israeli authorities, according to Article VII, Section 24, of the Convention. Furthermore, applications for visas (where required) from the holders of such laissez-passer, when accompanied by a certificate that they are travelling on the business of



UNRWA, shall be dealt with as speedily as possible. Such persons shall be granted facilities for speedy travel, according to Article VII, Section 25.

80. However, on 28 October 2024, the Israeli Parliament passed two laws prohibiting the activities of UNRWA in Israel. These draft laws, approved by a large majority of Israeli parliamentarians (92 for, 10 against), prohibit UNRWA from operating in Israel and preclude the Israeli authorities from all contact with the Agency<sup>111</sup>.

81. As a result of this legislation, which came into force on 30 January 2025, visas for foreign employees of UNRWA are no longer being issued and, above all, the passage of goods and staff necessary for the Agency to function in Gaza, the occupied West Bank and East Jerusalem has been blocked, affecting the delivery of humanitarian aid, the running of schools and sanitation. Adalah, an organization for the defence of minority rights of Palestinians in Israel, has called the law a “deliberate attempt to strip over 2.5 million Palestinian refugees of their status and their right of return”<sup>112</sup>.

82. This decision clearly runs counter to the above-mentioned obligation of co-operation, and is in breach of the Convention on the Privileges and Immunities of the United Nations. The General Assembly, moreover, quite rightly “deplore[d] the legislation adopted by the Israeli Knesset on 28 October 2024, and call[ed] upon the Israeli Government to abide by its international obligations, respect the privileges and immunities of the Agency and uphold its responsibility to allow and facilitate full, rapid, safe and unhindered humanitarian assistance” and — once again — reminded Israel of its obligations to co-operate with the United Nations, and UNRWA in particular, under the Convention on Privileges and Immunities:

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

*Calls upon* Israel to abide by Articles 100, 104 and 105 of the Charter of the United Nations and the Convention on the Privileges and Immunities of the United Nations in all aspects and to ensure the safety of the personnel of the Agency, the protection of its installations and the safeguarding of the security of its facilities in the Occupied Palestinian Territory, including East Jerusalem, at all times, to comply with international humanitarian law, and to cease obstructing the movement and access of the staff, vehicles and supplies of the Agency and levying taxes, extra fees and charges on the Agency”<sup>113</sup>.

83. Israel’s stance is of particular concern given UNRWA’s crucial and irreplaceable role in Palestine. In a context where local infrastructure is largely destroyed and where humanitarian

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<sup>111</sup> Le Monde, “Israël : L’interdiction de l’UNRWA, une décision sans précédent qui met en péril l’aide aux Palestiniens en pleine guerre”, 29 Oct. 2024 Israël : l’interdiction de l’UNRWA, une décision sans précédent qui met en péril l’aide aux Palestiniens en pleine guerre.

<sup>112</sup> *Ibid.*

<sup>113</sup> UNGA, resolution A/RES/ES-10/25 of 16 Dec. 2024, “Support for the mandate of the United Nations Relief and Works Agency for Palestine Refugees in the Near East”, paras. 12-14.

organizations are systematically confronted with obstacles, UNRWA was the main actor ensuring the survival of the Palestinian people and enjoying the unconditional right to Israeli co-operation. The passage of humanitarian aid and health assistance to Gaza and the West Bank requires close co-ordination between UNRWA and the Israeli authorities. Yet, under the law that entered into force on 30 January 2025, Israel no longer issues work or entry permits to Agency staff. Co-ordination with the Israeli army, which is indispensable for the passage of aid, is no longer possible.

84. The Secretary-General of the United Nations, António Guterres, has nonetheless stated that there is “no alternative to UNRWA” and has called on Israel to “act consistently with its obligations under the Charter of the United Nations and its other obligations under international law, including under international humanitarian law and those concerning privileges and immunities of the United Nations”<sup>114</sup>. Israel has not changed its position, despite the fact that the cessation of UNRWA’s activity in Palestine is having disastrous consequences, depriving the Palestinian population of access to vital resources such as food, drinking water and medicines essential to their survival. This is clearly intended to make the life of Palestinians in the Occupied Palestinian Territory increasingly unbearable.

85. This will come as no surprise to the Court, since it observed in its Advisory Opinion of 19 July 2024 that:

“the large-scale confiscation of land and the deprivation of access to natural resources divest the local population of their basic means of subsistence, thus inducing their departure. Furthermore, a series of measures taken by Israeli military forces has exacerbated the pressure on the Palestinian population to leave parts of the Occupied Palestinian Territory against their will”.

86. In January 2025, the Israeli Government effectively ordered UNRWA to cease its activities in East Jerusalem and to vacate its premises<sup>115</sup>. It also stated publicly that the aim of vacating UNRWA premises in Sheikh Jarrah is to expand Israeli settlements in occupied East Jerusalem, settlements that the Court has previously characterized as illegal<sup>116</sup>. The visas of UNRWA staff were also cut short. They ended on 24 January<sup>117</sup>.

87. Earlier, in the course of 2024, the Commissioner-General of UNRWA, Philippe Lazzarini, also had his privileges and immunities violated by Israel, which withdrew his “yellow card”, a document that confers protection on senior United Nations officials in Israel and the Occupied Palestinian Territory<sup>118</sup>. His luggage was searched and his residence permit, which used to be annual, was reduced to just one month. The Israeli Minister for Foreign Affairs has called for his resignation, and he has since been banned from entering Gaza.

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<sup>114</sup> UNRIC, “UNRWA: ‘Palestinian people should not feel abandoned by the international community’”, 28 Jan. 2025 UNRWA ban will have multiple consequences — Marta Lorenzo.

<sup>115</sup> UN News, “The Government of Israel orders UNRWA to vacate its premises in occupied East Jerusalem and cease operations in them”, 26 Jan. 2025 The Government of Israel orders UNRWA to vacate its premises in occupied East Jerusalem and cease operations in them — Question of Palestine.

<sup>116</sup> *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, I.C.J. Reports 2004 (I)*, p. 184, para. 120.

<sup>117</sup> UN News, “Israel’s new laws banning UNRWA already taking effect”, 29 Jan. 2025 Israel’s new laws banning UNRWA already taking effect | UN News.

<sup>118</sup> Le Monde, “Israel-Hamas war: Philippe Lazzarini, a UN official in Israel’s sights”, 15 July 2024 Israel-Hamas war: Philippe Lazzarini, a UN official in Israel’s sights.

88. Indifferent to condemnation and urgent calls from the United Nations Secretary-General, the Commissioner-General of UNRWA, and many other international organizations and States<sup>119</sup>, on 30 January Israel reiterated that the law adopted by the Knesset would be implemented. Only the United States supported this decision, while other members of the Security Council aligned themselves with the position of Philippe Lazzarini, who warned that the crippling of UNRWA's operations by the Israeli legislation would undermine Gaza's recovery and deprive Palestinian refugees of education and health care in the occupied West Bank<sup>120</sup>.

### 3. The privileges and immunities of third States

89. In August 2024, Israel revoked the accreditation of Norwegian diplomats working as representatives to the Palestinian Authority in the West Bank and the Gaza Strip, ordering them to leave immediately<sup>121</sup>.

90. It is true that Article 9, paragraph 1, of the 1961 Vienna Convention on Diplomatic Relations<sup>122</sup> provides that the receiving State

“may at any time and without having to explain its decision, notify the sending State that the head of the mission or any member of the diplomatic staff of the mission is persona non grata or that any other member of the staff of the mission is not acceptable. In any such case, the sending State shall, as appropriate, either recall the person concerned or terminate his functions with the mission”.

91. However, Israel cannot rely on the law of immunities and its right to object without reason to the presence of foreign diplomats to impede that foreign State from carrying out its obligation to collaborate with the United Nations in the pursuit of its mission in Palestine, in particular its humanitarian mission. Yet, in the present case, Israel clearly stated the reason for its decision, namely that it was an act of retaliation further to Norway's recognition of the status of the State of Palestine and its support for the action taken by the ICC<sup>123</sup>.

