

INTERNATIONAL COURT OF JUSTICE

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

(REQUEST FOR ADVISORY OPINION)



**WRITTEN STATEMENT OF THE
PEOPLE'S REPUBLIC OF BANGLADESH**

28 FEBRUARY 2025

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INTRODUCTION

1. By resolution 79/232 of 19 December 2024, the General Assembly of the United Nations requested the International Court of Justice to render an advisory opinion pursuant to Article 65 of the Statute of the Court, on a priority basis and with the utmost urgency, on the following question:

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

2. The following Written Statement is submitted by the Government of the People's Republic of Bangladesh in accordance with the Order of the Court of 23 December 2024 fixing the time limit by which written statements relating to this question may be submitted to the Court.
3. Following this Introduction, this Written Statement will focus on Israel's obligations in respect of the presence of third parties in and in relation to the Occupied Palestinian Territory (OPT). To that end, this submission is divided into five parts: (A) jurisdiction and admissibility; (B) Israel's obligations in light of the right of the Palestinian people to self-determination; (C) Israel's obligations under international humanitarian law; (D) Israel's obligations as a Member of the United Nations; and (E) legal consequences. Given it has been described by the Secretary-

General as the “backbone” of the United Nations presence in the OPT,¹ special attention will be given to UNRWA.

A. JURISDICTION AND ADMISSIBILITY

4. Article 96, paragraph 1, of the United Nations Charter provides that “[t]he General Assembly or the Security Council may request the International Court of Justice to give an advisory opinion on any legal question.”²
5. Article 65, paragraph 1, of the Court’s Statute further provides that “[t]he Court may give an advisory opinion on any legal question at the request of whatever body may be authorized by or in accordance with the Charter of the United Nations to make such a request.”³
6. General Assembly resolution 79/232, which provided for the present request, was adopted by a large majority of the members of the United Nations present and voting.⁴ As such, the request was made by a duly authorized organ of the United Nations, validly adopted from the procedural point of view. In addition, based on the terms of the question put before the Court, it is clear that the advisory opinion sought concerns a question of a legal nature.
7. Notwithstanding the ability of the Court to decline to give an advisory opinion under article 65, paragraph 1, of its Statute, it has never done so. The Court’s jurisprudence has affirmed that for any such refusal to be justified, there must exist “compelling reasons” to do so.⁵ In this case, no such reasons exist. On the contrary,

¹ Letter dated 28 October 2024 from the Secretary-General addressed to the President of the General Assembly, UN Doc. A/79/558.

² UN Charter, art. 96(1).

³ Statute of the International Court of Justice, art. 65(1).

⁴ A/RES/79/232, 19 December 2024 (137 for, 12 against, 22 abstentions).

⁵ See e.g. *Accordance with International Law of the Unilateral Declaration of Independence in Respect of Kosovo*, Advisory Opinion, I.C.J. Reports 2010, p. 416, para. 30; *Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965*, Advisory Opinion, I.C.J. Reports 2019, p. 113, para. 65.

the gravity of the legal matters at issue in this case renders it vitally important for the Court to provide the General Assembly with legal guidance on the question posed. For decades, the Palestinian people has faced widespread and systematic violations of its rights – including those of *jus cogens* and *erga omnes* character – by Israel, an occupying power illegally present on its territory, as determined by this Court.⁶ So urgent, grave and existential is the situation now faced by the Palestinian people in the OPT, that in January 2024 this Court determined their right to be protected from certain acts of genocide and related prohibited acts under the *Convention on the Prevention and Punishment of the Crime of Genocide* to be plausible,⁷ that there is a “real and immanent risk” that “irreparable prejudice” will be caused to the Palestinian people’s right to be protected from such acts,⁸ and that Israel is accordingly under an obligation, inter alia, to “[t]ake all necessary and effective measures to ensure, without delay, *in full co-operation with the United Nations*, the unhindered provision at scale by all concerned of urgently needed basic services and humanitarian assistance, including food, water, electricity, fuel, shelter, clothing, hygiene and sanitation requirements, as well as medical supplies and medical care to Palestinians throughout Gaza.”⁹

8. In addition, no compelling reasons exist for the Court to refuse to give its opinion in this matter. As will be addressed, this is not only because of the unique and historic role played by the United Nations in the question of Palestine, which has remained on the agenda of the Organization since 1947 without resolution.¹⁰ It is also because the operations of the United Nations in and in relation to the OPT are

⁶ *Legal Consequences Arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including east Jerusalem*, ICJ Reports 2024, para. 261 [‘Israeli Policies’].

⁷ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)*, Order of 26 January 2024, para. 54.

⁸ *Id.*, para. 74.

⁹ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)*, Order of 28 March 2024, para. 51(2)(a) [emphasis added].

¹⁰ On the UN’s permanent responsibility for the Question of Palestine until it is resolved in all of its aspects in accordance with international law, see *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Advisory Opinion, I.C.J. Reports 2004, p. 165, para. 49 [‘Wall’]; *Israeli Policies*, *supra* note 6, para. 35.

under an unprecedented threat by one of its member States – Israel – with implications that go well beyond the immediate confines of the question of Palestine and which touch upon the independence and viability of the Organization itself.

9. For the reasons above, it is clear that the Court has jurisdiction to give an advisory opinion in this case on the basis that the General Assembly is competent to request an advisory opinion from this Court on the subject-matter of the request, and that there are no compelling reasons preventing the Court from giving its opinion on the question submitted to it.

