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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 UNION OF THE COMOROS

28 February 202[5]

[Translation by the Registry]

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I. PRELIMINARY OBSERVATIONS

1. On 19 December 2024, the General Assembly of the United Nations adopted resolution A/RES/79/232 on the “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 its resolution the Assembly decided, in accordance with Article 96 of the Charter of the United Nations and pursuant to Article 65 of the Statute of the Court, to request the International Court of Justice (hereinafter “the Court”) to render, “on a priority basis and with the utmost urgency”, 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, in which the Court reaffirmed the duty of an occupying Power to administer occupied territory for the benefit of the local population and affirmed that Israel is not entitled to sovereignty over or to exercise sovereign powers in any part of the Occupied Palestinian Territory on account of its occupation:

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

2. By an Order dated 23 December 2024, the Court held that: “the United Nations and its Member States, as well as the observer State of Palestine, are 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”.

3. The Court fixed 28 February 202[5] as the time-limit within which written statements on the question could be presented to it. The Union of the Comoros wishes to avail itself of this possibility and, in accordance with the established time-limits and procedures, presents the following statement to the Court.

4. The Union of the Comoros has ceaselessly supported the efforts deployed on all sides to reach a fair and lasting solution to the Palestinian situation. Historically it has been steadfastly committed to the realization of the Palestinian people’s right to self-determination, including its right to an independent and sovereign State inside secure borders recognized by international law. In this regard, the Union of the Comoros would point out that it was one of the Member States of the United Nations that voted for resolution A/RES/79/232 requesting an advisory opinion of the Court, which was adopted by a large majority by the General Assembly¹.

¹ Resolution A/RES/79/232 was adopted by 137 votes to 12, with 22 abstentions.

5. The Union of the Comoros takes great pride in what it regards as its essential duty of assisting the Court in carrying out its advisory function. In these preliminary remarks it will first describe the general context of the present advisory proceedings (A), before going on to examine the jurisdiction of the Court and the exercise of its discretionary power to give an advisory opinion (B).

A. The context of the present advisory proceedings

6. The situation that the Court is called upon to examine in response to the question put by the General Assembly concerns the Palestinian territory occupied by Israel since 1967, including East Jerusalem. Since this situation has been evolving over many years, it can only be legally examined and characterized in the light of all the past events.

7. The historical context of the situation in Palestine was accurately summarized by the Court in its Advisory Opinions on the *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*² and the *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*³, rendered on 9 July 2004 and 19 July 2024, respectively. The subject of this request made by the General Assembly is far more specific and circumscribed.

8. The recent acts committed by Israel with regard to the Occupied Palestinian Territory do nothing but confirm the urgency of the situation and the importance of the present proceedings. In particular, two laws enacted on 28 October 2024 by the Israeli Knesset led the Secretary-General of the United Nations to refer them urgently to the General Assembly, in order to draw attention to the fact that their implementation could prevent the United Nations Relief and Works Agency for Palestine Refugees in the Near East (hereinafter “UNRWA” or “the Agency”) from carrying out its essential activities in the Occupied Palestinian Territory, including East Jerusalem⁴.

9. Account must also be taken of the catastrophic humanitarian consequences facing civilian populations in the current situation of armed conflict. In the ongoing case concerning *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)*, the Court noted in its Order indicating provisional measures of January 2024 that the military operation conducted by Israel following the attack of 7 October 2023 had resulted in “a large number of deaths and injuries, as well as the massive destruction of homes, the forcible displacement of the vast majority of the population, and extensive damage to civilian infrastructure”⁵.

10. In the following sections, the Union of the Comoros will therefore restrict itself to giving a brief overview of the context as it stands, taking account, above all, of the Court’s jurisprudence

² See *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. See also United Nations, “Origins and Evolution of the Palestine Problem: 1917-1947 (Part I)”, accessible at <https://www.un.org/unispal/history2/origins-and-evolution-of-the-palestine-problem/part-i-1917-1947/>.

³ *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. 50-71.

⁴ Secretary-General of the United Nations, Letter dated 28 October 2024, addressed to the President of the General Assembly by the Secretary-General, 29 Oct. 2024, A/79/558.

⁵ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)*, Provisional Measures, Order of 26 January 2024, para. 46.

regarding the Palestinian situation and of the most recent events relating to the United Nations presence and activities on Palestinian territory, in particular those of UNRWA.

1. Palestine continues to be a territory occupied by Israel under international law

11. In its 2004 Advisory Opinion on the *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, the Court confirmed that, according to international law, “[t]he territories situated between the Green Line . . . and the former eastern boundary of Palestine under the Mandate . . . (including East Jerusalem) remain occupied territories and Israel has continued to have the status of occupying Power”⁶.

12. That situation remains unchanged in February 2025. No progress has been achieved since the Court delivered its 2004 Advisory Opinion or its most recent Opinion in 2024. If anything, the situation appears to be worsening. Israel’s prolonged occupation of the Palestinian territory is accompanied by numerous policies and practices that have serious repercussions for the demographic composition, character and status of the Occupied Palestinian Territory as a whole and for the living conditions of Palestinians⁷.

13. Israel’s legal obligations under international law as an occupying Power will be set out below⁸, with emphasis on the most relevant for the purposes of the present advisory proceedings. Nevertheless, it is important at this stage to recall the Court’s findings in its 2024 Advisory Opinion on *Israel’s policies and practices*:

“In view of the character and importance of the obligations *erga omnes* involved in the illegal presence of Israel in the Occupied Palestinian Territory, the obligation not to recognize as legal the situation arising from the unlawful presence of Israel in the Occupied Palestinian Territory and the obligation to distinguish in their dealings with Israel between the territory of Israel and the Occupied Palestinian Territory apply also to the United Nations.”⁹

2. The catastrophic humanitarian situation in the Occupied Palestinian Territories

14. While it is impossible to paint a complete picture of the situation in Gaza and the occupied West Bank, the Union of the Comoros recalls that the Palestinian people, in the Gaza Strip and the West Bank, has been undergoing an unprecedented humanitarian crisis. According to the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967:

“Since 7 October 2023, the decimation of Palestinian human life has been swift and extensive. Amid mass killings, eradication of family lines, large-scale targeting of children and torture, the occupied Palestinian territory is being intentionally rendered

⁶ *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.

⁷ See UNGA resolution 77/126, Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and the occupied Syrian Golan, 12 Dec. 2022, A/RES/77/126; UNGA resolution 77/247, Israeli practices affecting the human rights of the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem, 30 Dec. 2022, A/RES/77/247; UNSC resolution 2334 (2016), 23 Dec. 2016, S/RES/2334 (2016); Human Rights Council resolution 49/4, Human rights situation in the Occupied Palestinian Territory, including East Jerusalem, and the obligation to ensure accountability and justice, 11 Apr. 2022, A/HRC/RES/49/4.

⁸ See below, paras. 50 *et seq.*

⁹ *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. 280.

unliveable — one home, school, church, mosque, hospital, neighbourhood, community, at a time. Spreading from Gaza to the West Bank, calculated destruction reveals a deliberate campaign of connected incidents, which must be considered cumulatively.”¹⁰

15. The intensified military operations conducted by Israel have led to the mass destruction of infrastructure, with more than half the residential buildings in Gaza damaged or destroyed. Healthcare establishments have not escaped. According to the Special Rapporteur:

“Israel has continued to use ‘medical shielding’ arguments to target healthcare facilities. According to the World Health Organization (WHO), in 300 days, 32 out of 36 hospitals were damaged, with 20 hospitals and 70 out of 119 primary healthcare centres incapacitated. By 20 August, Israel had attacked healthcare facilities 492 times. From 18 March to 1 April, Israeli forces again laid siege to Al-Shifa Hospital, killing more than 400 and detaining 300 people, including doctors, patients, displaced persons and civil servants. On 26 August, following mass expulsion orders in Deir al-Balah, where 1 million Palestinians were sheltering, Israeli forces compelled the evacuation of all but 100 of 650 patients in Al-Aqsa hospital. On 30 August, Israeli forces bombed a humanitarian truck bound for the Emirati hospital in Rafah, killing several aid workers.”¹¹

16. This situation has been exacerbated by a rigorous blockade, leading to critical shortages of food, drinking water and medicine, and plunging the population into acute food insecurity¹². Moreover, the health situation is catastrophic, as the environment is contaminated by millions of tons of debris, including unexploded ordnance and human remains¹³. As the Special Rapporteur pointed out: “More than 140 temporary waste sites and 340,000 tons of waste, untreated wastewater and sewage overflow contribute to the spread of diseases such as hepatitis A, respiratory infections, diarrhoea and skin diseases. As Israeli leaders promised, Gaza has been made unfit for human life.”¹⁴

17. The Union of the Comoros draws the Court’s attention to the fact that 90 per cent of the population of Gaza has been forcibly displaced since October 2023, in “one of the fastest mass displacements in history”¹⁵, and that the population has undergone successive displacements, in some cases more than ten times in less than a year¹⁶.

18. In the West Bank, the economy is paralysed by restrictions and increased violence, bringing about an alarming rise in poverty. In this regard, the Special Rapporteur emphasized that: “[g]enocidal conduct in Gaza set an ominous precedent for the West Bank. The deliberate strategy

¹⁰ Situation of human rights in the Palestinian territories occupied since 1967, report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, Francesca Albanese — Genocide as colonial erasure, in accordance with Human Rights Council resolution 5/1, 1 Oct. 2024, A/79/384, para. 62.

¹¹ *Ibid.*, para. 18.

¹² *Ibid.*, para. 64.

¹³ *Ibid.*, para. 15.

¹⁴ *Ibid.*, para. 15.

¹⁵ *Ibid.*, para. 9.