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<sup>119</sup> See in particular Politico “Israel bans UNRWA: The world reacts”, 29 Oct. 2024 Israel bans UNRWA: The world reacts — POLITICO (United Kingdom, European Union, Belgium, Germany, Turkey); Al Jazeera, “Intolerable”, ‘dangerous precedent’: World condemns Israel’s UNRWA ban”, 29 Oct. 2024 <https://www.aljazeera.com/news/2024/10/29/intolerable-dangerous-precedent-world-condemns-israels-unrwa-ban> (Palestine, China, Russia, Jordan, Ireland, Norway, Slovenia, Spain, Australia, Switzerland, WHO).

<sup>120</sup> UN News, “With Israeli Laws Set to Take Effect in 48 Hours, UN Palestine Refugee Agency Chief Warns Security Council of Risks to Gaza Ceasefire, Recovery Efforts”, 28 Jan. 2025 With Israeli Laws Set to Take Effect in 48 Hours, UN Palestine Refugee Agency Chief Warns Security Council of Risks to Gaza Ceasefire, Recovery Efforts | Meetings Coverage and Press Releases.

<sup>121</sup> Press release of the Norwegian Minister for Foreign Affairs, Mr Espen Barth Eide, “Consequential for our relationship with the Netanyahu government”, 8 Aug. 2024 ‘Consequential for our relationship with the Netanyahu government’ - regjeringen.no and “Norway's Representative Office in Palestine is closed until further notice”, 16 Aug. 2024 Norway's Representative Office in Palestine is closed until further notice — regjeringen.no.

<sup>122</sup> Vienna Convention on Diplomatic Relations, Vienna, 18 April 1961, UNTS, Vol. 500, p. 95, to which Israel is a party and which it ratified on 11 Aug. 1970.

<sup>123</sup> Press release from the Israeli Ministry of Foreign Affairs, “MFA Spokesperson statement regarding the decision to cancel the diplomatic status in Israel of the Norwegian representatives to the Palestinian Authority”, 10 Aug. 2024 MFA Spokesperson statement regarding the decision to cancel the diplomatic status in Israel of the Norwegian representatives to the Palestinian Authority Ministry of Foreign Affairs; Post by the Minister for Foreign Affairs, Israel Katz, on X dated 8 Aug. 2024 “ישראל כ”ץ Israel Katz sur X : “Today, I ordered the revocation of diplomatic status for 8 Norwegian diplomats in Israel who were dealing with Palestinian Authority affairs. Instead of fighting Palestinian terrorism after October 7th and supporting Israel in its war against the Iranian axis of evil, Norway <https://t.co/ncJGwpqQpY>” / X.

**C. The obligation to comply with decisions and international law clarified  
by the advisory opinions of the International Court of Justice,  
and with the relevant resolutions of the General Assembly**

92. Given that all Members of the United Nations are parties to the Statute of the International Court of Justice (Article 93 of the Charter) and that Article 94 of the Charter provides that “[e]ach Member of the United Nations undertakes to comply with the decision of the International Court of Justice in any case to which it is a party”, Israel cannot derogate from its obligation to apply the binding decisions of the Court.

93. Regarding self-determination, the Court has already had occasion to state, in its Advisory Opinion of 9 July 2004, the subject of resolution ES-10/15 of 20 July 2004, that Israel has an “obligation to respect the right of the Palestinian people to self-determination, and certain of its obligations under international humanitarian law”.

94. Similarly, in the Advisory Opinion of 19 July 2024, the subject of resolution ES-10/24 of 18 September 2024, the Court sets out the obligation of Member States of the United Nations “not to recognize as legal the situation arising from the unlawful presence of Israel in the Occupied Palestinian Territory” and “to distinguish in dealings with Israel between the territory of Israel and the Occupied Palestinian Territory”.

95. In view of the foregoing, United Nations entities, international organizations and Member States are fully entitled to enter Palestinian territory as part of their mandate or in solidarity with the State of Palestine in a bilateral framework.

96. In this respect, the illegal presence of Israel and the application of its domestic legislation in the occupied territories are in breach of the relevant United Nations resolutions. The Court is therefore entitled to

- recall that, as an occupying Power, it is not for Israel to legislate on the entry and sojourn of United Nations staff, international organizations and third States in the occupied Palestinian territories and that there is no justification under the relevant provision of the Fourth Geneva Convention for the extension of Israeli law in the West Bank and East Jerusalem, the regulatory authority exercised by Israel being inconsistent with the rule reflected in Article 43 of the Hague Regulations and Article 64 of the Fourth Geneva Convention;
- find that by strictly prohibiting the activities of UNRWA in the West Bank and East Jerusalem through its domestic legislation, Israel is exceeding its authority and therefore violating the Charter and resolutions of the United Nations, as well as international humanitarian law;
- call on Israel to repeal its laws, which are inconsistent with peremptory norms of international law in so far as they are adopted outside its territorial jurisdiction, and to refrain from legislating on any activities of the United Nations, international organizations and third States in Palestinian territories;
- declare that Israel is not entitled to prevent United Nations entities, international organizations — including humanitarian, non-governmental organizations — and Member States of the United Nations from accessing occupied Palestinian territories and the territories of neighbouring countries in the Near East, and from carrying out humanitarian or political activities intended to contribute to the restoration of peace;

- require Israel to comply with its international obligations by withdrawing all measures such as the laws prohibiting the activities of UNRWA in the West Bank and East Jerusalem, and to cease all practices such as the refusal to issue visas or residence permits to United Nations officials, humanitarian staff and representatives of Member States acting under a United Nations mandate;
- condemn the forced evacuation and closure of UNRWA's premises and schools in East Jerusalem, in particular the Kalandia training centre, and accordingly find a violation of the privileges and immunities of the United Nations and of the right to an education of hundreds of young Palestinians.

#### **D. Obligations relating to humanitarian aid and development**

##### **1. The obligation to facilitate humanitarian action**

97. The powers and duties of Israel in the Occupied Palestinian Territory are governed by the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949 (the Fourth Geneva Convention) and by customary international law. The Court has recognized that

“[a] great many of the rules of [the Fourth Geneva] Convention are so fundamental to the respect of the human person, and elementary considerations of humanity, that they are ‘to be observed by all States whether or not they have ratified the conventions that contain them, because they constitute intransgressible principles of international customary law’ . . . These rules incorporate obligations which are essentially of an *erga omnes* character”<sup>124</sup>.

98. The Court has also observed that the 1907 Hague Regulations have become part of customary law and are therefore binding on Israel<sup>125</sup>.

99. Article 59 of the Fourth Geneva Convention<sup>126</sup> recognizes an obligation relating to “collective relief” incumbent on the occupying Power:

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

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

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

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

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<sup>124</sup> *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*, Advisory Opinion of 19 July 2024, para. 96.

<sup>125</sup> *Ibid.* See also *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Advisory Opinion, I.C.J. Reports 2004 (I), p. 172, para. 89.

<sup>126</sup> Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949 (hereinafter the “Fourth Geneva Convention”), UNTS No. 75, p. 287.

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

100. This obligation, with which Israel agreed to comply when it ratified the Fourth Geneva Convention on 6 January 1952, requires it not only to “agree to” relief efforts undertaken by international organizations and third States, but also to “facilitate them by all the means at its disposal”. Israel must therefore “co-operate wholeheartedly in the rapid and scrupulous execution of these schemes”<sup>127</sup>. Relief consists of “foodstuffs, medical supplies and clothing” and, more broadly, “items [that] have the character of relief supplies [which] are of vital importance”<sup>128</sup>. The obligation set out in Article 59 is directly linked to the obligation incumbent on Israel under Article 55 of the same Convention, which provides that, “[t]o the fullest extent of the means available to it, the Occupying Power has the duty of ensuring the food and medical supplies of the population; it should, in particular, bring in the necessary foodstuffs, medical stores and other articles if the resources of the occupied territory are inadequate”.