B. ISRAEL’S OBLIGATIONS IN LIGHT OF THE RIGHT OF THE PALESTINIAN PEOPLE TO SELF-DETERMINATION

10. This Court has affirmed that the Palestinian people have the right to self-determination,¹¹ and that all States¹² and the United Nations¹³ have an obligation *erga omnes* to support and assist them in the early realization of that right, including in the OPT. In the context of foreign military occupation, as prevails in the OPT, the Court has determined that the right of self-determination qualifies as a *jus cogens* norm, derogation from which is not permitted.¹⁴
11. Accordingly, Israel is under a *positive* obligation to respect the right of the Palestinian people to self-determination, including by withdrawing unconditionally and as “rapidly as possible” from the whole of the OPT.¹⁵ As

¹¹ *Wall, id.*, para. 118; *Israeli Policies, id.*, para. 230; A/RES/79/81; A/RES/ES-10/24.

¹² *Wall, id.*, para. 156; *Israeli Policies, id.*, paras. 274, 275, 279.

¹³ A/RES/ES-10-24, para. 16.

¹⁴ *Israeli Policies, supra* note 6, para. 233.

¹⁵ *Id.*, para. 285.

demanding by the General Assembly, this obligation must be given effect no later than 18 September 2025.¹⁶

12. In addition, and more germane to the question before the Court in these proceedings, Israel has a *negative* obligation “*not to impede* the Palestinian people from exercising its right to self-determination, including its right to an independent and sovereign State, over the entirety of the Occupied Palestinian Territory”.¹⁷ This duty not to impede engages the ability of all third parties relevant to these proceedings – the United Nations, other international organizations and third States – to discharge their own independent legal obligations to support and assist the Palestinian people in the realization of its right to self-determination given the *erga omnes* character of this right.¹⁸
13. In line with the UN’s permanent responsibility for the question of Palestine, a host of UN agencies and bodies have a mandate in and in relation to the OPT.¹⁹ Together, these agencies and bodies engage in a variety of activities, 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. Because Israel is not sovereign in the OPT²⁰ – such sovereignty being vested *only* in the Palestinian people – Israel is not empowered to unilaterally terminate or

¹⁶ A/RES/ES-10/24, para. 2.

¹⁷ *Israeli Policies*, *supra* note 6, 237 [emphasis added]. See also A/RES/ES-10/24, para. 3(g).

¹⁸ *Barcelona Traction, Light and Power Company, Limited (New Application: 1962) (Belgium v. Spain)*, Second Phase, Judgment, ICJ Reports 1970, p. 32, para. 33. The General Assembly has determined that “[e]very State has the duty to promote, through joint and separate action, realization of the principle of equal rights and self-determination of peoples, in accordance with the provisions of the Charter, and to render assistance to the United Nations in carrying out the responsibilities entrusted to it by the Charter regarding the implementation of the principle”. See *Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations*, A/RES/2625 (XXV).

¹⁹ See for example, United Nations Sustainable Development Cooperation Framework State of Palestine, State of Palestine 2023-2025, (https://minio.uninfo.org/uninfo-production-main/69f1ae68-ac4f-487a-8ab8-67166a81a2c9_UNSDCF_Palestine_2023-2025.pdf)

²⁰ A/RES/79/232, para. 10. See also A/RES/ES-10/24, preamble.

frustrate these mandates which have been furnished through a combination of legal authorizations granted by the United Nations itself as well as by the consent of the Palestinian people acting through their legitimate governmental representatives.

14. By far, the largest and most important United Nations agency in the OPT is United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA). Established by the General Assembly in December 1949 as a result of the Nakba that followed the failed attempt to partition Palestine against the wishes of its indigenous Palestinian majority,²¹ approximately 6 million Palestinians are today registered with UNRWA, rendering them eligible for its core quasi-governmental services – education, health, and relief and social services – in Jordan, Lebanon, Syria, and the OPT.²² These core services, and the tens of thousands of Palestine refugees who themselves deliver them, form a key element of public order and the Palestinian social contract in the OPT. As noted by the General Assembly, UNRWA is a proven force of stability in the region.²³
15. In this respect, the General Assembly has described UNRWA’s mandate as one of “human development” for the Palestinian people, thereby directly linking it to the UN’s obligation to help the Palestinian people realize its right to self-determination, including in the OPT.²⁴ For this reason, after recognizing “the vital role of the Agency” in resolution 79/232, the General Assembly “[c]all[ed] upon Israel to uphold and comply with its obligations not to impede the Palestinian people from exercising its right to self-determination, *including by rescinding any measures that obstruct the provision of basic services and humanitarian and development assistance to the Palestinian people.*”²⁵

²¹ A/RES/302(IV). See generally, A. Imseis, *The United Nations and the Question of Palestine: Rule by Law and the Structure of International Legal Subalternity* (2023, Cambridge University Press), chapters 3 & 4.

²² See, the UNRWA website (<https://www.unrwa.org>) for a general restatement of the Agency’s mandate. For statistics on numbers of Palestine refugees, see *UNRWA Statistics Bulletin*, at: <https://www.unrwa.org/what-we-do/unrwa-statistics-bulletin>.

²³ A/RES/77/123, 12 December 2022.

²⁴ A/RES/79/88, para. 3.

²⁵ A/RES/77/232, para. 7 [emphasis added].

16. Israeli leaders have long publicly disavowed the Agency owing to the role it has played in discharging the UN's permanent responsibility for the question of Palestine. Despite availing itself of considerable material benefit of UNRWA operations in the OPT since 1967 (the costs of which are the legal obligation of the occupying Power under the law of belligerent occupation) Israeli leaders have never hidden their desire to do away with the Agency for political reasons going to Israel's blanket refusal to respect the Palestinian refugee's right of return, the existence of which has repeatedly been affirmed by the General Assembly since 1948.²⁶ For example, as far back as 1989 Israel's Permanent Representative to the United Nations, Gideon Yarden, stated that UNRWA was "a political tool to keep the Palestinian refugee problem alive".²⁷ More recently, on 27 January 2024, Israeli Foreign Minister Israel Katz said that Israel has adopted "a policy of ensuring that UNRWA will not be part of the day after" in Gaza, and that "UNRWA perpetuates the refugee issue".²⁸
17. But Israel's desire to do away with UNRWA is motivated also by its desire to exacerbate the apocalyptic humanitarian situation in the OPT, especially Gaza. Since October 2023, 273 UNRWA personnel have been killed,²⁹ and over two-thirds of UNRWA installations have been damaged or destroyed, by Israel.³⁰ Israel has cancelled visas for the Agency's international personnel – including its Commissioner-General, an Under-Secretary General of the United Nations – and

²⁶ A/RES/194 (III), para. 11.