¹⁶ *Ibid.*, para. 9.

of Israel to render Palestinian life unsustainable has markedly intensified everywhere in the occupied Palestinian territory, with devastating consequences for Palestinian survival.”¹⁷

19. In this context, and in view of the fact that the Court considered there to be “a real and imminent risk that irreparable prejudice will be caused to the rights found by the Court to be plausible”¹⁸, namely the right of the Palestinians in Gaza to be protected from acts of genocide and the related prohibited acts identified in Article III of the Genocide Convention, it is quite clear that the presence and activities of the United Nations, its agencies and bodies, other international organizations and third States of goodwill are crucial for the survival of the Palestinian people.

3. The crucial role played by the United Nations, its agencies and bodies

20. The United Nations plays a crucial role in Palestine through the actions of several bodies and initiatives, above all to meet the fundamental needs of the Palestinian people and to co-ordinate humanitarian assistance.

21. The Office of the United Nations High Commissioner for Human Rights (hereinafter “the OHCHR”) is the agency mandated to monitor and report publicly on the human rights situation in the Occupied Palestinian Territory¹⁹. Its main office is in Ramallah in the West Bank and it has subsidiary offices in Gaza, East Jerusalem and Al-Khalil (Hebron). It closely follows developments concerning the Israeli settlements and publishes regular reports addressed to the Human Rights Council and the General Assembly of the United Nations. In its operations, the OHCHR is guided by the principles of international human rights law and international humanitarian law²⁰, while respect for human dignity and non-discrimination lies at the core of its work²¹. The OHCHR is involved in the whole spectrum of United Nations engagement in Palestine, from peace and security and humanitarian response to the development agenda²². It is also responsible for co-ordinating humanitarian protection efforts through the Humanitarian Protection Cluster, under the leadership of the Humanitarian Coordinator, and works in partnership with the Israeli and Palestinian authorities, local and international NGOs and human rights bodies in support of the victims of human rights violations²³.

22. At the same time, the United Nations Office for the Coordination of Humanitarian Affairs (hereinafter “the OCHA”) plays a key role in the management of humanitarian aid. Present in Palestine since 2002, it has its head office in East Jerusalem, with subsidiary offices in Gaza and in several towns and cities in the West Bank. The aim of its work is to fulfil five core functions: co-ordination of humanitarian action, mobilization of financing, framing of humanitarian policy, advocacy for respect of humanitarian law and information management to inform the optimal

¹⁷ *Ibid.*, para. 34.

¹⁸ See *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)*, *Provisional Measures*, Order of 26 January 2024, p. 22, para. 74.

¹⁹ See OHCHR, “The OHCHR in State of Palestine”, <https://www.ohchr.org/en/countries/palestine/our-presence>, consulted on 27 Feb. 202[5].

²⁰ OHCHR, “OHCHR and protecting human rights in humanitarian crises”, <https://www.ohchr.org/en/humanitarian-crises>, consulted on 27 Feb. 202[5]. See also OHCHR, “The OHCHR in State of Palestine”.

²¹ *Ibid.*

²² *Ibid.*

²³ *Ibid.*

response to crises²⁴. The work done by the OCHA is part of a global approach designed to guarantee access to aid and protection for the most vulnerable communities, while defending respect for international humanitarian law and raising the international community's awareness of the situation in Palestine²⁵.

23. Another of the specialized agencies of the United Nations working in Palestine, the World Health Organization (WHO) has an office for the West Bank and Gaza which supports the Palestinian Ministry of Health and its partners in improving the well-being of Palestinians, with the aim of providing universal health coverage, ensuring that nobody is overlooked²⁶. It advises the Ministry of Health on strengthening health services, with emphasis on primary health care, and is helping it to frame and implement a national health policy based on equality and sustainability²⁷. In addition, the WHO plays a key role in preparing for health emergencies and defends the right to health²⁸. Its action prioritizes the most vulnerable populations in the West Bank and Gaza. Against a background of sustained occupation and a growing humanitarian crisis, the WHO plays a central role in the response to urgent healthcare needs²⁹. It also promotes a multidisciplinary approach taking into account the social determinants of health, such as water and sanitation, food and nutrition, housing, education and social protection³⁰. Present in the Occupied Palestinian Territory since 1994, the WHO currently has about 60 employees at three offices located in Jerusalem, Ramallah and Gaza³¹.

24. UNRWA was established by the General Assembly by resolution 302(IV) of 8 December 1949 as a subsidiary organ with a dual mission: “to carry out in collaboration with local governments the direct relief and works programmes as recommended by the Economic Survey Mission”³²; and “to consult with the interested Near Eastern Governments concerning measures to be taken by them preparatory to the time when international assistance for relief and works projects is no longer available”³³.

25. Its mandate was subsequently extended by resolution 393(V) of 2 December 1950 authorizing the Agency to establish a fund to assist with the reintegration of Palestine refugees into the economic life of the Near East³⁴. Since then, the Agency's mandate has been extended periodically and systematically by the General Assembly. On 12 December 2022, the mandate was

²⁴ OCHA, “*A propos d'OCHA (Le Bureau des Nations Unies pour la coordination des affaires humanitaires)*”, <https://www.unocha.org/publications/report/world/propos-d-ocha-le-bureau-des-nations-unies-pour-la-coordination-des-affaires> [French only], consulted on 27 Feb. 2025[5].

²⁵ United Nations Office for the Coordination of Humanitarian Affairs, “OCHA in the occupied Palestinian territory”, <https://www.ochaopt.org/>, consulted on 27 Feb. 2025.

²⁶ See WHO, “Thirteenth General Programme of Work, 2019-2023”, WHO/PRP/18.1, 25 May 2018. 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.

²⁷ 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.

²⁸ *Ibid.*, p. 3, para. 9.

²⁹ *Ibid.*, p. 2, para. 5.

³⁰ See WHO, “Social determinants of health”, 31 May 2021, https://apps.who.int/gb/ebwha/pdf_files/WHA74-REC1/A74_REC1-en.pdf, consulted on 27 Feb. 2025.

³¹ WHO, “WHO presence in Palestine”, <https://www.emro.who.int/countries/opt/who-presence-in-palestine.html>, consulted on 27 Feb. 2025.

³² UNGA, Assistance to Palestine refugees, A/RES/302(IV), 8 Dec. 1949, para. 7.

³³ *Ibid.*

³⁴ UNGA, Assistance to Palestine refugees, A/RES/393(V), 2 Dec. 1950, paras. 4 and 5.

again extended until 30 June 2026 by resolution 77/123, the preamble of which acknowledges “the essential role that the Agency has played . . . ameliorating the plight of the Palestine refugees”³⁵ and the global nature of its mission in that it provides “education, health, relief and social services” and carries out “work in the areas of camp infrastructure, microfinance, protection and emergency assistance”³⁶.

26. The Union of the Comoros recalls that, thanks to its missions, the Agency guarantees access to education and health. To that end, it operates almost 400 schools, more than 65 primary health clinics and a hospital. The Secretary-General noted, in his letter dated [9] December 2024 to the President of the General Assembly and the President of the Security Council, that action taken by UNRWA enables the provision of education to over 350,000 children and over 5 million health consultations annually³⁷, reaching 2,000 students and 40,000 patients in East Jerusalem and 300,000 children and 900,000 patients in Gaza³⁸.

27. UNRWA also provides vital poverty relief and social services, together with emergency relief, including food aid, benefiting over 1.2 million people. Amid the present crisis in Gaza, nearly 2.3 million people are affected by the ongoing conflict. The Agency is the backbone of humanitarian relief operations, providing a lifeline for the population (shelter, food assistance, etc.)³⁹. The cessation of these activities without a credible alternative would exacerbate an already catastrophic humanitarian situation in the Occupied Palestinian Territories.

B. The Court has jurisdiction to give the advisory opinion requested

28. Before giving an advisory opinion, the Court must first determine whether it has jurisdiction to answer the questions put to it and whether it should exercise its discretionary power to decline to do so.

29. As will be demonstrated in this section, there can be no doubt that the Court has jurisdiction in the present proceedings. This jurisdiction is governed by Article 65 of its Statute, the first paragraph of which states 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.”

This provision sets two preconditions for a request for an advisory opinion to be deemed valid: the request must be made by a duly authorized body (1); and the question put to the Court must be a legal question (2). As will be demonstrated in detail below, since both these conditions are met in the present proceedings, the Court may give the requested opinion (3).

³⁵ UNGA, Assistance to Palestine refugees, A/RES/77/123, 12 Dec. 2022, para. 6.

³⁶ *Ibid.*

³⁷ Identical letters dated 9 December 2024, addressed to the President of the General Assembly and the President of the Security Council by the Secretary-General, 10 Dec. 2024, A/79/684–S/2024/892.

³⁸ *Ibid.*

³⁹ *Ibid.*

1. The General Assembly may request the opinion

30. According to the Charter of the United Nations, the General Assembly “may request the International Court of Justice to give an advisory opinion on any legal question”⁴⁰. Whereas other organs of the United Nations are authorized to do so only on legal questions arising “within the scope of their activities”, that does not apply to the General Assembly⁴¹. The General Assembly is, in any case, endowed with a wide range of competences by Articles 10, 11 and 13 of the Charter of the United Nations, among other things with regard to “questions relating to the maintenance of international peace and security brought before it by any Member of the United Nations”⁴².

31. The Court has repeatedly confirmed that this provision authorizes the General Assembly to request an advisory opinion pursuant to Article 65 of its Statute⁴³. It has also held that the situation in Palestine is a matter of international peace and security⁴⁴. It is undeniable that the situation in Palestine had been actively examined by the General Assembly for several decades before it decided to seek an opinion from the Court. Consequently, “[t]he object of the request before the Court is to obtain from the Court an opinion which the General Assembly deems of assistance to it for the proper exercise of its functions.”⁴⁵

32. The competence of the General Assembly is limited only by Article 12, paragraph 1, of the Charter of the United Nations, which reads as follows: “While the Security Council is exercising in respect of any dispute or situation the functions assigned to it in the present Charter, the General Assembly shall not make any recommendation with regard to that dispute or situation unless the Security Council so requests.”⁴⁶

33. However, as the Court has highlighted in its jurisprudence, the practice ensuing from that provision has evolved considerably since the adoption of the Charter, and in recent decades there has been “an increasing tendency over time for the General Assembly and the Security Council to deal in parallel with the same matter concerning the maintenance of international peace and security”⁴⁷.