101. The occupying Power is under a strict obligation to ensure food and medical supplies for the civilian population and, when local resources are inadequate, it has an obligation to import the necessary items. Because Israel does not ensure supplies for the Occupied Palestinian Territory, it must accept and facilitate the relief efforts of others. Article 59 also requires the occupying Power to assist staff participating in relief efforts<sup>129</sup>. Israel has only certain supervision rights and may check consignments solely to ensure respect for humanitarian law. The object of such supervision is “to satisfy itself that [the consignments] do in fact consist of relief supplies and do not contain weapons, munitions, military equipment or other articles or supplies used for military purposes”<sup>130</sup>.

102. The obligation to facilitate humanitarian action is closely linked to the obligation to provide medicines, foodstuffs and clothing set out in Article 23 of the Fourth Geneva Convention, which states that

“[e]ach 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 its adversary. It shall likewise permit the free passage of all consignments of essential foodstuffs, clothing and tonics intended for children under fifteen, expectant mothers and maternity cases”.

103. This obligation is distinct from those set out in above-mentioned Article 59 *et seq.*, which concern only the provision of relief to the population in occupied territories<sup>131</sup>.

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<sup>127</sup> ICRC, Commentary on the Fourth Geneva Convention, 1956, Art. 59.

<sup>128</sup> *Ibid.*

<sup>129</sup> See also the Protocol Additional to the Geneva Conventions of 12 Aug. 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977 (Additional Protocol I), Arts. 70 and 71, para. 3.

<sup>130</sup> ICRC, Commentary on the Fourth Geneva Convention, 1956, Art. 59. See also Art. 69, para. 2, of Additional Protocol I.

<sup>131</sup> ICRC, Commentary on the Fourth Geneva Convention, 1956, Art. 23.

104. It is true that under Article 23 this obligation of free passage of consignments is subject to the condition that the contracting 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>132</sup>.

105. However, the ICRC recalls that “[a] doubt as to the destination of consignments would not be sufficient reason for refusing them free passage; the fears of the Power imposing the blockade must be based on serious grounds, i.e. they must have been inspired by the knowledge of certain definite facts”<sup>133</sup>.

106. Regarding the provision whereby a definite advantage may accrue to the enemy through such consignments, the ICRC observes that this condition concerns the potential indirect effects of the consignments in question on the enemy’s position, and notes that

“any consignment of medical and hospital stores, food and clothing, always benefits the receiving Power in one way or another. The Convention does not disregard that fact and to avoid a belligerent using it as a pretext for refusing to authorize any free passage of goods, it lays down that there must be some ‘definite advantage’ (*avantage manifeste*). It will be agreed, generally speaking, that the contribution represented by authorized consignments should be limited: in the majority of cases, such consignments will be hardly sufficient to meet the most urgent needs and relieve the most pitiable distress; it is hardly likely, therefore, that they would represent assistance on such a scale that the military and economic position of a country was improved to any appreciable extent”<sup>134</sup>.

107. In the present instance, Israel does not provide adequate supplies of foodstuffs and medicines and yet does not allow them to be imported, which is a violation of Article 23. Although Israel claims that humanitarian aid for Gaza is benefiting Hamas, such claims are based on general allegations for which there is no tangible proof. What is more, the claim that Hamas is using humanitarian aid as a source of income<sup>135</sup> is not supported by any verifiable fact or independent investigation. UNRWA, for its part, has confirmed that it “is not aware of and has received no specific allegations regarding any systemic diversion of aid it brings into and distributes in Gaza by Hamas or other armed groups” and has stated that the Agency

“uses a direct implementation modality (no intermediaries) which means that [it] has full control of the supply chain from receiving the goods at the crossing points into Gaza to bringing them to UNRWA warehouses and distribution points, where aid is delivered

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<sup>132</sup> Fourth Geneva Convention, Art. 23, second paragraph.

<sup>133</sup> ICRC, Commentary on the Fourth Geneva Convention, 1956, Art. 23.

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

<sup>135</sup> A. Kahana, “Humanitarian absurdity: Hamas sells aid to Gazans, uses profits to pay operatives”, *Israel Hayom*, 9 Jan. 2025, Humanitarian absurdity: Hamas sells aid to Gazans, uses profits to pay operatives.

directly to registered beneficiaries, checked against a pre-established list, and according to needs”<sup>136</sup>.

During periods of escalation, UNRWA has emergency screening procedures to ensure the provision of aid in an effective manner<sup>137</sup>.

108. Pursuant to Article 23 of the Fourth Geneva Convention, quoted above, mere doubt or an unsubstantiated allegation is not sufficient justification for blocking humanitarian consignments. Fears must be based on precise and verifiable facts, which is clearly not the case with the Israeli blockades. Israel has not provided any detailed reports or publicly available evidence showing how humanitarian aid is, as it alleges, being systematically “diverted by Hamas”. On the contrary, these claims have been refuted by foreign and international officials, such as the United States Special Envoy for Middle East Humanitarian Issues, David Satterfield, who stated that Israel had not provided specific evidence that Hamas was diverting aid<sup>138</sup>.

109. In any event, and in general, Israel imposed a blockade on Gaza in 2007<sup>139</sup>, and is therefore specifically obliged to agree to and facilitate external humanitarian aid in accordance with Article 59. Yet, in violation of this obligation, and since 7 October 2023, Israel has imposed a blockade on humanitarian aid in Gaza<sup>140</sup>, whereas its population depends on external aid for 80 per cent of its needs. Before 7 October 2023, some 500 trucks entered Gaza every day<sup>141</sup>. This fell to an average of 12 trucks per day in November 2023<sup>142</sup>, and has since fluctuated, with an average of 40 to 50 trucks per day<sup>143</sup> from 17 January 2025.

110. While historically Gaza has only seven crossing points — Rafah, Karem Abu Salem, al-Ojeh, al-Gharara, al-Mintar, Shaja’iyya and Beit Hanoun — only three were partially open before 7 October 2023<sup>144</sup>. The main crossing points that remain open, and which were once used for

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<sup>136</sup> UNRWA, “Claims versus Facts”, [Feb. 2025] UNRWA: Claims Versus Facts | UNRWA.

<sup>137</sup> *Ibid.*

<sup>138</sup> Shurafa, W., et Magdy, S., “U.S. envoy says Israel has not shown evidence that Hamas is diverting UN aid in Gaza”, *PBS*, 17 Feb. 2024 U.S. envoy says Israel has not shown evidence that Hamas is diverting UN aid in Gaza | PBS News. See also W. Shurafa, S. Magdy, and T. Goldenberg, “UN halts aid shipments through Gaza’s main crossing, blames looting crisis on Israel”, *PBS*, 1 Dec. 2024 UN halts aid shipments through Gaza’s main crossing, blames looting crisis on Israel | PBS News.

<sup>139</sup> En 2005, Israel withdrew from Gaza but retained control of the borders, airspace and coastal waters. In 2006, Israel imposed ever stricter restrictions. In 2007, Israel implemented a complete blockade, restricting the movement of people and goods.

<sup>140</sup> For an overview of the Gaza blockade since 2007, see UNOCHA, “Gaza Strip | The humanitarian impact of 15 years of the blockade - June 2022”, Fact Sheet, 30 June 2022 Gaza Strip | The humanitarian impact of 15 years of the blockade - June 2022 | United Nations Office for the Coordination of Humanitarian Affairs - Occupied Palestinian Territory and B. Barthe, “Gaza : La fabrique d’une poudrière”, *Le Monde*, 16 Oct. 2023, p. 16.

<sup>141</sup> Press release of the Secretary-General of the United Nations, “Humanitarian System for More than 2 Million Civilians in Gaza Facing Total Collapse, Secretary-General Warns, Once Again Urging Ceasefire, Aid Delivery at Scale Needed”, 27 Oct. 2023, SG/SM/22010.

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

<sup>143</sup> UN News, “Gaza ceasefire could boost aid deliveries to 600 trucks per day: WHO”, 17 Jan. 2025 Gaza ceasefire could boost aid deliveries to 600 trucks per day: WHO | UN News.