²⁷ As quoted in Benjamin Schiff, *Refugees unto the Third Generation: UN Aid to Palestinians* (Syracuse University Press, 1995), page 182.

²⁸ https://x.com/israel_katz/status/1751153470617379008?s=12

²⁹ UNRWA Situation Report #158 on the Humanitarian Crisis in the Gaza Strip and the West Bank, including East Jerusalem, 7 February 2025 (<https://www.unrwa.org/resources/reports/unrwa-situation-report-158-situation-gaza-strip-and-west-bank-including-east-jerusalem>).

³⁰ Fifteen months on the war in Gaza, horrors continued unabated under the world's watch, statement by UNRWA Commissioner-General Philippe Lazzarini, 31 December 2024, available at: <https://www.unrwa.org/newsroom/official-statements/fifteen-months-war-gaza-horrors-continue-unabated-under-world%E2%80%99s-watch>.

severely limited access for its local personnel.³¹ To make matters worse, on 28 October 2024, the Israeli parliament passed two laws banning UNRWA from operating in Israel (including illegally annexed East Jerusalem) and the OPT.³² On the same day, both the Secretary-General and the Commissioner-General of UNRWA separately expressed their concern to the President of the General Assembly,³³ with the latter indicating that:

“Dismantling UNRWA will have a catastrophic impact on the international response to the humanitarian crisis in Gaza. It will also sabotage any chance of recovery. In the absence of a full-fledged public administration or state, no entity other than UNRWA can deliver education to 660,000 boys and girls. An entire generation of children will be sacrificed, with long-term risks of marginalization and extremism. In the West Bank, UNRWA’s collapse would deprive Palestine Refugees of access to education and primary healthcare, greatly worsening an already unstable situation.

The political ramifications of UNRWA’s collapse are disastrous, with dire consequences for international peace and security. The attacks on the Agency advance unilateral changes to the parameters of any future political solution to the Israel-Palestine conflict and harm Palestinians’ right to self-determination and aspirations for a political solution.”³⁴

18. It is self-evident that without the vital humanitarian and development support of the United Nations – most particularly UNRWA’s education, health, relief and social services – it is inconceivable that the Palestinian people would be able to mount – now or in the future – any effective and collective response to the ongoing violation of their right to self-determination. This includes their constituent rights to territorial integrity, their right to be protected against their dispersal and integrity

³¹ Report of the Commissioner General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East, 2015, A/70/13, para. 17 (<https://undocs.org/A/70/13>).

³² See *Law to Cease UNRWA Operations*; and *Law to Cease UNRWA Operations in Israel*. Unofficial English language translations of these laws are available in a Letter dated 9 December 2024 from the Secretary-General addressed to the President of the Security Council, UN Doc. S/2024/892.

³³ Letter dated 28 October 2024 from the Secretary-General to the President of the General Assembly A/79/558 (<https://docs.un.org/en/A/79/558>); Letter 28 October 2024 from UNRWA Commission-General Philippe Lazzarini to the President of the General Assembly, available at: https://www.unrwa.org/sites/default/files/content/resources/letter_from_unrwa_cg_plazzarini_to_president_of_the_ga_philemon_yang-28_oct_2024.pdf

³⁴ Letter 28 October 2024 from UNRWA Commission-General Philippe Lazzarini to the President of the General Assembly, *id.*

as a people, their right to exercise permanent sovereignty over their natural resources, and their right to freely determine their political status and pursue their economic, social and cultural development. The Court has already indicated that each of these constituent rights make up the right of a people to self-determination and are continually being violated by Israel through its illegal presence in the OPT.³⁵

19. For these reasons, in resolution 79/232 the General Assembly expressed its “appreciation” for the work of UNRWA, recognized “the vital role of the Agency in providing humanitarian and development assistance to the Palestinian people, notably Palestine refugees, and particularly in the Gaza Strip,” and endorsed “the efforts of the Agency to continue operations as far as possible in the Occupied Palestinian Territory, including East Jerusalem.”³⁶ Nevertheless, on 24 January 2025, the Israeli government informed the Secretary-General in writing that “UNRWA is required to cease its operations in Jerusalem, and evacuate all premises in which it operates in the city, no later than 30 January 2025.” This includes UNRWA Headquarters in the Sheikh Jarrah quarter of occupied East Jerusalem, the nerve-centre for Agency operations. According to UNRWA, “[t]he Government of Israel has stated publicly that the aim to vacate UNRWA premises in Sheikh Jarrah is to expand Israeli illegal settlements in occupied East Jerusalem”, signaling further Israel’s intention to advance its illegal annexation of the city.³⁷ As planned, the Israeli government has now unilaterally closed UNRWA Headquarters in occupied East Jerusalem. Among other things, this represents a clear and further violation by Israel of the prohibition on the acquisition of territory through force, and of the Palestinian people’s right to self-determination, given East Jerusalem is part of the OPT, the self-determination unit of the Palestinian people.

³⁵ *Israeli Policies*, *supra* note 6, paras. 236-242.

³⁶ A/RES/79/232, para. 5.

³⁷ UNRWA, “The government of Israel orders UNRWA to vacate its premises in occupied East Jerusalem and cease operations there”, 26 January 2025, available at: <https://www.unrwa.org/newsroom/official-statements/government-israel-orders-unrwa-vacate-its-premises-occupied-east>.