34. As the Court noted in its Advisory Opinion on the question of the *Accordance with International Law of the Unilateral Declaration of Independence in Respect of Kosovo*: “[t]he limit which the Charter places upon the General Assembly to protect the role of the Security Council is contained in Article 12 and restricts the power of the General Assembly to make recommendations following a discussion, not its power to engage in such a discussion”⁴⁸. But the Court has also found

⁴⁰ Charter of the United Nations, 26 June 1945, San Francisco, entered into force on 24 Oct. 1945, Art. 96, para. 1.

⁴¹ *Ibid.*, Art. 96, para. 2.

⁴² *Ibid.*, Art. 11, para. 2.

⁴³ Most recently in *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.

⁴⁴ *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Advisory Opinion, *I.C.J. Reports 2004 (I)*, p. 145, para. 17.

⁴⁵ *Ibid.*, p. 159, para. 50.

⁴⁶ Charter of the United Nations, Art. 12, para. 1.

⁴⁷ *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Advisory Opinion, *I.C.J. Reports 2004 (I)*, p. 149, para. 27.

⁴⁸ *Accordance with International Law of the Unilateral Declaration of Independence in Respect of Kosovo*, Advisory Opinion, *I.C.J. Reports 2010 (II)*, pp. 419-420, para. 40.

that a request for an advisory opinion is not a “recommendation” per se, and that it is therefore not affected by the restriction under Article 12, paragraph 1, of the Charter of the United Nations⁴⁹.

35. The Union of the Comoros considers that the General Assembly has validly exercised its powers under Article 96, paragraph 1, of the Charter of the United Nations, as it has done previously with regard to the Advisory Opinions on the *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*⁵⁰ and more recently the *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*⁵¹.

2. The questions posed are of a legal nature

36. Article 96, paragraph 1, as referred to above, authorizes the General Assembly to request the Court to deliver an advisory opinion “on any legal question”. The question now put to the Court for an advisory opinion concerns the obligations of the State of Israel *as an occupying Power and as a member of the United Nations*. To respond, the Court is called upon to identify those obligations, “considering the rules and principles of international law”⁵².

37. The question posed in resolution A/RES/79/232 of the General Assembly calls on the Court to interpret the rules and principles of international law concerning fundamental aspects of the international legal order and of the United Nations system.

38. Furthermore, the Court is at liberty to interpret questions in keeping with the legal nature of the proceedings⁵³. This power of interpretation is exercised when a question lacks clarity or when its legal nature is ambiguous⁵⁴. Although it does not believe that the questions put to the Court lack clarity, the Union of the Comoros recognizes that the Court will be able to interpret them in whichever way is most likely to provide answers of a legal nature to the questions raised by the General Assembly.

The Court accordingly has jurisdiction to give the advisory opinion requested.

3. Exercise by the Court of its discretionary power

39. Once its jurisdiction has been established, the Court may exercise its discretionary power to decline to give the opinion requested, so as “to protect the integrity of the Court’s judicial function as the principal judicial organ of the United Nations”⁵⁵.

⁴⁹ *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, I.C.J. Reports 2004 (I)*, p. 145, para. 15.

⁵⁰ *Ibid.*, p. 148, para. 25.

⁵¹ *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. 28.

⁵² UNGA resolution 79/232.

⁵³ *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, I.C.J. Reports 2004 (I)*, pp. 153-154, para. 38.

⁵⁴ *Ibid.*

⁵⁵ *Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965, Advisory Opinion, I.C.J. Reports 2019 (I)*, p. 113, para. 64.

40. This matter is entirely at its discretion, in accordance with the leeway offered by Article 65 of its Statute⁵⁶. The Court has stated, however, that it would exercise its discretionary power to decline to give an advisory opinion only if “compelling reasons” led it to do so⁵⁷.

41. Although to date the Court has never exercised this power⁵⁸, it should be noted that three grounds may be compelling reasons for the Court to decline to give a requested advisory opinion: the absence of necessary factual information; political inopportuneess; and the lack of consent. The Union of the Comoros maintains that no such reason can be given in the present proceedings.

42. With regard to the first ground, the central facts relating to the present request for an advisory opinion are amply documented from credible and authoritative sources. This is demonstrated by the very extensive dossier submitted by the United Nations Secretariat, which meets the requirement whereby the Court must have “sufficient information and evidence to enable it to arrive at a judicial conclusion upon any disputed questions of fact the determination of which is necessary for it to give an opinion in conditions compatible with its judicial character”⁵⁹.

43. Concerning the second ground, it is clear at once that differences of opinion expressed by States about the questions raised in requests for an advisory opinion are of no relevance. The Court has always rejected arguments of this kind, stressing that the Court’s opinion is given not to the States but to the organ requesting it⁶⁰.

44. As regards the third ground, lack of consent, the Union of the Comoros observes that the situation referred to in the request made to the Court in resolution 79/232 of the General Assembly cannot be reduced to a bilateral dispute. The question raised by the request concerns obligations *erga omnes*.

45. Moreover, in view of the powers and responsibilities of the United Nations regarding the maintenance of international peace and security, the question posed in the request for an advisory opinion is of direct and central interest to the United Nations, and in particular to the requesting organ, the General Assembly. The General Assembly has repeatedly recognized in its resolutions that “the United Nations has a permanent responsibility towards the question of Palestine until the question is resolved in all its aspects in a satisfactory manner in accordance with international legitimacy”⁶¹.

⁵⁶ *Interpretation of Peace Treaties with Bulgaria, Hungary and Romania, First Phase, Advisory Opinion*, I.C.J. Reports 1950, p. 72.

⁵⁷ *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.

⁵⁸ *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion*, I.C.J. Reports 2004 (I), p. 156, para. 44. See also *Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion*, I.C.J. Reports 1996 (I), p. 235, para. 14.

⁵⁹ *Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965, Advisory Opinion*, I.C.J. Reports 2019 (I), p. 114, para. 71.

⁶⁰ *Interpretation of Peace Treaties with Bulgaria, Hungary and Romania, First Phase, Advisory Opinion*, I.C.J. Reports 1950, p. 71.

⁶¹ UNGA resolution 77/22, Committee on the Exercise of the Inalienable Rights of the Palestinian People, 30 Nov. 2022, A/RES/77/22, last recital of the preamble.

46. The Union of the Comoros thus considers that there are no compelling reasons to justify the Court declining to give an advisory opinion. Furthermore, the General Assembly's request is urgent, in view of the situation in the Occupied Palestinian Territories.

II. ISRAEL'S OBLIGATION NOT TO THREATEN INTERNATIONAL PEACE AND SECURITY

47. The Union of the Comoros wishes to bring to the Court's attention the fact that the unilateral halting of UNRWA's activities, in the present context and without providing any alternative to humanitarian assistance, would aggravate the existing threats to international peace and security in the Occupied Palestinian Territories and in the region.

48. First, it is undisputed that the situation in the Occupied Palestinian Territories poses a threat to international peace and security, above all owing to the existence of an armed conflict. The Union of the Comoros recalls that the Security Council has been characterizing the situation in Palestine as a threat to international peace and security since 1948⁶². As the Secretary-General has underlined, a collapse of the humanitarian system — a certainty if UNRWA's activities were to cease — could aggravate the existing threats to international peace and security and "fast deteriorate[e] into a catastrophe with potentially irreversible implications for Palestinians as a whole and for peace and security in the region"⁶³.

The Union of the Comoros also wishes to draw the Court's attention to the fact that the spirit of the Oslo Accords⁶⁴ is to establish a climate of trust and co-operation between Israelis and Palestinians, with a view to reaching a peaceful and lasting solution to the conflict. The ending of UNRWA's activities would run counter to that spirit, aggravating the living conditions of the Palestinians while fuelling despair and frustration.

49. Furthermore, in view of the context, the cessation of UNRWA's activities will undoubtedly worsen the situation in the Occupied Palestinian Territories and increase the threat to international peace and security in Gaza, East Jerusalem and the West Bank, and in the region as a whole. The Union of the Comoros would point out that, on account of its magnitude, a humanitarian crisis could assume a regional dimension, with serious consequences for neighbouring States, and threaten peace and security in the entire region⁶⁵.

⁶² UNSC resolution 54 (1948), 15 July 1948, S/902.

⁶³ Letter dated 6 December 2023 from the Secretary-General addressed to the President of the Security Council, 6 Dec. 2023, S/2023/962.

⁶⁴ Oslo Accords, 1993; Declaration of Principles on Interim Self-Government Arrangements; Annex I: Protocol on the Mode and Conditions of Elections; Annex II: Protocol on Withdrawal of Israeli Forces from the Gaza Strip and Jericho Area; Annex III: Protocol on Israeli-Palestinian Cooperation in Economic and Development Programmes; Annex IV: Protocol on Israeli-Palestinian Cooperation concerning Regional Development Programmes; Memorandum of Agreement concerning the Declaration of Principles on Interim Self-Government Arrangements.

⁶⁵ See, for example: UNSC resolution 688 (1991), 5 Apr. 1991, S/RES/688 (1991) on the situation in Iraq; UNSC resolution 1078 (1996), 9 Nov. 1996, S/RES/1078 (1996) on the situation in the Democratic Republic of the Congo; UNSC resolutions 841 (1993) of 16 June 1993 and 940 (1994) of 31 July 1994 on the crisis in Haiti, S/RES/841 (1993) and 940 (1994); UNSC resolution 918 (1994), 17 May 1994, S/RES/918 (1994) on the situation in Rwanda; UNSC resolution 1556 (2004), 30 July 2004, S/RES/1556 (2004) on the situation in Darfur.