<sup>144</sup> The al-Muntar, al-Awdah, al-Shujaiah and al-Karara crossings were closed permanently in 2011, 2008, 2010 and 2005 respectively. See M. Humaid, “The Seven Border Crossings of Gaza”, *Al Jazeera*, 15 June 2022 The seven border crossings of Gaza | Israel-Palestine conflict | Al Jazeera.



humanitarian aid, are Rafah on the border with Egypt, Karem Abu Salem near the Egyptian border in Israel, and Beit Hanoun to the north of Gaza, in Israel.

111. The Rafah crossing, which until now was under the control of the Palestinian and Egyptian authorities<sup>145</sup>, was seized by Israel during the siege of Rafah in May 2024<sup>146</sup>. Since then, the crossing point has been closed and the humanitarian aid that is still getting through is residual<sup>147</sup>. Similarly, the Karem Abu Salem crossing point, which is the main corridor for the entry of humanitarian aid into the Gaza Strip from Israeli territory, has been subjected to numerous restrictions. First, Israel imposed a complete blockade, prohibiting the entry of any aid<sup>148</sup>, then it reopened the crossing on 17 December 2023 to allow United Nations humanitarian aid trucks through. These trucks were immediately and have regularly been blocked by groups of Israeli activists with the complicity of the security forces<sup>149</sup>. Finally, the Beit Hanoun is a vital crossing point, historically used mainly for the movement of people. On 7 October 2023, the border post was closed by the Israeli authorities, despite repeated requests from humanitarian organizations and international actors who stressed the urgent need to deliver aid to Gaza<sup>150</sup>.

112. The delivery of aid also encounters administrative and logistical obstacles. The militarized Netzarim corridor splits the Gaza Strip into two parts and prevents aid from being delivered directly to the north, forcing the trucks to go through the Beit Hanoun crossing point where operations are limited<sup>151</sup>. UNRWA, which used to have a vast distribution network, has been prohibited from delivering food aid in the north since January 2024<sup>152</sup>. The Israeli restrictions on NGOs is further complicating the situation: before delivering aid, these organizations must submit a list of their employees to the Israeli army, which then checks for any links with armed groups<sup>153</sup>. The distribution infrastructure itself is severely disrupted. Access to the territory is restricted and the

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<sup>145</sup> See France 24, “Passage de Rafah entre l’Égypte et Gaza : ‘Ce n’est pas une frontière normale’”, 6 Nov. 2023 Passage de Rafah entre l’Égypte et Gaza : “Ce n’est pas une frontière normale”.

<sup>146</sup> UN News, “No aid getting into Gaza, says UN aid agency”, 8 May 2024 No aid getting into Gaza, says UN aid agency | UN News.

<sup>147</sup> See OCHA, “Gaza Humanitarian Response Update”, 13-19 May 2024 Gaza Humanitarian Response Update | 13 - 19 May 2024 | OCHA; “Humanitarian Situation Update No. 181 | Gaza Strip”, 21 June 2024 Humanitarian Situation Update #181 | Gaza Strip | United Nations Office for the Coordination of Humanitarian Affairs - Occupied Palestinian Territory; “Gaza Humanitarian Response Update”, 24 June-7 July 2024 Gaza Humanitarian Response Update | 24 June-7 July 2024 | United Nations Office for the Coordination of Humanitarian Affairs — Occupied Palestinian Territory.

<sup>148</sup> E. Ioanes, “Gaza’s spiraling humanitarian crisis, explained”, *Vox*, 15 Oct. 2023 Israel-Hamas War: Gaza’s spiraling humanitarian crisis, explained | Vox.

<sup>149</sup> L. Tondo and Q. Kierszenbaum, “Israeli soldiers and police tipping off groups that attack Gaza aid trucks”, *The Guardian*, 21 May 2024 Israeli soldiers and police tipping off groups that attack Gaza aid trucks | Israel-Gaza war | The Guardian.

<sup>150</sup> Oxfam, “Oxfam dénonce les obstacles pour acheminer de l’aide aux personnes assiégées dans le nord de Gaza”, 23 Dec. 2024 Oxfam dénonce les obstacles pour acheminer de l’aide aux personnes assiégées dans le nord de Gaza | Oxfam-Québec and Amnesty International, “Gaza: Airdrops and sea routes are no alternative to aid delivery by land”, 13 March 2024 Gaza: Airdrops and sea routes are no alternative to aid delivery by land — Amnesty International.

<sup>151</sup> RFI, “L’armée israélienne se retire du corridor de Netzarim, important lieu de circulation à Gaza”, 9 Feb. 2025 L’armée israélienne se retire du corridor de Netzarim, important lieu de circulation à Gaza.

<sup>152</sup> UN News, “Aid delivery to Gaza falls by half since January: UNRWA”, 24 February 2024, Aid delivery to Gaza falls by half since January: UNRWA | UN News; UN News, “Gaza: le nord de l’enclave a été presque totalement privé d’aide humanitaire en octobre”, 16 Oct. 2024 Gaza : le nord de l’enclave a été presque totalement privé d’aide humanitaire en octobre | ONU Info; “L’UNRWA confirme qu’Israël lui interdit bien toute livraison d’aide dans le nord de Gaza », *L’Orient Le Jour*, 24 March 2024 Gaza : le nord de l’enclave a été presque totalement privé d’aide humanitaire en octobre | ONU Info.

<sup>153</sup> In December 2024, the NGO World Central Kitchen fired 62 workers based on evidence provided by the army which the NGO itself had no access to.

passage of convoys is limited arbitrarily: although Israel announced in December 2024 that it was going to re-open the al-Qarara post that had been closed since 2005, it was opened for just one day, allowing only five trucks to cross before being closed again for military operations<sup>154</sup>.

113. It is to be recalled that, under the Fourth Geneva Convention, relief should be exempt from all charges, taxes or customs duties taxes<sup>155</sup>. Nevertheless, the cost of transporting aid is a major problem — although strictly speaking it is not taxed as such. Manhal Shuhaiber, the only company authorized to operate between Israel and Gaza, has a monopoly, which results in huge costs for NGOs. While the official price of transport is around 130 euros per truck<sup>156</sup>, humanitarian officials report that the real costs amount to some 2,500 US dollars per truck<sup>157</sup>, which limits the quantity of aid that can be delivered.

114. This massive reduction in food aid has plunged the population into an unprecedented humanitarian crisis. The entry of 83 per cent of the food required has been blocked<sup>158</sup>, forcing the population to drastically ration the food it has. Equally alarming is the reduced delivery of medicines and medical supplies: 65 percent of the insulin needed and 50 per cent of blood supplies are lacking<sup>159</sup>. Hospitals, which are already under pressure, now have only 1,500 active beds compared to 3,500 before the war, while needs are skyrocketing.

115. There is no doubt that Israel's policy is aimed at creating shortages in Palestine and forcing the Palestinians to flee their lands to avoid famine, sickness, extreme poverty and death. This policy is being conducted in clear and repeated violation of international humanitarian law, in pursuit of the aim of forced displacement of the population and ethnic cleansing, which qualifies those responsible as criminals under international criminal law.

## **2. The obligation to protect humanitarian personnel and facilities**

116. International law imposes a clear and imperative obligation on the parties to an armed conflict to protect humanitarian personnel and the facilities used for the provision of relief to civilian populations. Articles 18, 19 and 20 of the Fourth Geneva Convention establish a clear legal framework for the protection of civilian hospitals and medical and humanitarian personnel. These provisions prohibit any attack against such facilities and set out specific guarantees for medical and religious personnel. Articles 12, 15 and 71 of the 1977 Additional Protocol to the Geneva Conventions supplements and reinforces these protections. Article 12 explicitly prohibits attacks against medical units and medical personnel, while Article 15 ensures protection for humanitarian missions. In addition, Article 71 requires all parties to an armed conflict to respect and protect personnel participating in humanitarian relief actions. The international normative framework was reinforced by United Nations Security Council resolution 1502 (2003), which states that any attack against humanitarian personnel is in violation of international humanitarian law. This resolution is

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<sup>154</sup> L. Minisini and S. Forey, "Dans la bande de Gaza, une entrave systématique à l'aide humanitaire", *Le Monde*, 3 Jan. 2025.