20. Likewise, a number of other international organizations, including intergovernmental and non-governmental organizations, such as the Organization of Islamic Cooperation, as well as many third States, operate in and in respect of the OPT in support of the Palestinian people's right to self-determination. These actors engage in humanitarian and development action in and in relation to the OPT at the invitation of the legitimate governmental representatives of the Palestinian people, as well as in accordance with their solemn *erga omnes* obligation to help the Palestinian people realize their inalienable right to self-determination. For decades, Israel has engaged in arbitrary destruction of essential civilian infrastructure erected with the assistance of other international organizations and/or third States, including donor-funded roads, schools, shelters, and water, sanitation, and hygiene facilities.³⁸ As noted by the Court in *Israeli Policies* case, these policies are illegal, expose Palestinians to risk of eviction and displacement, and are rooted in discrimination which ultimately violates their right to self-determination.³⁹ Therefore, to the extent that Israel's is blocking and frustrating other international organizations and/or third States in their work in and in relation to the OPT, Israel is in violation of its obligation not to impede the right of the Palestinian people to self-determination.

C. ISRAEL'S OBLIGATIONS UNDER INTERNATIONAL HUMANITARIAN LAW

21. In its *Israeli Policies* Advisory Opinion, the Court determined that although Israel's continued presence in the OPT is unlawful it remains an occupying Power in the territory and accordingly Israel is bound by other relevant international law,

³⁸ *Id.* See also United Nations Office for the Coordination of Humanitarian Affairs OPT, "Special Focus – Lack of Permit Demolitions and Displacement in Area C", 27 May 2008, available at: file:///Users/ardiimseis/Downloads/AA88760D49D5709485257456005F0D4E-Full_Report.pdf

³⁹ *Israeli Policies*, *supra* note 6, paras. 214-222.

including international humanitarian law (IHL) and its sub-component, the law of belligerent occupation.⁴⁰

“The Court emphasizes that the conclusion that Israel’s continued presence in the Occupied Palestinian Territory is illegal does not release it from its obligations and responsibilities under international law, particularly the law of occupation, towards the Palestinian population and towards other States in respect of the exercise of its powers in relation to the territory until such time as its presence is brought to an end.”⁴¹

22. Accordingly, the situation in the OPT continues to be governed by conventional and customary international humanitarian law, the “basic rules” of which amount to peremptory norms of international law according to the ILC.⁴² This law is codified in the 1907 *Hague Convention IV Respecting the Laws and Customs of War on Land*, with its annexed Regulations,⁴³ and the 1949 *Geneva Convention Relative to the Protection of Civilian Persons in Time of War*,⁴⁴ both of which apply to the OPT *in toto*.⁴⁵ It is also codified in various customary provisions of the *Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Civilian Victims of International Armed Conflicts of 8 June 1977*,⁴⁶ which bind Israel despite not being party to that treaty.⁴⁷

⁴⁰ *Israeli Policies*, *supra* note 6, para. 264.

⁴¹ *Id.*

⁴² See *Draft Conclusions on Identification and Legal Consequences of Peremptory Norms of General International Law (Jus Cogens)*, Report of the International Law Commission, 73rd Sess., 18 April-3 June & 4 July-5 August 2022, A/77/10, at para. 44, Annex, where, in addition to the “prohibition of aggression” and the “right of self-determination”, the “prohibition of racial discrimination and apartheid”, and “the prohibition of crimes against humanity”, the ILC lists “the basic rules of international humanitarian law” as *jus cogens* norms.

⁴³ *Convention Respecting the Laws and Customs of War on Land*, 18 October 1907, 36 Stat. 2277, 1 Bevans 631 (entered into force 26 January 1910), annex.

⁴⁴ *Geneva Convention Relative to the Protection of Civilian Persons in Time of War*, 12 August 1949, 75 UNTS 287 (entered into force 21 October 1950) [‘Fourth Geneva Convention’].

⁴⁵ *Wall*, *supra* note 10, paras. 89 & 101; *Israeli Policies*, *supra* note 6, para. 96.

⁴⁶ *Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Civilian Victims of International Armed Conflicts of 8 June 1977*, 1125 UNTS 3 [‘Additional Protocol I’].

⁴⁷ While Israel is not party to Additional Protocol I, Palestine acceded to it on 2 April 2014. In public statements of its Foreign Ministry and rulings of its Supreme Court, Israel has accepted that it is bound by the “customary provisions” of the Fourth Geneva Convention and the Additional Protocol I, albeit without identifying which provisions of those conventions qualify as customary international law. See *Public Committee Against Torture in Israel v. Government of Israel*, HCJ 769/02, 11 December 2005, para. 20. See also State of Israel, “The Operation in Gaza: 27 December 2008-18 January 2009, Factual and Legal

23. Among the wide array of specific and unconditional obligations Israel has under IHL, is its cardinal obligation “to respect” the terms of the Fourth Geneva Convention “in all circumstances”.⁴⁸ Likewise, Israel is bound refrain from imposing “collective penalties” and “all measures of intimidation” and “terrorism” against the Palestinian civilian population, including “reprisals against protected persons and their property”.⁴⁹ In addition, Israel is prohibited from using “starvation of civilians as a method of warfare”, including:

“to attack, destroy, remove or render useless objects indispensable to the survival of the civilian population, such as foodstuffs, agricultural areas for the production of foodstuffs, crops, livestock, drinking water installations and supplies and irrigation works, for the specific purpose of denying them for their sustenance value to the civilian population or to the adverse Party, whatever the motive, whether in order to starve out civilians, to cause them to move away, or for any other motive”.⁵⁰

24. Other specific obligations of Israel include Article 55 of the Fourth Geneva Convention, which requires it, “to the fullest extent of the means available to it”, to ensure “the food and medical supplies of the population” and to “bring in the necessary foodstuffs, medical stores and other articles if the resources of the occupied territory are inadequate.”⁵¹ Likewise, Article 56 of the Fourth Geneva Convention obligates Israel, again “to the fullest extent of the means available to it”, to ensure and maintain:

“with the cooperation of national and local authorities, the medical and hospital establishments and services, public health and hygiene in the occupied territory, with particular reference to the adoption and application of the prophylactic and

Aspects (Ministry of Foreign Affairs), July 2009, para. 31, available at: file:///Users/ardiimseis/Downloads/328BEEB07B5F3153492576030007E157-Full_Report.pdf.