III. ISRAEL'S OBLIGATIONS IN RELATION TO THE PRESENCE AND ACTIVITIES OF THE UNITED NATIONS AND ITS AGENCIES AND BODIES IN THE OCCUPIED PALESTINIAN TERRITORY

50. The Union of the Comoros respectfully calls upon the Court to find that terminating UNRWA's activities, unilaterally, without negotiation and in the context of the war being waged against Gaza and the breaches of international law taking place in the West Bank and East Jerusalem, is tantamount to: violating the principle of performance in good faith of the obligations arising from the Charter (A); breaching the obligation of Member States to give assistance to the United Nations (B); and a violation of Security Council resolutions and thus of Article 25 of the Charter of the United Nations (C). Israel is further required to respect the privileges and immunities of UNRWA (D).

A. Performance in good faith of obligations arising from the Charter (Article 2, paragraph 2)

51. Article 2, paragraph 2, of the Charter of the United Nations provides that: "[a]ll Members, in order to ensure to all of them the rights and benefits resulting from membership, shall fulfil in good faith the obligations assumed by them in accordance with the present Charter."

52. As the General Assembly recalls, the performance in good faith of international obligations is a general principle of law⁶⁶ enshrined in the maxim *pacta sunt servanda*⁶⁷. This involves universally recognized principles⁶⁸ and a requirement consistently affirmed by international jurisprudence⁶⁹. The Union of the Comoros recalls the Court's words in *Nuclear Tests (Australia v. France)*:

"[o]ne of the basic principles governing the creation and performance of legal obligations, whatever their source, is the principle of good faith . . . Just as the very rule of *pacta sunt servanda* in the law of treaties is based on good faith, so also is the binding character of an international obligation assumed by unilateral declaration."⁷⁰

53. The principle of good faith obliges the parties to apply it in a reasonable way and in such a manner that its purpose can be realized⁷¹. By enacting laws to terminate UNRWA's activities

⁶⁶ See UNGA resolution 2625 (XXV), Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, 15 Dec. 1970, A/8082: "[t]he principle that States shall fulfil in good faith the obligations assumed by them in accordance with the Charter: Every State has the duty to fulfil in good faith the obligations assumed by it in accordance with the Charter of the United Nations."

⁶⁷ See Vienna Convention on the Law of Treaties, Vienna, 23 May 1969, Art. 26: "[e]very treaty in force is binding upon the parties to it and must be performed by them in good faith."

⁶⁸ *Yearbook of the International Law Commission*, 1966, Vol. II, p. 229.

⁶⁹ See, for example, *Rights of Nationals of the United States of America in Morocco (France v. United States of America)*, Judgment, I.C.J. Reports 1952, p. 212; *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America)*, Merits, Judgment, I.C.J. Reports 1986, p. 138, para. 275; [Permanent Court of Arbitration, Case No. 2014-07,] Award of 5 Sept. 2016, in the matter of the *Duzgit Integrity Arbitration (Malta v. São Tomé and Príncipe)*, para. 218; *Gabčíkovo-Nagymaros Project (Hungary/Slovakia)*, Judgment, I.C.J. Reports 1997, pp. 78-79, para. 142.

⁷⁰ *Nuclear Tests (Australia v. France)*, Judgment, I.C.J. Reports 1974, p. 268, para. 46, on questions of jurisdiction and admissibility.

⁷¹ *Gabčíkovo-Nagymaros Project (Hungary/Slovakia)*, Judgment, I.C.J. Reports 1997, pp. 78-79, para. 142. See also the proposal on the same lines made by Special Rapporteur Fitzmaurice: "A treaty must be carried out in good faith, and so as to give it a reasonable and equitable effect according to the correct interpretation of its terms", Draft article 4, para. 2, *Yearbook of the International Law Commission*, 1959, Vol. II, p. 42.

unilaterally and without consultation, Israel is breaching its obligation to perform in good faith all the aforementioned obligations contained in the Charter of the United Nations.

B. The obligation to give assistance to the actions of the United Nations (Article 2, paragraph 5)

54. Article 2, paragraph 5, of the Charter obliges Member States to give the Organization “every assistance in any action it takes in accordance with the present Charter”. The Court has insisted on the importance of this obligation, noting that “the effective working of the Organization — the accomplishment of its task, and the independence and effectiveness of the work of its agents — requires that these undertakings should be strictly observed”⁷².

This general obligation applies to *any action* taken by the Organization and is therefore not limited to Security Council resolutions. Accordingly, the obligation to give every assistance to the United Nations extends to the missions of UNRWA, a subsidiary organ of the General Assembly established on the basis of Articles 7 and 22 of the Charter. This implies that Israel not only has the negative obligation not to impede the Agency’s activities, but also the positive obligation to assist it in the accomplishment of its tasks.

C. The obligation to carry out the decisions of the Security Council (Article 25)

55. Article 25 of the Charter of the United Nations provides that “[t]he Members of the United Nations agree to accept and carry out the decisions of the Security Council in accordance with the present Charter.”

56. Dating back to 1991, the Security Council of the United Nations has recalled the necessity of international humanitarian organizations having immediate access to civilians in need of assistance⁷³. In addition, it has expressed the view that a human tragedy, exacerbated by obstacles to the distribution of humanitarian assistance, constitutes a threat to international peace and security⁷⁴. It has also condemned “the unlawful denial of humanitarian access and depriving civilians of objects indispensable to their survival”⁷⁵.

57. This general obligation under international humanitarian law, affirmed on many occasions by the Security Council, has been repeatedly violated by Israel, which has impeded the delivery of food or relief to the civilian population. Consequently, that population has been suffering the greatest food crisis ever registered on the IPC scale⁷⁶. This policy is part of a deliberate choice to deprive the population of Gaza of assistance and humanitarian aid, further increasing the threat to international peace and security posed by the situation. The Security Council has regularly expressed its concern

⁷² *Reparation for Injuries Suffered in the Service of the United Nations*, Advisory Opinion, I.C.J. Reports 1949, p. 183.

⁷³ UNSC resolution 688 (1991), 5 Apr. 1991, S/RES/688 (1991).

⁷⁴ UNSC resolution 794 (1992), 3 Dec. 1992, S/RES/794 (1992).

⁷⁵ UNSC resolution 2730 (2024), 24 May 2024, S/RES/2730 (2024), para. 8.

⁷⁶ “Integrated Food Security Phase Classification”, See GAZA STRIP: IPC Acute Food Insecurity, Nov.2023-Feb. 2024, https://www.ipcinfo.org/fileadmin/user_upload/ipcinfo/docs/IPC_Gaza_Acute_Food_Insecurity_Nov2023_Feb2024.pdf, consulted on 13 Feb. 2024[5].

at the attacks and acts of violence against humanitarian and United Nations personnel⁷⁷ and reaffirmed the obligation of parties to an armed conflict to ensure the respect and protection of all humanitarian personnel⁷⁸.

58. The Security Council has in addition adopted a series of resolutions on the situation in Palestine, in which it has regularly voiced its concern at the obstacles to the distribution of humanitarian assistance to the population of Gaza⁷⁹. It has also called for urgent and extended humanitarian pauses to enable rapid and safe access for United Nations humanitarian agencies and their implementing partners⁸⁰, and called on Israel to refrain from depriving the civilian population in the Gaza Strip of basic services and humanitarian assistance⁸¹. Furthermore, in its resolution 2728 (2024), the Council *demand*ed that Israel protect humanitarian personnel, including United Nations personnel, facilitate delivery of humanitarian assistance at scale⁸² and ensure humanitarian access to address medical and other humanitarian needs⁸³. Consequently, forcing UNRWA to cease its activities constitutes a direct violation of Security Council resolutions and, by extension, a breach of Article 25 of the Charter.

D. The obligation to respect privileges and immunities

59. Article 105 of the Charter of the United Nations sets out the principle of the enjoyment of such “privileges and immunities as are necessary” for the Organization and its representatives, Members and officials in the territory of every Member State.

- “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.”

60. The Convention on the Privileges and Immunities of the United Nations was adopted on 13 February 1946, shortly after the creation of the United Nations, at the first session of the General Assembly. According to the Court, the Convention “creates rights and duties between each of the signatories and the Organization”⁸⁴. Israel acceded to the Convention on the Privileges and

⁷⁷ UNSC resolution 1502 (2003), 26 Aug. 2003, S/RES/1502 (2003); UNSC resolution 2175 (2014), 29 Aug. 2014, S/RES/2175 (2014); UNSC resolution 2730 (2024), 24 May 2024, S/RES/2730 (2024).

⁷⁸ UNSC resolution 1502 (2003); UNSC resolution 2175 (2014); UNSC resolution 2730 (2024).

⁷⁹ UNSC resolution 2712 (2023), 15 Nov. 2023, S/RES/2712 (2023); UNSC resolution 2720 (2023), 22 Dec. 2023, S/RES/2720 (2023); UNSC resolution 2728 (2024), 25 Mar. 2024, S/RES/2728 (2024); UNSC resolution 2735 (2024), 10 June 2024, S/RES/2735 (2024).

⁸⁰ UNSC resolution 2712 (2023).

⁸¹ *Ibid.*; UNSC resolution 2720 (2023).

⁸² *Ibid.*, paras. 1 and 2.

⁸³ UNSC resolution 2728 (2024), para. 1.

⁸⁴ *Reparation for Injuries Suffered in the Service of the United Nations, Advisory Opinion, I.C.J. Reports 1949*, p. 179.

Immunities of the United Nations on 21 September 1949, without making any declaration or reservation. Israel is therefore bound by the Convention and must fulfil the obligations resulting from it with regard to the Organization and its personnel⁸⁵.