<sup>155</sup> Fourth Geneva Convention, Art. 61, para. 2.

<sup>156</sup> L. Minisini and S. Forey, "Dans la bande de Gaza, une entrave systématique à l'aide humanitaire", *Le Monde*, 3 Jan. 2025.

<sup>157</sup> E. Graham-Harrison, "Trade convoys 'squeezing out' Gaza aid, humanitarian organisations say", *The Guardian*, 3 June 2024 Trade convoys 'squeezing out' Gaza aid, humanitarian organisations say | Gaza | The Guardian.

<sup>158</sup> CARE, "Gaza. L'occupation israélienne empêche l'acheminement de 83 % de l'aide alimentaire", 17 Sept. 2024 Gaza. Israël bloque l'acheminement de l'aide | ONG CARE France.

<sup>159</sup> *Ibid.*

based on the principles established by customary international law, in particular rules 25, 31 and 32 of the ICRC, which guarantee protection for humanitarian relief, humanitarian personnel and vital civilian infrastructure.

117. Israel, in clear violation of these obligations, has directly targeted humanitarian personnel and medical and humanitarian infrastructure in Palestine. The escalation of the conflict in the Occupied Palestinian Territory has been marked by strikes and attacks against hospitals<sup>160</sup>, medical centres<sup>161</sup>, humanitarian convoys<sup>162</sup> and humanitarian personnel<sup>163</sup>.

118. NGOs on the ground have documented a number of incidents in which ambulances<sup>164</sup>, hospitals and clinics<sup>165</sup> have been targeted by the Israeli army. These attacks violate not only the prohibition on attacks against medical infrastructure under the Fourth Geneva Convention and Additional Protocol I but also the basic principles of international humanitarian law, which require a distinction to be made between military and civilian targets. Moreover, humanitarian personnel have also been victims of direct violence<sup>166</sup>, with 333 humanitarian workers killed by Israel between 7 October 2023 and 8 February 2025<sup>167</sup>. These acts are in breach of the obligation to respect and protect relief personnel set out in Article 71 of Additional Protocol I and Security Council resolution 1502.

119. In addition, restrictions on the delivery of humanitarian aid through blockades or restrictions imposed on relief organizations also constitute breaches of Israel's international obligations. As an occupying Power, Israel is not only prohibited from impeding humanitarian operations, it also has an active obligation to facilitate access to civilian populations in distress<sup>168</sup>. Obstruction of the entry of medical equipment, supplies and other vital resources is worsening an

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<sup>160</sup> OHCHR, "Pattern of Israeli attacks on Gaza hospitals raises grave concerns — report", 31 Dec. 2024 Pattern of Israeli attacks on Gaza hospitals raises grave concerns — report | OHCHR; OHCHR, Attacks on hospitals during the escalation of hostilities in Gaza, Thematic Report (7 October 2023 — 30 June 2024), 31 Dec. 2024 Thematic Report — Attacks on hospitals during the escalation of hostilities in Gaza (7 October 2023-30 June 2024) | OHCHR.

<sup>161</sup> Médecins Sans Frontières, "'Inflicting harm and denying care' in the West Bank: MSF report on escalation of attacks and obstructions to healthcare", 6 Feb. 2025 "Inflicting harm and denying care" in the West Bank: MSF report on escalation of attacks and obstructions of healthcare | MSF.

<sup>162</sup> UN News, "Gaza war: UN World Food Programme condemns Israeli attack on aid convoy", 6 Jan. 2025 Gaza war: UN World Food Programme condemns Israeli attack on aid convoy | UN News.

<sup>163</sup> Human Rights Watch, "Gaza: Israelis Attacking Known Aid Worker Locations", 14 May 2024 Gaza: Israelis Attacking Known Aid Worker Locations | Human Rights Watch.

<sup>164</sup> See for example A. Carey, T. John, and K. Flower, "Israel admits airstrike on ambulance near hospital that witnesses say killed and wounded dozens", *CNN*, 4 Nov. 2023; "Gaza: Israeli Ambulance Strike Apparently Unlawful", *Human Rights Watch*, 7 Nov. 2023 Gaza: Israeli Ambulance Strike Apparently Unlawful | Human Rights Watch; N. Abuaisha, "Palestinian Health Ministry reports Israeli attack on ambulance", *AA*, 7 Dec. 2024; "Ambulance crew and journalists targeted by Israeli forces in Gaza", *Al Jazeera*, 28 Nov. 2024.

<sup>165</sup> See the list drawn up by Médecins Sans Frontières on 7 Jan. 2025: "Strikes, raids and incursions: Over a year of relentless attacks on healthcare in Palestine" Strikes raids and incursions year of relentless attacks on healthcare in Palestine | MSF.

<sup>166</sup> See the *Aid Worker Security Database* Aid Worker Security Database | Aid Worker Security Database.

<sup>167</sup> UN News, "2024 deadliest year ever for aid workers, UN humanitarian office reports", 22 Nov. 2024 2024 deadliest year ever for aid workers, UN humanitarian office reports | UN News. Between 22 Nov. and 8 Feb., Israel killed 19 other humanitarian workers (see *Aid Worker Security Database*).

<sup>168</sup> The situation in Gaza has gone beyond "distress". The United Nations Special Co-ordinator for the Middle East Peace Process has condemned the worsening situation in Gaza: "The nightmare in Gaza is intensifying. Horrifying scenes are unfolding in the northern Strip amidst conflict, relentless Israeli strikes and an ever-worsening humanitarian crisis" Statement by UN Special Coordinator for the Middle East Peace Process, Tor Wennesland, on the situation in the Gaza Strip | UNSCO.

already disastrous humanitarian situation in the Occupied Palestinian Territory and depriving the wounded and sick of access to care.

### **E. Obligations relating to the right to health**

120. In its Advisory Opinion of 19 July 2024, the Court recalled that Israel has obligations in the Occupied Palestinian Territory under the international human rights instruments to which it is party:

“The Court recalls . . . that ‘international human rights instruments are applicable “in respect of acts done by a State in the exercise of its jurisdiction outside its own territory”, particularly in occupied territories’ (*Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda)*, Judgment, I.C.J. Reports 2005, p. 243, para. 216, citing *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion*, I.C.J. Reports 2004 (I), pp. 178-181, paras. 107-113). The Court further recalls that the protection offered by human rights conventions does not cease in case of armed conflict or of occupation (*Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion*, I.C.J. Reports 2004 (I), p. 178, para. 106). Some rights may be exclusively matters of international humanitarian law; others may be exclusively matters of human rights law; yet others may concern both these branches of international law (*ibid.*)”<sup>169</sup>.

121. Furthermore, international human rights law does not depend solely on the territorial boundaries of a State: it is applicable to the acts of a State in the exercise of its jurisdiction outside its own territory<sup>170</sup>. The Court has recently recalled that Israel is bound by the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) in respect of its conduct “with regard to” the Occupied Palestinian Territory<sup>171</sup>.

122. As the occupying Power of Palestine, Israel has specific obligations under international law, in particular as regards access by international organizations, and humanitarian and medical organizations above all, to the Palestinian population. These obligations derive from both human rights instruments and international humanitarian law.

123. Israel is bound by the ICESCR, Article 12 of which provides that:

“1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for:

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<sup>169</sup> *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem, Advisory Opinion*, p. 32, par. 99.

<sup>170</sup> *Ibid.*, p. 31, para. 98.

<sup>171</sup> *Ibid.*, p. 32, para. 100, citing *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion*, I.C.J. Reports 2004 (I), pp. 180-181, paras. 111-112.

- (a) The provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child;
- (b) The improvement of all aspects of environmental and industrial hygiene;
- (c) The prevention, treatment and control of epidemic, endemic, occupational and other diseases;
- (d) The creation of conditions which would assure to all medical service and medical attention in the event of sickness.”