⁴⁸ Fourth Geneva Convention, *supra* note 44, art. 1.

⁴⁹ *Id.*, art. 33.

⁵⁰ Additional Protocol I, *supra* note 46, art. 54(1) & (2). This is also prohibited as a matter of international custom. See J. Henckaerts, & L. Doswald-Beck, *Customary International Humanitarian Law, Volume I: Rules* (ICRC, 2005), Rules 53 & 54.

⁵¹ Fourth Geneva Convention, *supra* note 44, art. 55.

preventive measures necessary to combat the spread of contagious diseases and epidemics. Medical personnel of all categories shall be allowed to carry out their duties.”⁵²

25. Finally, and with particular relevance to the role of third parties in and in relation to the OPT, Article 59 of the Fourth Geneva Convention provides that, “[i]f 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.”⁵³ This includes “the provision of consignments of foodstuffs, medical supplies and clothing” from third parties.⁵⁴ Article 59 further provides that such relief schemes “may be undertaken either by States or by impartial humanitarian organizations such as the International Committee of the Red Cross” (ICRC).⁵⁵ The authoritative ICRC commentary on the Fourth Geneva Convention notes that this provision is “general enough to cover any institutions or organizations capable of acting effectively and worthy of trust”⁵⁶. There is no question, therefore, that this includes the United Nations, its agencies and bodies, other international organizations, and third States as contemplated by the question before the Court. As a result, Israel has a positive obligation, as an occupying Power, to accept and facilitate provision of the relief offered by these third parties, including UNRWA.⁵⁷
26. Of note, each of the above applicable provisions of IHL is absolute in character, applies at all times, and does not admit of any consideration or exception for reasons of purported “security”, “necessity”, “military security”, “military necessity”, or otherwise, as these terms do not appear in the relevant treaty provisions in issue.

⁵² *Id.*, art. 56.

⁵³ *Id.*, art. 59.

⁵⁴ According to the authoritative International Committee of the Red Cross commentary on Article 59 of the Fourth Geneva Convention, this is a non-exhaustive list of items. See J. Pictet, *Commentary: IV Geneva Convention Relative to the Protection of Civilian Persons in Time of War* (ICRC, 1958), p. 321.

⁵⁵ Fourth Geneva Convention, *supra* note 44, art. 59.

⁵⁶ *Id.*

⁵⁷ Of note, as per Article 60 of the Fourth Geneva Convention, *supra* note 44, “[r]elief consignments shall in no way relieve the Occupying Power of any of its responsibilities under Articles 55, 56, and 59”.

27. Notwithstanding Israel's clear legal obligations under IHL as set out above, it continues to actively violate these obligations with reckless abandon. This has particularly been the case in the Gaza Strip over the past 16 months. On 9 October 2023, Israel imposed a "complete siege" on that territory, declaring there would be "no electricity, no water, no food, no fuel. We are fighting human animals, and we act accordingly".⁵⁸
28. In response, and after thousands of Palestinians had been killed, injured and forcibly transferred by Israel, including through its "complete siege" on Gaza, on 23 December 2023 the Security Council "[r]ecogniz[ed] that the civilian population in the Gaza Strip must have access to sufficient quantities of assistance that they need, including enough food, water, sanitation, electricity, telecommunications and medical services essential for their survival."⁵⁹ To this end, the Council "[r]eaffirm[ed] the obligations of the parties to the conflict under international humanitarian law regarding the provision of humanitarian assistance, demand[ed] that they allow, facilitate and enable the immediate, safe and unhindered delivery of humanitarian assistance at scale directly to the Palestinian civilian population throughout the Gaza Strip, and in this regard call[ed] for urgent steps to immediately allow safe, unhindered, and expanded humanitarian access and to create the conditions for a sustainable cessation of hostilities."⁶⁰ Israel has remained in violation of this resolution.
29. For its part, as early as 27 October 2023, the General Assembly "demand[ed] the immediate, continuous, sufficient and unhindered provision of essential goods and services to civilians throughout the Gaza Strip, including but not limited to water, food, medical supplies, fuel and electricity, stressing the imperative, under international humanitarian law, of ensuring that civilians are not deprived of

⁵⁸ "We are fighting human animals" said Israeli Defence Minister Yoav Gallant, *Youtube* (<https://www.youtube.com/watch?v=ZbPdR3E4hCk>).

⁵⁹ S/RES/ 2720 (2023), 23 December 2023.

⁶⁰ S/RES/2720 (2023), 23 December 2023.

objects indispensable to their survival.”⁶¹ Israel has remained in violation of this resolution.