61. The immunity of international organizations is based on a functional need that guarantees the United Nations, its organs and its personnel the means to accomplish their missions. Article 105 of the Charter defines not only its justification, but also its scope, covering anything that is linked to the carrying out of their functions.

62. In Israel, international organizations enjoy immunity by decree of the Ministry of Foreign Affairs. In an employment dispute involving the United Nations Development Programme and the Food and Agriculture Organization of the United Nations, the Jerusalem regional labour tribunal declared 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”⁸⁶. In another judgment delivered in the same year, the Jerusalem District Court declared that “[r]ecognizing the immunity of the United Nations in Israel is founded on international conventional law”⁸⁷.

63. Accordingly, the privileges and immunities of the United Nations, its agencies and other bodies active in the Occupied Palestinian Territory are founded on the United Nations Charter and the Convention on the Privileges and Immunities of the United Nations.

64. As a subsidiary organ of the General Assembly, UNRWA enjoys the privileges and immunities necessary for achieving its aims and independently fulfilling its functions. On account of its subsidiary organ status, explicitly referred to in resolution 1456 (XIV) of 9 December 1959, the Convention on the Privileges and Immunities of the United Nations also applies to the Agency⁸⁸. The Agency thus “enjoys the benefits of the Convention on the Privileges and Immunities of the United Nations”⁸⁹. This applies not only to the Organization itself, but also to representatives of Member States, officials and experts on mission.

65. While there is no doubt that the Convention on the Privileges and Immunities of the United Nations applies to UNRWA and its members, it needs to be determined whether it applies to the latter as officials or experts on mission. Article V, Section 17, on officials of the United Nations, makes it incumbent upon the Secretary-General of the United Nations to specify to which individuals Article V, and Article VII on United Nations laissez-passer, are applicable.

66. In its resolution 76 (I) of 7 December 1946, the General Assembly, on the recommendation of the Secretary-General, approved “the granting of the privileges and immunities” referred to in Articles V and VII of the Convention on the Privileges and Immunities of the United Nations to “all members of the staff of the United Nations, with the exception of those who are recruited locally and

⁸⁵ See UNGA resolution 76 (I) on the Privileges and Immunities of the Staff of the Secretariat of the United Nations, 7 Dec. 1946, para. 2; The practice of the United Nations, the specialized agencies and the International Atomic Energy Agency concerning their status, privileges and immunities: study prepared by the Secretariat, 1985, UN doc. A/CN.4/L.383, p. 179, para. 54.

⁸⁶ *Hmoud v. UNDP and FAO*, Case No. 1987-09, judgment of 1 Jan. 2011, para. 7.

⁸⁷ *X v. UNRWA and Others*, Civil Case No. 2524/08, judgment of 2 May 2011, para. 5.

⁸⁸ UNGA resolution 302 (IV), para. 17.

⁸⁹ UNGA resolution 1456 (XIV), 9 Dec. 1959, A/RES/1456 (XIV), preamble, sixth recital.

are assigned to hourly rates”⁹⁰. Subsequently, the Legal Counsel of the United Nations specified that the two conditions were cumulative⁹¹, thereby extending the protection of the 1946 Convention to members of staff recruited locally. The category of expert on mission under Article VI of the Convention excludes that of an official, as affirmed by the Court in its Opinion on the *Applicability of Article VI, Section 22, of the Convention on the Privileges and Immunities of the United Nations*; it refers instead to “persons (other than United Nations officials) to whom a mission has been entrusted by the Organization”⁹². The members of UNRWA come under the category of members of staff and accordingly enjoy the privileges and immunities guaranteed by Articles V and VII of the Convention on the Privileges and Immunities of the United Nations, as confirmed by the General Counsel of UNRWA in his 1968 memorandum⁹³. In the same document, the General Counsel specified that “locally-recruited personnel of the Agency no less than internationally recruited personnel are staff within the meaning of Article 101, paragraph 1, of the Charter”⁹⁴. This is a matter, above all, of enjoying immunity from jurisdiction for acts carried out by them in their official capacity, and of benefiting from the *laissez-passer* issued by the United Nations. These privileges and immunities are granted to officials solely in the interests of the United Nations and not for the personal benefit of the officials themselves, as is made clear in Article V, Section 20, of the Convention, and the Secretary-General of the United Nations alone may waive them.

67. Under the Convention on the Privileges and Immunities of the United Nations, to which Israel is party, UNRWA and its members must therefore be able to act in complete independence so as to fulfil the Agency’s mandate unimpeded. This obligation for Israel to allow the Agency to act without interference also stems from Article 100, paragraph 2, of the Charter of the United Nations, applying to UNRWA staff members in so far as they are “staffs” within the meaning of Article 101, obliging the Member States “to respect the exclusively international character of the responsibilities of the Secretary-General and the staff and not to seek to influence them in the discharge of their responsibilities”. The General Counsel of UNRWA has recalled this obligation and asserted that “it is imperative that, in the performance of official duties, a staff member be not subject to instructions or control by any government or authority external to the United Nations”⁹⁵.

The General Assembly of the United Nations took the opportunity, when renewing the Agency’s mandate until 30 June 2026, to reaffirm the need for the Agency’s operations to be carried out “unimpeded”⁹⁶.

68. In a subsequent resolution, the General Assembly explicitly called upon Israel to abide by Articles 100, 104 and 105 of the Charter and by the Convention on the Privileges and Immunities of the United Nations “in order to ensure the safety of the personnel of the Agency, the protection of its institutions and the safeguarding of the security of its facilities in the Occupied Palestinian Territory,

⁹⁰ UNGA resolution 72 (I), Privileges and Immunities of the Staff of the Secretariat of the United Nations, 7 Dec. 1946, A/RES/76 (I), para. 2.

⁹¹ The practice of the United Nations, the specialized agencies and the International Atomic Energy Agency concerning their status, privileges and immunities: study prepared by the Secretariat, 1985, A/CN.4/L.383 and Add. 1 to 3, p. 179, para. 54.

⁹² *Applicability of Article VI, Section 22, of the Convention on the Privileges and Immunities of the United Nations, Advisory Opinion, I.C.J. Reports 1989*, p. 196, para. 52.

⁹³ “Scope and effect of the privileges and immunities required under the 1946 Convention on the Privileges and Immunities of the United Nations for locally-recruited staff — Memorandum from the General Counsel of UNRWA”, United Nations, *Juridical Yearbook 1968*, Part Two, Chap. VI, pp. 212-215.

⁹⁴ *Ibid.*, p. 212.

⁹⁵ *Ibid.*

⁹⁶ UNGA resolution 77/123, 12 Dec. 2022, A/RES/77/123, para. 3.

including East Jerusalem, at all times”⁹⁷, and to “cease obstructing the movement and access of the staff, vehicles and supplies of the Agency and to cease levying taxes, extra fees and charges, which affect the Agency’s operations detrimentally”⁹⁸.

69. However, the Law to Cease UNRWA Operations enacted by the Knesset on 28 October 2024 not only prohibits the Israeli authorities from recognizing that UNRWA and its staff benefit from privileges and immunities, but also expressly authorizes criminal proceedings to be brought against its staff without a prior waiver of immunity by the Secretary-General⁹⁹.

70. The Union of the Comoros therefore considers that this law violates Articles 100, 104 and 105 of the Charter of the United Nations and Articles V and VII of the Convention on the Privileges and Immunities of the United Nations, to which Israel is party.

IV. ISRAEL’S OBLIGATIONS WITH REGARD TO THE RIGHT TO SELF-DETERMINATION

71. The Union of the Comoros observes that it is indisputable that the Palestinian people has a right to self-determination (A), and that this right is opposable to Israel and establishes obligations for it (B). In addition, the Union of the Comoros asks the Court to recognize that the forced cessation of UNRWA’s activities would hinder the exercise of the right to self-determination of the Palestinian people (C).

A. The right of the Palestinian people to self-determination

72. The Union of the Comoros recalls the numerous resolutions of the General Assembly and the Security Council of the United Nations enshrining the right of peoples under foreign domination to self-determination¹⁰⁰. In particular, General Assembly resolution 1514 (XV) of 14 December 1960 embodying the Declaration on the granting of independence to colonial countries and peoples clearly states that: “[t]he subjection of peoples to alien subjugation, domination and exploitation constitutes a denial of fundamental human rights, is contrary to the Charter of the United Nations and is an impediment to the promotion of world peace and co-operation.”¹⁰¹

⁹⁷ UNGA resolution 78/73, para. 39.

⁹⁸ *Ibid.*, para. 41.

⁹⁹ Law to Cease UNRWA Operations, 28 Oct. 2024, unofficial translation from Hebrew by Israel cited by the Secretary-General in: Identical letters dated 9 December 2024 from the Secretary-General addressed to the President of the General Assembly and the President of the Security Council, 10 Dec. 2024, A/79/684-S/2024/892.

¹⁰⁰ UNGA resolution 1654 (XVI), The situation with regard to the implementation of the Declaration on the granting of independence to colonial countries and peoples, 27 Nov. 1961; UNGA resolution 1810 (XVII), The situation with regard to the implementation of the Declaration on the granting of independence to colonial countries and peoples, 17 Dec. 1962; UNGA resolution 1956 (XVII), The situation with regard to the implementation of the Declaration on the granting of independence to colonial countries and peoples, 11 Dec. 1963; UNGA resolution 2105 (XX), The situation with regard to the implementation of the Declaration on the granting of independence to colonial countries and peoples, 20 Dec. 1965; UNGA resolution 2625 (XXV), Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, 24 Oct. 1970; UNGA resolution 2704 (XXV), Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples by the specialized agencies and the international institutions associated with the United Nations, 14 Dec. 1970; UNSC resolution 242 (1967) of 22 Nov. 1967; UNSC resolution 338 (1973) of 22 Oct. 1973; and UNSC resolution 1397 (2002) of 12 Mar. 2002.