124. The right to health is recognized as a fundamental right by WHO in the preamble to its Constitution, to which Israel has acceded<sup>172</sup>. The preamble also provides that “[t]he health of all peoples is fundamental to the attainment of peace and security and is dependent upon the fullest co-operation of individuals and States”.

125. Israel is legally bound to comply with all the provisions of these instruments, including those relating to the right to health, and to do so in respect of all the territories and populations under its effective control.

126. In this regard, the occupying Power must comply with the ICESCR<sup>173</sup>. It cannot obstruct the implementation of the ICESCR in areas where power has been transferred to local authorities. The nature of the obligations enshrined in the ICESCR, as well as the flexibility offered by that instrument for their implementation, has been regarded by some experts as facilitating its application during occupation<sup>174</sup>.

127. According to the Court, Article 12 of the ICESCR requires the parties to take the necessary measures to ensure access to health care for all, including in the occupied territories. This means above all that, when the health situation requires it, the Israeli authorities must allow international organizations working in the medical and health care sector unimpeded access to the Occupied Palestinian Territory, in particular to provide emergency medical care, carry out disease prevention and support mental health, especially since the situation in the West Bank, Gaza and East Jerusalem has long and regularly been marked by tensions and violence.

128. Under international humanitarian law, and more specifically Article 55 of the Fourth Geneva Convention, Israel as the occupying Power is also under an obligation to ensure the well-being of the entire population living in the territory it controls, which includes access to health care. The text provides that

“the Occupying Power has the duty of ensuring the food and medical supplies of the population; it should, in particular, bring in the necessary foodstuffs, medical stores and other articles if the resources of the occupied territory are inadequate”<sup>175</sup>.

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<sup>172</sup> Constitution of the World Health Organization, New York, 22 July 1946, *UNTS*, Vol. 9, p. 3.

<sup>173</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*, p. 32, para. 100.

<sup>174</sup> See the expert report of the ICRC, “Occupation and other Forms of Administration of Foreign Territory”, 2012 *Occupation and other forms of administration of foreign territory*.

<sup>175</sup> Fourth Geneva Convention, Article 55.

129. As long as Israel does not discharge its duty itself, international organizations such as the ICRC and Médecins Sans Frontières must be able to operate where health needs so require, without being impeded by the situation of occupation. In this regard, any arbitrary restriction on humanitarian access constitutes a violation of the provisions cited.

130. Denying access to the competent international organizations in the Occupied Palestinian Territory, or unduly blocking their access and raising obstacles to their operations — for which there is clearly a dire need — has dramatic consequences for the Palestinian population, making them increasingly vulnerable and worsening what were already precarious living conditions as a result of Israel's prolonged occupation of the Occupied Palestinian Territory. This situation is particularly alarming considering that, on top of systematically obstructing the activities of international organizations, Israel actively contributes to maintaining precarious living conditions under its occupation. This reality turns into an even more severe humanitarian crisis in times of war, as is painfully illustrated by the recent events in Gaza and the West Bank, where Israel systematically prevents the delivery of emergency aid and deliberately frustrates any possibility of relieving the suffering of civilians and meeting their basic needs, in violation of its international obligations.

131. In June 2024, WHO expressed its concern at the escalating health crisis in the Occupied Palestinian Territory, where Israel's attacks on health infrastructure and increased restrictions on the freedom of movement severely obstruct access to health care<sup>176</sup>. In a statement of 14 June 2024, WHO documented the number of attacks on health care services in the West Bank, including attacks on medical infrastructure, obstruction of access to care, detention of health workers and patients, and militarized searches of ambulances and staff<sup>177</sup>. Roadblocks, arbitrary restrictions and the detention of health workers, combined with rising insecurity and the closure of entire towns, have made movement and access to care increasingly difficult<sup>178</sup>. In the northern West Bank, WHO stressed that extensive infrastructure and housing damage had obstructed access for ambulances and first-aid responders, compounding the situation<sup>179</sup>.

132. Restrictions on movement in the Occupied Palestinian Territory are a key element of Israel's illegal occupation. Médecins Sans Frontières stressed in August 2024 that Israeli forces blocking Palestinians' access to health care is part of a wider system of collective punishment imposed by Israel, under the guise of its crackdown on armed Palestinian men<sup>180</sup>. The Israeli authorities have widened their network of permanent checkpoints while also erecting more and more temporary checkpoints, which are put up without warning, thus creating unexpected barriers for medical transport<sup>181</sup>. Physical barriers have proliferated throughout the territory, with new concrete blocks, mounds of earth, metal gates and trenches strategically positioned to cut off access routes to the occupied West Bank<sup>182</sup>. In Nablus, for example, home to the main trauma hospital serving the

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<sup>176</sup> WHO, "WHO concerned about escalating health crisis in West Bank", 14 June 2024 WHO concerned about escalating health crisis in West Bank.

<sup>177</sup> *Ibid.*

<sup>178</sup> *Ibid.*

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

<sup>180</sup> Médecins Sans Frontières, "Inflicting Harm and Denying Care : Patterns of Attacks and Obstructions of Healthcare in the West Bank", 6 Feb. 2025 "Inflicting harm and denying care" in the West Bank: MSF report on escalation of attacks and obstructions of healthcare | MSF. See also MSF, "Occupied Lives: The Risk of Forcible Transfer of Palestinians in Hebron", Aug. 2024 OCCUPIED LIVES: THE RISK OF FORCIBLE TRANSFER OF PALESTINIANS IN HEBRON.

<sup>181</sup> *Ibid.*

<sup>182</sup> *Ibid.*

northern West Bank, the movement of ambulances is strictly controlled and obstructed by the numerous checkpoints and metal gates set up by Israeli forces at every entrance to the city.

133. According to OCHA, there were at least 790 barriers, including checkpoints, roadblocks, gates and mounds of earth, where the movement of people across the West Bank was controlled in June 2024<sup>183</sup>. In addition, the intensification of Israeli military incursions and the closure of entry points to villages and towns have created isolated enclaves, forcing Palestinians to take longer and more dangerous alternative routes to reach medical facilities<sup>184</sup>. Even short journeys to nearby health care facilities, which would normally take a few minutes, have become prolonged ordeals lasting several hours as Palestinians navigate multiple checkpoints and barriers<sup>185</sup>. These restrictions also constitute a basic barrier to accessing and delivering health care<sup>186</sup>.

134. Since 7 October 2023 the existing system of control has been dramatically intensified through additional layers of restrictions<sup>187</sup>. Requests from patients seeking access to specialized medical care outside the West Bank, in East Jerusalem or in Israeli health facilities, have been denied or left pending<sup>188</sup>. The lack of permits, coupled with restrictions on movement, has had a detrimental effect on patients suffering from chronic conditions in need of specialized care, as well as on the medical staff residing in the West Bank, who may now be prevented from travelling to East Jerusalem.

135. The cumulative effect of the restrictions, including temporary restrictions, has created a system where access to health care has become a complex logistical challenge for patients, who must factor in closures and denials of passage, often with life-threatening consequences for patients<sup>189</sup>.

136. Moreover, according to Médecins Sans Frontières, the already strained Palestinian health care system in the West Bank has been further undermined since October 2023 and is faced with significant budget constraints as a result of Israel withholding tax revenue intended for the Occupied Palestinian Territory, which Israel collects on behalf of the Palestinian Authority, as provided in the Oslo Accords<sup>190</sup>. WHO reports that 45 per cent of essential medicines are out of stock and that health workers have not received their full salaries for over a year, which means that most clinics and hospitals are running at significantly reduced levels<sup>191</sup>. The recent ban that effectively prevents

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<sup>183</sup> *Ibid.* See also “West Bank Health Access, October 2023”, WHO WB Health access (Oct-Aug).

<sup>184</sup> UN News, “‘No end in sight’: Israeli forces attack occupied West Bank as Gaza ceasefire takes hold, say experts”, 27 Jan. 2025 “No end in sight”: Israeli forces attack occupied West Bank as Gaza ceasefire takes hold, say experts - Question of Palestine.