30. As noted above, following its 26 January 2024 Provisional Measures Order in *South Africa v. Israel*, in which the Court determined that the right of the Palestinians in Gaza to be protected from certain acts of genocide and related prohibited acts is plausible,⁶² the Court subsequently issued two further Provisional Measures Orders both of which remain breached by Israel. The Court’s 28 March 2024 Order determined that Israel “[t]ake all necessary and effective measures to ensure, without delay, *in full co-operation with the United Nations*, the unhindered provision at scale by all concerned of urgently needed basic services and humanitarian assistance, including food, water, electricity, fuel, shelter, clothing, hygiene and sanitation requirements, as well as medical supplies and medical care to Palestinians throughout Gaza.”⁶³ Likewise, its 24 May 2024 Order noted “that the catastrophic humanitarian situation in the Gaza Strip which, as stated in its Order of 26 January 2024, was at serious risk of deteriorating, has deteriorated, and has done so even further since the Court adopted its Order of 28 March 2024 ... and that the humanitarian situation is now to be characterized as disastrous.”⁶⁴
31. In June 2024, Israel’s violations of international law, including IHL, had become so drastic that the United Nations Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel, determined that “Israel has weaponized the withholding of life-sustaining necessities, specifically by cutting off supplies of water, food, electricity, fuel and other essential supplies, including humanitarian assistance.”⁶⁵

⁶¹ A/RES/ES-10/21, 27 October 2023.

⁶² *Infra*, para. 7.

⁶³ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)*, Order of 28 March 2024, para. 51(2)(a) [emphasis added].

⁶⁴ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)*, Order of 24 May 2024, para. 28.

⁶⁵ Report of the Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel, 14 June 2024, A/HRC/56/26, para. 102 (<https://undocs.org/en/A/HRC/56/26>).

32. Israel has since continued its brazen violation of its international legal obligations, including under IHL, in respect of the OPT. This has resulted in arrest warrants for war crimes and crimes against humanity being issued in November 2024 by the International Criminal Court (ICC) against Israeli Prime Minister, Benjamin Netanyahu, and former Israeli Minister of Defence Yoav Gallant.⁶⁶
33. Rather than protecting the Palestinian civilian population from “all acts of violence or threats thereof” and which it is bound to do “in all circumstances” as an occupying Power,⁶⁷ Israel has publicly and egregiously intensified its course of action. Rather than facilitating relief schemes offered by third parties, including UNRWA, which as noted above has been described by the Secretary-General as the “backbone” of the United Nations humanitarian relief operations in the OPT, including Gaza, Israel has unilaterally closed its operations in the OPT.⁶⁸ No Palestinian civilian or civilian object has been left spared by the occupying Power, whether refugees or their shelters, parents or their dwellings, children or their schools, congregants or their mosques/churches, and healthcare personnel or their medical establishments.

D. ISRAEL’S OBLIGATIONS AS A MEMBER OF THE UNITED NATIONS

34. As a Member of the United Nations, Israel is bound by the UN Charter.

⁶⁶ Press Release, “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 November 2024 (<https://www.icc-cpi.int/news/situation-state-palestine-icc-pre-trial-chamber-i-rejects-state-israels-challenges>).

⁶⁷ Fourth Geneva Convention, *supra* note 44, art. 27.

⁶⁸ *See Infra*, paras. 14-19.

35. Article 2(2) of the UN Charter provides that “[a]ll Members...shall fulfill in good faith the obligations assumed by them in accordance with the present Charter”.⁶⁹ Israel expressly acknowledged that it is bound by this solemn principle in its declaration given upon admission into the Organization on 11 May 1949 in which it stated that it “unreservedly accepts the obligations of the United Nations Charter and undertakes to honour them from the day when it becomes a member of the United Nations.”⁷⁰
36. Among the obligations accepted by Israel is Article 2(5) of the UN Charter, which provides that all Member States undertake and are bound “to give the United Nations every assistance in any action taken in accordance with the Charter”.⁷¹ Likewise, under Article 100(2) of the UN Charter, all Member States, including Israel, are bound “to respect the exclusively international character of the responsibilities of the Secretary-General and the staff and not seek to influence them in the discharge of their responsibilities.”⁷² Relatedly, Article 105 of the UN Charter provides that “[t]he Organization shall enjoy in the territory of each of its members such privileges and immunities as are necessary for the fulfillment of its purposes.”⁷³
37. In its Advisory Opinion in *Reparations for Injury in Service of the United Nations*, the Court indicated:

“...that the effective working of the Organization – the accomplishment of its task, and the independence and effectiveness of its agents – require that these undertakings should be strictly observed. For that purpose, it is necessary that, when an infringement occurs, the Organization should be able to call upon the

⁶⁹ UN Charter, art. 2(2). The principle of good faith is a general principle of general international law. See *Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations*, A/RES/2625 (XXV).

⁷⁰ General Assembly, Resolution 273 (III), 11 May 1949, preamble (footnote omitted). See also Letter dated 29 November 1948 from Israel’s Foreign Minister to the Secretary-General, S/1093, Annex.

⁷¹ UN Charter, art. 2(5).

⁷² UN Charter, art. 100(2).

⁷³ UN Charter, art. 105.

responsible State to remedy its default, and, in particular, to obtain from the State reparation for the damage that the default may have caused to its agent.”⁷⁴

38. Israel is in clear default of its obligations as a Member State of the United Nations, including in relation to the presence and activities of the United Nations, its agencies and bodies, other international organizations and third States, in and in relation to the OPT. While this Submission cannot cover all the ways Israel has done this, this section will briefly examine Israel’s violations of the independence and the privileges and immunities of the United Nations, with specific reference to UNRWA and the safety and security of its personnel.
39. UNRWA has been operational in the OPT since May 1950. As a subsidiary organ of the General Assembly, UNRWA enjoys the full range of privileges and immunities accorded to it and its Officials by Article 105 of the UN Charter and the 1946 Convention on the Privileges and Immunities of the United Nations (‘General Convention’).⁷⁵
40. Article II, section 3 of the General Convention provides that:

“the premises of the United Nations shall be inviolable. The property and assets of the United Nations, wherever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation, and any other interference, whether by executive, administrative, judicial or legislative action.”⁷⁶

This obligation is absolute and applies at all times.