¹⁰¹ UNGA resolution 1514 (XV), Declaration on the granting of independence to colonial countries and peoples, 14 Dec. 1960, para. 1.

All peoples are thus entitled to freely exercise their predestined “right to self-determination”¹⁰². That undoubtedly explains the General Assembly’s commitment to ensure that “[a]ll armed action or repressive measures of all kinds directed against dependent peoples shall cease in order to enable them to exercise peacefully and freely their right to complete independence, and the integrity of their national territory shall be respected.”¹⁰³ These resolutions are applicable to Palestine.

73. The General Assembly has recognized that the Palestine Liberation Organization (PLO) represents the Palestinian people¹⁰⁴ and that the Palestinian people “is entitled to self-determination in accordance with the Charter of the United Nations”¹⁰⁵. With this in mind, it has consistently defended the integrity of the Occupied Palestinian Territory¹⁰⁶, enshrining above all, in its resolutions 58/163 of 22 December 2003 and 66/146 of 19 December 2011, the right of the Palestinian people to self-determination. In these resolutions, the General Assembly urged “all States and the specialized agencies and organizations of the United Nations system to continue to support and assist the Palestinian people in the early realization of their right to self-determination.”¹⁰⁷

For its part, the Security Council has on several occasions set out its vision of a “region where two States, Israel and Palestine, live side by side within secure and recognized borders”¹⁰⁸. These institutional positions were reiterated in the Court’s Advisory Opinions of 2004 and 2024.

74. In its Advisory Opinion of 9 July 2004, on *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, the Court observed that “the existence of a ‘Palestinian people’ is no longer in issue”¹⁰⁹. It recalled that this right is set forth in Article 1 of the Declaration of Principles on Interim Self-Government Arrangements, adopted on 13 September 1993 by the Government of the State of Israel and the Jordanian-Palestinian delegation to the Middle East Peace Conference. It is worth recalling that the aim of this declaration was “to establish a Palestinian

¹⁰² *Ibid.*, [para. 2].

¹⁰³ *Ibid.*, para. 4. See also UNGA resolution 63/163, Universal realization of the right of peoples to self-determination, 18 Dec. 2018: “acts of foreign military intervention, aggression and occupation . . . result[ing] in the suppression of the right of peoples to self-determination and other human rights in certain parts of the world”. See also the following General Assembly resolutions on the universal realization of the right to self-determination: UNGA resolution 55/155 of 17 Dec. 1999; UNGA resolution 55/85 of 4 Dec. 2000; UNGA resolution 56/141 of 19 Dec. 2001; UNGA resolution 57/197 of 18 Dec. 2002; UNGA resolution 58/161 of 22 Dec. 2003; UNGA resolution 50/180 of 20 Dec. 2004; UNGA resolution 60/145 of 16 Dec. 2005; UNGA resolution 61/150 of 19 Dec. 2006; UNGA resolution 62/144 of 18 Dec. 2007; UNGA resolution 64/149 of 18 Dec. 2009; UNGA resolution 65/201 of 21 Dec. 2010; UNGA resolution 66/145 of 19 Dec. 2011; UNGA resolution 67/157 of 20 Dec. 2012; UNGA resolution 68/153 of 18 Dec. 2013; UNGA resolution 69/164 of 18 Dec. 2014; UNGA resolution 70/143 of 17 Dec. 2015; UNGA resolution 71/183 of 19 Dec. 2016; UNGA resolution 72/159 of 19 Dec. 2017; UNGA resolution 73/160 of 17 Dec. 2018; UNGA resolution 74/140 of 18 Dec. 2019; UNGA resolution 75/173 of 16 Dec. 2020; UNGA resolution 76/152 of 16 Dec. 2021; UNGA resolution 77/207 of 15 Dec. 2022; UNGA resolution 78/193 of 19 Dec. 2023; and UNGA resolution 79/164 of 17 Dec. 2024.

¹⁰⁴ UNGA resolution 3210 (XXIX), Invitation to the Palestine Liberation Organization, 14 Oct. 1974; UNGA resolution 3237 (XXIX), Observer status for the Palestine Liberation Organization, 22 Nov. 1974.

¹⁰⁵ UNGA resolution 3236 (XXIX), Question of Palestine, 22 Nov. 1974, preamble.

¹⁰⁶ UNGA resolution 58/292, Status of the Occupied Palestinian Territory, including East Jerusalem, 17 May 2004, preamble; UNGA resolution 43/177, Question of Palestine, 15 Dec. 1988, para. 3.

¹⁰⁷ UNGA resolution A/RES/71/184, The right of the Palestinian people to self-determination, 19 Dec. 2016, para. 2; see also UNGA resolution 58/292, Status of the Occupied Palestinian Territory, including East Jerusalem, 17 May 2004, preamble; UNGA resolution 3236 (XXIX), Question of Palestine, 22 November 1974, para. 1 (a); UNGA resolution 43/177, Question of Palestine, 15 Dec. 1988, para. 3. See also the report of the Third Committee on the right of peoples to self-determination, Draft resolution III on the right of the Palestinian people to self-determination, doc. A/71/483.

¹⁰⁸ UNSC resolution 1397 (2002) of 12 Mar. 2002, preamble; UNSC resolution 1515 (2003) of 19 Nov. 2003, preamble. See also UNSC resolution 2334 (2016) of 23 Dec. 2016, para. 1.

¹⁰⁹ See *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, I.C.J. Reports 2004 (I)*, pp. 182-183, para. 118.

Interim Self-Government Authority”¹¹⁰, an aim reaffirmed in the Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip of 28 September 1995¹¹¹. In this regard, the Court expressed its opinion that, along with other measures taken by the State of Israel, the construction of the wall in the Occupied Palestinian Territory “severely impedes the exercise by the Palestinian people of its right to self-determination, and is therefore a breach of Israel’s obligation to respect that right”¹¹² under international humanitarian law and international human rights law¹¹³.

75. Furthermore, in its later Advisory Opinion of 19 July 2024, on *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*, the Court recognized that the Palestinian people’s right to self-determination is a fundamental aim set out in the Oslo Accords. Consequently, it considered that “Israel’s policies and practices obstruct the right of the Palestinian people freely to determine its political status and to pursue its economic, social and cultural development”¹¹⁴.

B. The right to self-determination of the Palestinian people is opposable to Israel and establishes obligations for it

76. The Union of the Comoros recalls that the right to self-determination of the Palestinian people is opposable to the State of Israel and establishes obligations for it not only under international conventions, but also on account of the *erga omnes* and peremptory character of that right.

77. In addition to Article 1, paragraph 2, of the Charter of the United Nations, which enshrines the right of peoples to self-determination as a fundamental principle in international relations, the right to self-determination of peoples is formally guaranteed by common Article 1 of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights of 1966, instruments to which the State of Israel is party¹¹⁵. In its General Comment No. 12 on the right to self-determination, the Human Rights Committee stated that this right is inalienable¹¹⁶, all the more so as “its realization is an essential condition for the effective guarantee and observance of individual human rights and for the promotion and strengthening of

¹¹⁰ General Assembly, Declaration of Principles on Interim Self-Government Arrangements, 13 Sept. 1993, Art. 1; UN doc. A/48/486-S/26560, Letter dated 8 October 1993 from the Permanent Observer of Palestine to the United Nations addressed to the Secretary-General; Letter dated 8 October 1993 from the Permanent Representative of Israel to the United Nations addressed to the Secretary-General; Letter dated 8 October 1993 from the Permanent Representatives of the Russian Federation and the United States of America to the United Nations addressed to the Secretary-General.

¹¹¹ General Assembly, Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip, 28 Sept. 1995, fourth, seventh and eighth recitals of the preamble, Art. III, paras. 1 and 3, Art. XXII, para. 2; UN doc. A/51/889-S/1997/357, Letter dated 27 December 1995 from the Permanent Representatives of the Russian Federation and the United States of America to the United Nations addressed to the Secretary-General; Letter dated 28 December 1995 from the Permanent Representative of Israel to the United Nations addressed to the Secretary-General; Letter dated 19 December 1995 from the Permanent Observer of Palestine to the United Nations addressed to the Secretary-General.

¹¹² *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, I.C.J. Reports 2004 (I)*, p. 184, para. 122.

¹¹³ *Ibid.*, p. 197, para. 149.

¹¹⁴ *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. 102, 242 and 256.

¹¹⁵ International Covenant on Civil and Political Rights, New York, 16 Dec. 1966, entered into force on 23 Mar. 1976, ratified by Israel on 3 Oct. 1991; International Covenant on Economic, Social and Cultural Rights, New York, 16 Dec. 1966, entered into force on 3 Jan. 1976, ratified by Israel on 3 Oct. 1991.

¹¹⁶ Human Rights Committee, General Comment No. 12: Article 1 (Right to self-determination), 13 Mar. 1984, para. 2, UN doc. HRI/GEN/1/Rev.9 (Vol. I).

those rights.”¹¹⁷ In the same spirit, the General Assembly of the United Nations asserted in its resolution 49/148 on the universal realization of the right of peoples to self-determination that “the universal realization of the right of all peoples . . . to self-determination is a fundamental condition for the effective guarantee and observance of human rights and for the preservation and promotion of such rights”¹¹⁸.

78. The Union of the Comoros also recalls that the International Law Commission¹¹⁹ and the Court’s jurisprudence describe the right to self-determination as a peremptory norm of international law¹²⁰ of an *erga omnes* character¹²¹.