<sup>185</sup> Médecins Sans Frontières, “Inflicting Harm and Denying Care : Patterns of Attacks and Obstructions of Healthcare in the West Bank”, 6 Feb. 2025 “Inflicting harm and denying care” in the West Bank: MSF report on escalation of attacks and obstructions of healthcare | MSF.

<sup>186</sup> *Ibid.*

<sup>187</sup> *Ibid.*

<sup>188</sup> WHO, “WHO concerned about escalating health crisis in West Bank”, 14 June 2024 WHO concerned about escalating health crisis in West Bank.

<sup>189</sup> Médecins Sans Frontières, “Inflicting Harm and Denying Care: Patterns of Attacks and Obstructions of Healthcare in the West Bank”, 6 Feb. 2025 “Inflicting harm and denying care” in the West Bank: MSF report on escalation of attacks and obstructions of healthcare | MSF.

<sup>190</sup> *Ibid.* See also *Le Figaro* with AFP, “Gaza : rétablir le système de santé ‘sera une tâche complexe et difficile’, estime l’OMS”, 20 Jan. 2025 Gaza : rétablir le système de santé «sera une tâche complexe et difficile», estime l’OMS.

<sup>191</sup> WHO, “WHO concerned about escalating health crisis in West Bank”, 14 June 2024 WHO concerned about escalating health crisis in West Bank.

UNRWA from operating in the Occupied Palestinian Territory presages a further deterioration in the Palestinian health care system, since UNRWA was running 43 primary health care facilities and a hospital in the West Bank, employing nearly 800 medical staff and providing free health insurance to 871,000 refugees, i.e. a third of the population of the West Bank<sup>192</sup>.

137. Violence against Palestinians and their health care staff comes on top of the restrictions. Between October 2023 and October 2024, 25 health care workers were killed, 120 wounded and 96 detained by the Israeli forces, while 1,492 incidents of settler violence in the West Bank were recorded, namely an average of four incidents per day<sup>193</sup>.

138. The violence and climate of terror created by the Israeli army and armed settlers has led to an increased demand for health care and creates yet another barrier to access to health care, further impairing the most basic rights of the majority of the Palestinian population. Médecins Sans Frontières confirms that settler violence — which is tolerated and encouraged by the Israeli Government, and fuelled by the ever-increasing expansion of settlements that are illegal under international law, as the Court has observed in its advisory opinions — significantly compounds the challenges faced by the international organizations tasked with providing health care assistance to the local population<sup>194</sup>.

139. As a result of these violations, the health care system in the West Bank is under immense pressure and in a perpetual state of emergency, not to say complete breakdown.

## **F. Obligations relating to the right to education**

140. As stated above, Israel is bound by the obligations contained in the ICESCR. Article 1[3] of the Convention provides that:

“1. The States Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace.

2. The States Parties to the present Covenant recognize that, with a view to achieving the full realization of this right:

(a) Primary education shall be compulsory and available free to all;

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<sup>192</sup> Médecins Sans Frontières, “Inflicting Harm and Denying Care : Patterns of Attacks and Obstructions of Healthcare in the West Bank”, 6 Feb. 2025 “Inflicting harm and denying care” in the West Bank: MSF report on escalation of attacks and obstructions of healthcare | MSF. See United Nations, Report of the Secretary-General, “Assistance to the Palestinian People”, 14 May 2019, UN Doc. A/74/89-E/2019/73 Assistance to the Palestinian People — Secretary-General Report (A/74/89-E/2019/73) — Question of Palestine.

<sup>193</sup> OCHA, “Humanitarian Situation Update 228 | West Bank”, 10 Oct. 2024 Humanitarian Situation Update #228 | West Bank | United Nations Office for the Coordination of Humanitarian Affairs — Occupied Palestinian Territory.

<sup>194</sup> Médecins Sans Frontières, “Inflicting Harm and Denying Care : Patterns of Attacks and Obstructions of Healthcare in the West Bank”, 6 Feb. 2025 “Inflicting harm and denying care” in the West Bank: MSF report on escalation of attacks and obstructions of healthcare | MSF.



- (b) Secondary education in its different forms, including technical and vocational secondary education, shall be made generally available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education;
- (c) Higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education;
- (d) Fundamental education shall be encouraged or intensified as far as possible for those persons who have not received or completed the whole period of their primary education;
- (e) The development of a system of schools at all levels shall be actively pursued, an adequate fellowship system shall be established, and the material conditions of teaching staff shall be continuously improved”.

141. The right to education seeks to ensure that everyone has access to quality education, irrespective of geographic or political context.

142. Article 50 of the Fourth Geneva Convention also provides that “[t]he occupying Power shall, with the co-operation of the national and local authorities, facilitate the proper working of all institutions devoted to the care and education of children”.

143. Israel is also under an obligation to comply with the Convention on the Rights of the Child, adopted by the United Nations in 1989, which guarantees the right of every child to access education.

144. The protection of education from attack is essential to prevent the harm suffered by the education sector in the Occupied Palestinian Territory, including for young Palestinians. General Assembly resolution 64/290 (2010) urges Member States to ensure the right to education as an integral element of humanitarian assistance<sup>195</sup>. Similarly, Security Council resolution 2601 (2021)<sup>196</sup> emphasizes the importance of protecting education in times of armed conflict.

145. Under these provisions, Israel, as an occupying Power and Member of the United Nations, must allow access to schools, both State schools and those run by international organizations. In this instance, it is UNRWA, an agency of the United Nations, which is responsible for running schools in the Occupied Palestinian Territory. UNICEF education programmes, for their part, have a funding gap of 88 per cent<sup>197</sup>.

146. The Israeli law banning UNRWA has resulted in the suspension of UNRWA’s activities in Palestine, including its educational activities, and demonstrates a complete disregard for the right of Palestinians to an education and for Israel’s obligation to co-operate with the United Nations in the exercise of its mandate. By way of illustration, 46,000 children with refugee status in the West

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<sup>195</sup> UNGA resolution 67/290 on *The right to education in emergency situations*, UN Doc. A/RES/64/290, 27 July 2010.

<sup>196</sup> UNSC resolution 2601 (2021), UN Doc. S/RES/2601, 29 Oct. 2021.

<sup>197</sup> *Ibid.*

Bank or East Jerusalem have been deprived of an education, in addition to the 625,000 pupils in Gaza<sup>198</sup>.

147. Furthermore, in the Gaza Strip and the West Bank, including East Jerusalem, military attacks on schools and education have multiplied<sup>199</sup>. In the Gaza Strip, at least 84 per cent of schools need either full reconstruction or significant rehabilitation before schooling can resume. In the West Bank, including East Jerusalem, there have been 69 attacks on schools and 2,354 incidents affecting schools, pupils and teachers in or around schools, according to the Palestinian Ministry of Education<sup>200</sup>.

148. The war has severely disrupted educational opportunities and has made Palestinian children and youth, and Palestinian society as a whole, increasingly vulnerable to a range of risks, including disability and trauma. The lack of access to education has an immediate impact and long-term consequences, especially since most university buildings have been damaged or destroyed. A report by the University of Cambridge in partnership with UNRWA estimated that a pupil in the last year of school registered to take official school-leaving exams would see their chance of graduating delayed by two to three years if no immediate return to schooling was provided with additional support for lost learning because of the war<sup>201</sup>.

149. It should also be noted that it is in times of more intense conflict that such restrictions are exacerbated. While the majority of the figures currently available relate to the situation in Gaza, the situation in the West Bank is only getting worse and is jeopardizing the academic situation of thousands of Palestinian children and teenagers. There have been systematic airstrikes and ground attacks in the governorates of Jenin, Nablus, Tulkarem and Tubas since 2023, targeting refugee camps where UNRWA operates in particular<sup>202</sup>. At the end of last August, the Israeli occupation forces launched a full-scale military operation against these areas, killing at least 39 Palestinians, including women and children, and injuring dozens<sup>203</sup>. In December 2024, at the behest of the Israelis, Palestinian Security Forces attacked Jenin refugee camp, resulting in killings and injuries of Palestinians, including children and a journalist<sup>204</sup>.