41. Pursuant to the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents of 1973, to which

⁷⁴ *Reparation for Injuries Suffered in the Service of the United Nations*, Advisory Opinion, *I.C.J. Reports 1949*, p. 183.

⁷⁵ Convention on the Privileges and Immunities of the United Nations, 13 February 1946 (‘General Convention’). Israel acceded to the Convention on 21 September 1949.

⁷⁶ *Id.*, Art. II, section 3.

the State of Israel has acceded,⁷⁷ “representatives or officials or other agents of international organisations of an intergovernmental character”, are entitled to “special protection”.⁷⁸ This includes protection against: “murder...or other attack upon the person or liberty of an internationally protected person”,⁷⁹ and “a violent attack upon the...private accommodation or the means of transport of an internationally protected person”.⁸⁰ UNRWA personnel qualify as “internationally protected persons” under the 1973 Convention.⁸¹

42. In addition to the UN Charter, relevant General Assembly resolutions, the General Convention, and the 1973 Convention, the legal authority and regulatory framework governing UNRWA’s presence and the safety and security of its personnel in the OPT consists of a number of bilateral agreements. Foremost of these are three agreements between the Agency and the legitimate governmental representatives of the Palestinian people, dated 1994, 1996, and 2011 respectively.⁸² These were preceded by a number of other bilateral instruments governing the Agency’s presence in the OPT, first by Egypt and Jordan, in 1950 and 1952 respectively,⁸³ and then by Israel following the onset of its occupation in June 1967 (‘Comay-Michelmores Exchange of Letters’).⁸⁴ Given Israel is neither

⁷⁷ Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, 14 December 1973, *UNTS*, Vol. 1035, p. 167 (‘1973 Convention’). Israel acceded on 31 July 1980. The State of Palestine acceded on 2 January 2015.

⁷⁸ *Id.*, art. 1(1)(b).

⁷⁹ *Id.*, art. 2(1)(a).

⁸⁰ *Id.*, art. 2(1)(b).

⁸¹ See the definition of an internationally protected person under the 1973 Convention, *id.*, at art. 1(1)(b).

⁸² See, *Exchange of Letters between the Palestine Liberation Organization and the United Nations Relief and Works Agency for Palestine Refugees in the Near East*, 1994; *Agreement between the United Nations Relief and Works Agency for Palestine Refugees in the Near East and the Palestinian Authority Regarding the Location of UNRWA Headquarters in the West Bank and Gaza Strip Area*, 1996; *Explanatory Note Key Privileges and Immunities of UNRWA and Related Responsibilities and Standard Operating Procedures of UNRWA and the Palestinian Authority*, 2011.

⁸³ See, *Agreement between the Government of the Kingdom of Egypt and the United Nations Relief and Works Agency for Palestine Refugees in the Near East*, 1950, 1630 *UNTS* 107; *Agreement between the Government of the Hashemite Kingdom of Jordan and the United Nations Relief and Works Agency for Palestine Refugees in the Near East (with Related Letter)*, 1951, 394 *UNTS* 277.

⁸⁴ *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*, 1967, 8955 *UNTS* 183.

sovereign nor lawfully present in the OPT, and given the Palestinian people are the sole sovereign in that territory and their legitimate governmental representatives have consented to the continued presence of UNRWA in it, Israel is bound to maintain and facilitate that presence in line with its obligation to respect the right of the Palestinian people to self-determination, in addition to its obligation to do so under the law of belligerent occupation, and as a Member of the United Nations.

43. In brief, Israel's violations of its obligations as a Member of the United Nations as referenced above cover at least the following four areas:
44. First, through its passage of domestic legislation abrogating the Comay-Micheltmore Exchange of Letters and purporting to unilaterally outlaw UNRWA from operating in Israel (including illegally annexed East Jerusalem) and the OPT,⁸⁵ Israel has violated Article VIII, section 34 of the General Convention, which provides that "when an instrument of accession is deposited on behalf of any Member, the Member will be in a position under its own law to give effect to the terms of this convention."⁸⁶ By abrogating the Comay-Micheltmore Exchange of Letters through its passage of domestic legislation, Israel has not in any way absolved itself of its obligations under the General Convention. As noted by the United Nations Office of Legal Affairs in a letter to the Government of the State of Israel dated 18 February 2025, "[t]he internal law of Israel does not alter the international legal obligations of Israel under the General Convention nor can it provide any justification for their breach."⁸⁷
45. Second, as noted above, during the course of its aggression on the Gaza Strip since October 2023, over two-thirds of UNRWA installations have been damaged or destroyed, by Israel in violation of Israel's obligations under Article II, section 3

⁸⁵ See *infra* para. 17.

⁸⁶ General Convention, *supra* note 75, art. VIII, section 34.

⁸⁷ Letter from the United Nations Office of Legal Affairs to the Ministry of Foreign Affairs of Israel, 18 February 2025, Ref: 2024-OLC-000675.

of the General Convention.⁸⁸ As a result, in its referral resolution in this case, the General Assembly has demanded that Israel:

“respect the mandate of the Agency and its privileges and immunities and act forthwith to enable its operations to proceed without impediment or restriction in the Gaza Strip and the West Bank, including East Jerusalem, including, inter alia, to allow and facilitate full, rapid, safe and unhindered humanitarian assistance in all its form into and throughout the entire Gaza Strip in accordance with the mandate of the Agency and to alleviate the humanitarian catastrophe”⁸⁹.