79. As the Court found in its Advisory Opinions of 2004 and 2024, the State of Israel “has the 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”¹²². One of the components of that right to self-determination is the right not to be deprived of means of subsistence¹²³. This right to subsistence, in accordance with common Article 1, paragraph 2, of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, imposes on the State of Israel not only the obligation not to deprive the Palestinian people of its *own* means of subsistence, but also the obligation not to obstruct the humanitarian assistance provided by the United Nations, its organs and institutions and other international organizations to the populations of the Occupied Palestinian Territory¹²⁴. This obligation is wholly applicable to UNRWA’s activities.

¹¹⁷ *Ibid.*, para. 1. Although it was not explicitly worded in these terms in the Final Communiqué of the Asian-African Conference held in Bandung, Indonesia, in April 1955, the right of peoples to self-determination was considered to be “a pre-requisite of the full enjoyment of all fundamental human rights”. See Final Communiqué of the Asian-African Conference (Bandung, 18-24 Apr. 1955), reproduced in: “Interventions”, *International Journal of Postcolonial Studies*, Vol. 11 (2009), p. 97, notes 1 and 2, and p. 98, note 1. Cited in the separate opinion of Judge A. A. Cançado Trindade, *Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965*, Advisory Opinion, *I.C.J. Reports* 2019, p. 171, para. 45.

¹¹⁸ UNGA resolution 49/148, Universal realization of the right of peoples to self-determination, 23 Dec. 1994, para. 1.

¹¹⁹ ILC, *Report of the International Law Commission*, Seventy-first session (29 Apr.-7 June and 8 July-9 Aug. 2019), Conclusion 23, UN doc. A/74/10.

¹²⁰ *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*, Advisory Opinion of 19 July 2024, para. 233.

¹²¹ *Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965*, Advisory Opinion, *I.C.J. Reports* 2019 (I), p. 133, para. 155, and p. 139, para. 180; *East Timor (Portugal v. Australia)*, Judgment, *I.C.J. Reports* 1995, p. 102, para. 29; *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Advisory Opinion, *I.C.J. Reports* 2004 (I), p. 199, para. 155; *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*, Advisory Opinion of 19 July 2024, para. 232.

¹²² *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. 237; *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Advisory Opinion, *I.C.J. Reports* 2004 (I), p. 197, para. 149.

¹²³ Common Article 1, para. 2, of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights.

¹²⁴ [See] UNGA resolution 38/145, Assistance to the Palestinian people, 19 Dec. 1983, para. 5; UNGA resolution 40/169, Economic development projects in the occupied Palestinian territories, 17 Dec. 1985, para. 1.

C. The forced cessation of UNRWA's activities hinders the exercise of the right to self-determination of the Palestinian people

80. *Violation of the right to subsistence.* In view of the deterioration in the humanitarian conditions and the escalation of the war in the Middle East, any freezing of UNRWA activities would have direct consequences for the means of subsistence of the many people who depend on its resources.

81. The Union of the Comoros shares the General Assembly's grave concern with regard to the situation of Palestine refugees, who continue "to require assistance to meet basic health, education and living needs"¹²⁵. In this context, the ending of UNRWA activities without offering an alternative solution will only exacerbate the humanitarian, social and economic situation of the populations benefiting from the Agency's services. Such a situation constitutes a violation by Israel of its obligation to assist the Palestinian people and not to hinder the activities of the United Nations and its institutions in delivering relief and assistance to them. Moreover, it constitutes a breach of the obligation to co-operate with the Organization, its institutions and the other organizations involved in operations to deliver relief services and assistance to the Palestinian people, in accordance with common Article 1, paragraph 2, of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights.

82. *Violation of the right of the Palestinian people freely to determine its political status and to pursue its own economic, social and cultural development.* The Palestinian people cannot envisage a free political, economic, social or cultural future unless its subsistence is guaranteed. There is a direct legal link between the right to subsistence of peoples under occupation and the right to self-determination, since their ability to "freely determine their political status" and "freely pursue their economic, social and cultural development" rests on that latter right, as established by common Article 1 of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. Several participants in advisory proceedings before the Court and the International Tribunal for the Law of the Sea (ITLOS) have maintained that the right to subsistence is an essential component of the right of peoples to self-determination¹²⁶.

83. For its part, the Court has already had occasion to state, in its 2024 Advisory Opinion, that the right of peoples freely to determine their political status and to pursue their economic, social and cultural development is a "key element" of the right to self-determination, and that Israel's policies and practices were having an impact on some aspects of the economic, social and cultural lives of

¹²⁵ UNGA resolution 77/123 of 12 Dec. 2022, para. 1.

¹²⁶ ITLOS, *Request for an Advisory Opinion submitted by the Commission of Small Island States on Climate Change and International Law*, Advisory Opinion, 21 May 2024, Written statement of the Republic of Nauru, 15 June 2023, paras. 59 *et seq.* ICJ, *Obligations of States in respect of Climate Change*, Request for an advisory opinion (pending): Written statement of the Cook Islands, 20 Mar. 2024, paras. 344 and 345; Written statement of the Republic of Vanuatu, 21 Mar. 2024, paras. 288 *et seq.*; Written statement of the Commonwealth of the Bahamas, 22 Mar. 2024, para. 154; Written statement of the Democratic Socialist Republic of Sri Lanka, 22 Mar. 2024, para. 97; Written statement of Tuvalu, 22 Mar. 2024, paras. 74 and 81; Written statement of the Commission of Small Island States on Climate Change and International Law, 22 Mar. 2024, para. 75; Written statement of the Republic of Kiribati, 22 Mar. 2024, para. 110; Written statement of the Republic of Nauru, 22 Mar. 2024, para. 37; Written statement of the Republic of Madagascar, 22 Mar. 2024, para. 58; Written statement of the Republic of Chile, 22 Mar. 2024, para. 64; Written statement of the People's Republic of Bangladesh, 22 Mar. 2024, para. 120 (developed further); Written statement of the Republic of Mauritius, 22 Mar. 2024, para. 84; and Written statement of Antigua and Barbuda, 22 Mar. 2024, para. 195.

the Palestinians and their right to self-determination in particular¹²⁷. The Court therefore considered that “Israel’s policies and practices obstruct the right of the Palestinian people freely to determine its political status and to pursue its economic, social and cultural development”¹²⁸.

It is indisputable that UNRWA provides services that are necessary for the subsistence of the populations concerned. Consequently, impeding its activities has the practical effect of preventing the Palestinian people from exercising its right to self-determination.

V. ISRAEL’S OBLIGATIONS UNDER INTERNATIONAL HUMANITARIAN LAW

84. As the Court stated in its 2004 Advisory Opinion: “[b]y virtue of its status as an occupying Power, a State assumes a set of powers and duties with respect to the territory over which it exercises effective control. In this context, the occupying Power bears a duty to administer the territory for the benefit of the local population.”¹²⁹

The Union of the Comoros recalls that the State of Israel is an occupying Power under international humanitarian law (A) and, as such, must not hinder humanitarian assistance (B), including that delivered by UNRWA (C).

A. Israel is an occupying Power under international humanitarian law

85. In its 2004 Opinion, the Court observed that:

“under customary international law as reflected . . . in Article 42 of the Regulations Respecting the Laws and Customs of War on Land annexed to the Fourth Hague Convention of 18 October 1907 . . . , territory is considered occupied when it is actually placed under the authority of the hostile army, and the occupation extends only to the territory where such authority has been established and can be exercised”¹³⁰.

It was by virtue of this definition that the Court characterized the State of Israel as an occupying Power in its Advisory Opinions of 2004 and 2024. In its more recent opinion, delivered in 2024, the Court considered that

“Israel 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

¹²⁷ *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. 241. See also Economic and Social Commission for Western Asia, report on Economic and social repercussions of the Israeli occupation on the living conditions of the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem, and of the Arab population in the occupied Syrian Golan, 30 June 2023, doc. A/78/127-E/2023/95.

¹²⁸ [*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. 242.

¹²⁹ *Ibid.*, para. 105.

¹³⁰ *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; *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda), Judgment, I.C.J. Reports 2005*, p. 229, para. 172; *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. 86 *et seq.* The status of occupying Power is therefore a legal consequence of a factual reality.

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.”¹³¹

The Court furthermore took the view that Israel’s withdrawal from the Gaza Strip did not release it from its obligations under the law of occupation: Israel’s obligations had remained “commensurate with the degree of its effective control” over the territory concerned¹³². The Union of the Comoros observes that Israel’s effective control over the Palestinian territory has continued since the Court’s most recent Opinion, and that it must therefore still be characterized as an occupying Power.

86. The status of occupying Power activates a legal régime aimed at protecting populations, maintaining the integrity of a territory, and ensuring its proper administration and that of its resources. The rules in question are to be found in the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War, Part III, Section III, relating to occupied territories¹³³, and in the Regulations Respecting the Laws and Customs of War on Land annexed to the Fourth Hague Convention of 18 October 1907¹³⁴. Beyond their basis in conventions, the rules relating to occupied territories have become part of customary law, as confirmed by the Court in its previous Advisory Opinions concerning the Palestinian question in particular¹³⁵. In its 2024 Opinion, the Court made it clear that the rules relating to occupation contained in the Fourth Geneva Convention and the Hague Regulations were applicable in the Occupied Palestinian Territory and were binding on Israel¹³⁶.

87. Moreover, the Comoros would join the Court in recalling that these rules are *so fundamental* to the respect of the human person, and elementary considerations of humanity¹³⁷, that they constitute intransgressible principles of international customary law¹³⁸ of an *erga omnes* character¹³⁹.

¹³¹ [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.

¹³² *Ibid.*, para. 94.

¹³³ Geneva Convention relative to the Protection of Civilian Persons in Time of War, 12 Aug. 1949, entered into force on 21 Oct. 1950 and ratified by Israel on 6 July 1951 (date of entry into force for Israel: 6 Jan. 1952).

¹³⁴ Regulations Respecting the Laws and Customs of War on Land, The Hague, 18 Oct. 1907.

¹³⁵ *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; *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, and p. 172, para. 89. See also *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda)*, Judgment, I.C.J. Reports 2005, p. 229, para. 172.