### **G. The links between the above-mentioned obligations and the right of the Palestinian people to self-determination**

150. The right of the Palestinian people to self-determination is absolutely indisputable. Senegal therefore considers it unnecessary to return to that subject.

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<sup>198</sup> *Ibid.*

<sup>199</sup> UNICEF, “45 000 first graders unable to start the new school year in the Gaza Strip”, 9 Sept. 2024 45,000 first graders unable to start the new school year in the Gaza Strip: UNICEF - UNICEF UK.

<sup>200</sup> *Ibid.*

<sup>201</sup> University of Cambridge in partnership with UNRWA, “Palestinian Education Under Attack in Gaza: Restoration, Recovery, Rights and Responsibilities in and through Education”, Sept. 2023 Palestinian Education Under Attack in Gaza: Restoration, Recovery, Rights and Responsibilities in and through Education - Report by University of Cambridge and Centre for Lebanese Studies in partnership with UNRWA - Question of Palestine.

<sup>202</sup> UN News, “UN condemns deadly West Bank airstrike, attacks on Gaza schools”, 4 Oct. 2024, UN condemns deadly West Bank airstrike, attacks on Gaza schools | UN News.

<sup>203</sup> HCDH, “‘No end in sight’: Israeli forces attack occupied West Bank as Gaza ceasefire takes hold, say experts”, 27 Jan. 2025 ‘No end in sight’: Israeli forces attack occupied West Bank as Gaza ceasefire takes hold, say experts — Question of Palestine.

<sup>204</sup> *Ibid.*

151. The foregoing analyses show that Israel's actions against the Palestinian people, the purpose or effect of which (in this instance the clear purpose of which) is the forcible deportation of the Palestinian people, are in direct and flagrant violation of its right to self-determination in its own territory<sup>205</sup>.

152. By forcibly deporting Palestinians, in particular by denying them access to health care, medicines, food, water and other essential needs for their survival, Israel is preventing the Palestinian people from exercising its right to self-determination. This right should be fully exercised in Palestinian territory, and nowhere else. Thus, all of Israel's conduct towards international organizations, in particular the United Nations, and third States, which *de facto* prohibits the exercise of that right, is contrary to its international obligations.

#### IV. FINAL OBSERVATIONS

153. Through its advisory opinion in the present proceedings, the Court has an opportunity to clarify Israel's obligations with regard to the presence and activities of the United Nations, other international organizations and third States in the Occupied Palestinian Territory. Senegal considers that, in the current context, such a clarification can help achieve a just and lasting peace in Palestine, while reinforcing the right of the Palestinian people to self-determination.

154. It is especially crucial in view of the report (A/79/149) on the safety and security of humanitarian personnel and protection of United Nations personnel, submitted by the United Nations Secretary-General on 12 July 2024, during discussions of item 72 entitled the "Strengthening of the coordination of humanitarian and disaster relief assistance of the United Nations, including special economic assistance: assistance to the Palestinian people" at the 79th session of the General Assembly. As well as recalling the commitment of United Nations staff and humanitarian personnel in helping people in need, at significant personal risk, this report records a series of incidents and the number of humanitarian personnel affected, in particular in the Palestinian territories. These incidents include robbery (438), acts of intimidation and harassment (268), break-ins and burglary (197), arrests and detentions (91), injuries resulting from acts of violence (76), aggravated assault (23), abductions (14), fatalities resulting from acts of violence (12) and sexual assault (01).

155. In view of the data contained in this report and the various reports of the Commissioner-General of UNRWA, Mr Philippe Lazzarini, Israel's breaches of its obligations towards United Nations bodies and international humanitarian organizations operating in the occupied Palestinian territories are established under the Convention on the Safety of United Nations and Associated Personnel of 9 December 1994.

156. Deeply concerned at the systemic violations of international humanitarian law and international human rights law, the obstruction of humanitarian aid deliveries in accordance with humanitarian principles and the attacks on humanitarian personnel, convoys and facilities that have resulted in more than 243 deaths since 7 October 2021, Senegal invites the Court:

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<sup>205</sup> Israel's and the United States' current position on the forcible deportation and transfer of the Palestinian people overlooks the fundamental fact of Palestinian refugees' right to return, which the General Assembly asserted as far back as 1948 in resolution 194 (III) "Palestine — Progress Report of the United Nations Mediator".

- to remind Israel of its irrefutable obligation to respect and protect humanitarian personnel, and to allow and facilitate the rapid and unhindered provision of humanitarian assistance on an impartial basis without any adverse distinction to civilians in need;
- to determine that deliberate attacks against personnel and facilities involved in humanitarian aid missions in accordance with the Charter of the United Nations are a serious violation of international law, in particular the Convention on the Privileges and Immunities of 13 February 1946, and are contrary to resolution 79/138 on the safety and security of humanitarian personnel and protection of United Nations personnel, which

“[s]trongly urges all States to take the measures necessary to ensure the safety and security of national and international humanitarian personnel and United Nations and associated personnel and to respect and ensure respect for the inviolability of United Nations premises, which are essential to the continuation and successful implementation of United Nations operations”.

157. Furthermore, Senegal invites the Court to take into account the evidence contained in the reports of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories, of which Senegal is a member, in particular its latest report A/79/363 dated 20 September 2024, covering the period from October 2023 to July 2024, which documents serious and prolonged violations of the human rights of the population of the Occupied Palestinian Territory and the occupied Syrian Golan.

158. Having been unable to enter the occupied territories because of Israel’s refusal to provide the necessary authorizations since 1968, the Special Committee nevertheless held consultations — as it does every year — in Geneva and conducted a field visit to Amman where it met government officials, representatives of United Nations bodies and mechanisms, representatives of civil society organizations, youth representatives, human rights defenders and Palestinian families.

159. In its report, the Special Committee raises serious concerns at breaches of international law, international humanitarian law and international human rights law in the Occupied Palestinian Territory, including “starvation as a weapon of war, the possibility of genocide in Gaza and an apartheid system in the West Bank, including East Jerusalem”.

160. It documents the impact of the conflict on “Palestinians’ rights to food; to a clean, healthy and sustainable environment; to physical integrity, liberty and security of persons; as well as the disproportionate effects on the rights of women, children, and future generations more broadly”. It also draws the Court’s attention to “the ongoing attacks against the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA)” and to the disastrous humanitarian situation in the occupied Syrian Golan.

161. By consistently refusing to grant the Special Committee access to the occupied territories since 1968, Israel has systematically denied it of its right to fulfil its mandate under the resolution cited above.

162. Senegal therefore asks the Court to endorse General Assembly resolution 79/138 of 12 December 2024 on the safety and security of humanitarian personnel and protection of United Nations personnel, which “[c]ondemns in the strongest possible terms the continued threats to and deliberate targeting of humanitarian personnel and United Nations and associated personnel, acts of

terrorism and attacks on humanitarian convoys, and the continued increase in the scale and the increasingly complex nature of threats faced by such personnel, such as the disturbing trend of politically and criminally motivated attacks, including extremist attacks, against them”.

## V. CONCLUSIONS

163. For the reasons set out in this written statement, Senegal asserts that:

- (a) the Court has jurisdiction to give the advisory opinion requested by the General Assembly in resolution 79/232 of 23 December 2024; and
- (b) Israel is required to comply with its obligations, set out in this written statement, towards the United Nations and any other international organization and third States, in particular the obligation to co-operate with UNRWA and the obligation to respect the privileges and immunities of UNRWA.

164. Finally, Senegal respectfully invites the Court to recommend to the General Assembly that it take all necessary measures to ensure implementation of the Court’s advisory opinion.

165. Senegal reserves the right, if necessary, to revise, supplement or amend the language of this written statement and the above reasoning, in light of subsequent pleadings.

The Hague, 28 February 2025.

(Signed) HE Mr Ramatoutaye BA FAYE,  
Ambassador of the Republic of Senegal.

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