46. Despite the unprecedented events now unfolding in the OPT, this is frustratingly not new. Israel’s serial disrespect for UNRWA operations in the OPT has resulted in the General Assembly having to repeatedly call upon Israel to comply with its obligations, including to: “respect the privileges and immunities of the Agency”; “to ensure ...the protection of Agency installations and the safeguarding of the security of its facilities in the Occupied Palestinian Territory, including East Jerusalem at all times”; “to cease obstructing the movement and access of the staff, vehicles and supplies of the Agency”; and to compensate UNRWA for “damages to its property and facilities resulting from actions by the Israeli side”.⁹⁰
47. Third, as noted above, the horrors unfolding in the Gaza Strip since October 2023 have also resulted in the killing by Israel of at least 273 UNRWA personnel in violation of the 1973 Convention.⁹¹ As noted by the Secretary-General, “[t]his is the highest death toll [of United Nations personnel] in UN history”.⁹² Thus, in both

⁸⁸ See *infra* para. 17.

⁸⁹ A/RES/79/232, para. 12.

⁹⁰ See, for example, A/RES/56/56, 14 February 2002, preamble and paras. 6-8; A/RES/57/121, 24 February 2003, preamble and paras. 7-9; A/RES/58/93, 17 December 2003, preamble and paras. 8-9; A/RES/59/119, 15 December 2004, preamble and paras. 10-11; A/RES/60/102, 16 January 2006, preamble and paras. 7-11; A/RES/61/114, 14 December 2006, preamble and paras. 10-11; A/RES/62/104, 10 January 2008, preamble and paras. 11-12; A/RES/69/88, 16 December 2014, preamble and para. 20; A/RES/79/88, 12 December 2024, preamble; A/RES/79/141, 12 December 2024, preamble; A/RES/ES-10/25, 16 December 2024, paras. 14 and 31.

⁹¹ See *infra* para. 17.

⁹² The Secretary-General’s remark was made when the number of UNRWA personnel killed by Israel had reached only 222. See Secretary-General Remarks at High Level Ministerial Meeting in Support of the United Nations Relief and Works Agency for Palestine Refugees in the Near East, 27 September 2024, available at: <https://www.unrwa.org/newsroom/official-statements/secretary-general-remarks-high-level-ministerial-meeting-support-UNRWA>.

resolution ES-10/25 and the referral resolution in this case 79/232, the General Assembly called on Israel “to abide by the Charter of the United Nations and the Convention on the Privileges and Immunities of the United Nations in order to ensure the safety of the personnel of the United Nations.”⁹³ Again, despite the exponentially larger scale and scope of killing occasioned by Israeli aggression since October 2023, the General Assembly has repeatedly condemned Israel’s “killing” and “injury” of United Nations personnel over the years.⁹⁴

48. Fourth, by attempting to destroy UNRWA operations in the OPT and possibly seek to have some of its functions transferred to other organizations, whether affiliated with the United Nations or not, Israel would be violating its obligations under Articles 2(2), 2(5), and 100(2) of the UN Charter. Owing to the independent legal personality of the United Nations, Israel is not at liberty to unilaterally determine which UN bodies it allows to enter and operate in the OPT, not least those (such as UNRWA) that had an established presence and mandate to operate in the territory prior to Israel’s entry into it in 1967. As noted, UNRWA is a subsidiary organ of the General Assembly. Any change in its mandate can therefore only be effected by act of the General Assembly, whose powers and authority may not be usurped by a single Member State, including Israel. By attempting to ban UNRWA from the OPT and possibly replace it with another organization, Israel is operating *ultra vires* and in manifest violation of its obligation to respect the independence of the United Nations, and the “exclusively international character of the Secretary-General and the staff” while refraining from “seek[ing] to influence them in the discharge of their responsibilities.”

⁹³ A/RES/ES-10/25, 16 December 2024, para. 14; A/RES/79/232, 19 December 2024, para. 8.

⁹⁴ A/RES/59/119, 15 December 2004, preamble; A/RES/63/93, 18 December 2008, preamble; A/RES/60/102, 16 January 2006, preamble; A/RES/61/114, 14 December 2006, preamble; A/RES/62/104, 10 January 2008, preamble; A/RES/68/78, 16 December 2013, preamble; A/RES/69/88, 16 December 2014, preamble; A/RES/77/122, 15 December 2022, preamble; A/RES/ES-10/25, 16 December 2024, preamble.

E. LEGAL CONSEQUENCES

49. As a consequence of Israel's serious breaches of its obligations as both an occupying Power and a member of the United Nations in the OPT, including obligations of *jus cogens* and *erga omnes* character, and until Israel withdraws its illegal presence from the OPT as it is required to do by 18 September 2025⁹⁵ and by this Court's Advisory Opinion of 19 July 2024,⁹⁶ Israel is bound:

- a. To immediately and unconditionally cease its internationally wrongful acts, including interference in any way with the presence and activities of the United Nations, including its agencies and bodies, in particular UNRWA, other international organizations and third States, in and in relation to the OPT, 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 population, and in support of the Palestinian people's right to self-determination.
- b. To provide assurances and guarantees of non-repetition of the above-mentioned violations;
- c. To make full reparation of the injury caused by, and to wipe out all the consequences of its violations of international law in the OPT, including East Jerusalem, to the State of Palestine and its nationals, the United Nations, including its agencies and bodies, other international organizations, and third States.

⁹⁵ A/RES/ES-10/24, para. 2.

⁹⁶ *Israeli Policies*, *supra* note 6, para. 285.

50. All States and the United Nations, are bound:

- d. Not to recognize the illegal situation resulting from Israel's serious breaches of obligations of *jus cogens* and *erga omnes* character, including its continued violation of the right of the Palestinian people to self-determination, its violation of its obligation not to impede third parties, including the United Nations, its agencies and bodies, other international organizations and third States, from discharging their own obligations to support and assist the Palestinian people in the early realization of its right to self-determination, and its violations of fundamental rules of international humanitarian law in the OPT.
- e. Not to aid or assist in Israel's above-noted violations of international law; and
- f. To cooperate to put an end to Israel's violations of its international legal obligations.

Respectfully submitted,

28 February 2025