¹³⁶ *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.

¹³⁷ *Ibid.*

¹³⁸ *Ibid.*; *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Advisory Opinion, I.C.J. Reports 2004 (I), p. 199, para. 157; *Legality of the Threat or Use of Nuclear Weapons*, Advisory Opinion, I.C.J. Reports 1996 (I), p. 257, para. 79.

¹³⁹ *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Advisory Opinion, I.C.J. Reports 2004 (I), p. 199, para. 157.

88. The Union of the Comoros also recalls that application of the rules of the Fourth Geneva Convention and the Hague Regulations by no means prevents the application of other régimes of international law, in particular international human rights law¹⁴⁰.

B. As an occupying Power Israel must not hinder humanitarian assistance

89. *The occupying Power bears a duty to administer the territory “for the benefit of the local population”*¹⁴¹. The rules of the law of occupation under the terms of the Hague Regulations and the Fourth Geneva Convention are intended to govern a temporary situation during which the exercise by the occupying Power of authority over a foreign territory is “tolerated for the benefit of the local population”¹⁴². Accordingly, the occupying Power may not obtain any title of sovereignty over the territory concerned¹⁴³. Article 55 of the Hague Regulations confers on the occupying Power only the status of administrator and usufructuary of “public buildings, real estate, forests and agricultural estates belonging to the hostile State, and situated in the occupied country”¹⁴⁴. The Court made a point of recalling these provisions in its 2024 Opinion¹⁴⁵, while making clear that prolonged occupation does not entail the occupying Power acquiring additional powers¹⁴⁶.

90. The Fourth Geneva Convention thus lays down rules on the preservation and protection of populations in occupied territory and on the administration of the territory “for the benefit of the local population”. For example, Article 50 of the Convention provides for facilitation of the “proper working of all institutions devoted to the care and education of children”¹⁴⁷, while Articles 51 and 52 prohibit enlistment or work of a military character, and protect workers¹⁴⁸. Article 53 prohibits the destruction of property except where it is rendered absolutely necessary by military operations¹⁴⁹. The aim of Article 54 is to preserve the status of public officials and judges in order to maintain the civil service of the occupied territory¹⁵⁰. For their part, Articles 55, 56 and 57, examined in more detail below, concern the duties of ensuring the food and medical supplies of the population and of maintaining public health and hygiene services, together with the possibility of requisitioning civilian hospitals only temporarily and in cases of urgent necessity¹⁵¹. Article 58 obliges the occupying Power to maintain spiritual assistance¹⁵², while Articles 59 to 63 require it to provide relief to the population of the territory that it occupies¹⁵³.

¹⁴⁰ See section C below.

¹⁴¹ *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. 105 and 106.

¹⁴² *Ibid.*, para. 106. See also para. 141.

¹⁴³ *Ibid.*, para. 105.

¹⁴⁴ Regulations Respecting the Laws and Customs of War on Land, The Hague, 18 Oct. 1907, Art. 55.

¹⁴⁵ *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. 106.

¹⁴⁶ *Ibid.*, para. 108.

¹⁴⁷ Geneva Convention relative to the Protection of Civilian Persons in Time of War, Art. 50.

¹⁴⁸ *Ibid.*, Arts. 51 and 52.

¹⁴⁹ *Ibid.*, Art. 53.

¹⁵⁰ *Ibid.*, Art. 54.

¹⁵¹ *Ibid.*, Arts. 55 to 57.

¹⁵² *Ibid.*, Art. 58.

¹⁵³ *Ibid.*, Arts. 59 to 63.

91. It is clear from all these provisions, on the one hand, that their aim is to protect the population of the occupied territory and ensure that the situation of occupation has no effects on it beyond what is absolutely necessary; and, on the other hand, that the obligations of the occupying Power are not limited to the preservation of public order in and administration of the territory, but also include protection of the fundamental rights of the local populations. In that regard, the obligation to provide humanitarian assistance to civilian populations is a cornerstone of the Convention and of the legal régime applicable to occupation.

92. *International humanitarian law obliges the occupying Power to ensure humanitarian assistance to civilian populations.* The Union of the Comoros recalls that the provision of humanitarian assistance to civilian populations is an obligation of the occupying Power¹⁵⁴. It is both a *direct* and an *indirect* obligation: under the former, it must itself oversee the provision of humanitarian assistance necessary for the populations of the occupied territories; under the latter, it must not impede the provision of such assistance by third parties. These two obligations are cumulative. Not impeding the provision of humanitarian assistance does not relieve the occupying Power of its obligation to ensure it directly¹⁵⁵.

93. Under the first of these obligations, the occupying Power has the duty “of ensuring” the provision of essential products to the civilian population and of “ensuring and maintaining” medical services. These obligations are set out in Article 55, paragraph 1, and Article 56, paragraph 1, of the Fourth Geneva Convention:

“[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” (Article 55, paragraph 1);

“[t]o the fullest extent of the means available to it, the Occupying Power has the duty of ensuring and maintaining, with the cooperation of national and local authorities, the medical and hospital establishments and services, public health and hygiene in the occupied territory, with particular reference to the adoption and application of the prophylactic and preventive measures necessary to combat the spread of contagious diseases and epidemics. Medical personnel of all categories shall be allowed to carry out their duties.” (Article 56, paragraph 1)

94. Under the second obligation, the occupying Power may not impede the delivery of humanitarian assistance by third parties. 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 . . .

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

¹⁵⁴ This obligation is contained in Art. 43 of the Hague Regulations and in Arts. 55 to 63 of the Geneva Convention relative to the Protection of Civilian Persons in Time of War.

¹⁵⁵ Geneva Convention relative to the Protection of Civilian Persons in Time of War, Art. 60: “relief consignments shall in no way relieve the Occupying Power of any of its responsibilities under Arts. 55, 56 and 59”.

The Fourth Geneva Convention specifies that this assistance may be undertaken by States, or by impartial humanitarian organizations or bodies¹⁵⁶, such as UNRWA or the International Committee of the Red Cross (ICRC). Its provisions are reinforced by those of Additional Protocol (I) of 1977, according to which the occupying Power must “to the fullest extent of the means available to it” and “without any adverse distinction” ensure the provision of clothing, bedding, emergency housing and any other supplies “essential to the survival of the civilian population”¹⁵⁷, and neither limit nor restrict the movements of relief personnel¹⁵⁸.

95. Lastly, the Union of the Comoros recalls resolution 46/182 of the General Assembly of the United Nations, adopted in 1991, which called on States to facilitate the implementation of humanitarian assistance, in particular the provision of food, medicines, shelter and health care, for which access to victims is essential¹⁵⁹. That is precisely the assistance provided by UNRWA to civilian populations in the Palestinian territories.

96. Accordingly, in a situation of occupation, the relief societies¹⁶⁰ must be able to pursue their humanitarian activities unimpeded¹⁶¹. The Union of the Comoros recognizes that Article 63 of the Fourth Geneva Convention allows for an exception in cases of “urgent reasons of security”, but this exception has been strictly interpreted by the ICRC, which has emphasized that “under no circumstances may the occupation authorities invoke reasons of security to justify the general suspension of all humanitarian activities in an occupied territory”¹⁶². Contrary to claims made by the Israeli authorities, the Union of the Comoros considers that the exception in Article 63 is not applicable to the situation of the Palestinian territories, since the activities of relief organizations such as UNRWA, the Red Cross and the Red Crescent present no “urgent” threat to the security of the State of Israel. The Israeli authorities have launched a campaign aimed at equating UNRWA with Hamas and depicting this United Nations agency as a promoter of terrorism, but these accusations are false and entirely without foundation. The Union of the Comoros considers that they also pose a dangerous threat to United Nations staff worldwide. Moreover, UNRWA itself has made it clear that if members of its staff have committed criminal acts, including acts of terrorism or war crimes, they must be investigated¹⁶³. Inquiries are currently being carried out by the Office of Internal Oversight Services of the United Nations, which is examining allegations of criminal acts being committed by 19 UNRWA staff members (out of its 13,000 employees in Gaza)¹⁶⁴.

¹⁵⁶ *Ibid.*, Art. 59, para. 2.

¹⁵⁷ 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, not ratified by Israel but reflecting customary law, Art. 69, para. 1.

¹⁵⁸ *Ibid.*, Art. 71, para. 3.

¹⁵⁹ UNGA resolution 46/182, Strengthening of the coordination of humanitarian emergency assistance of the United Nations, 19 Dec. 1991, Annex, para. 6.

¹⁶⁰ Although only the National Red Cross (Red Crescent, Red Lion and Sun) Societies are explicitly mentioned in Article 63, its application is not confined to them, since the text also refers to other relief societies and special organizations of a non-military character. Geneva Convention relative to the Protection of Civilian Persons in Time of War, Art. 63.

¹⁶¹ *Ibid.*, Art. 63 (a).

¹⁶² ICRC, Commentary of 1958, Article 63 of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, <https://ihl-databases.icrc.org/en/ihl-treaties/gciv-1949/article-63/commentary/1958>, consulted on 18 Feb. 2025.

¹⁶³ UNRWA, “Stop Israel’s violent campaign against us”, 30 June 2024, <https://www.unrwa.org/newsroom/official-statements/www.unrwa.org/newsroom/official-statements/unrwa-stop-israel’s-violent-campaign-against-us>, consulted on 26 Feb. 2025.

¹⁶⁴ *Ibid.*

97. In any case, even if Article 63 were to apply, it in no way permits measures of a general and absolute nature that affect humanitarian assistance. Only temporary measures that are strictly necessary and proportionate may be taken by the occupying Power. Since the Israeli laws prohibit *any* UNRWA activity, they are measures of a general and absolute nature, and consequently are unlawful.

98. Furthermore, the Union of the Comoros recalls that the provision of humanitarian aid is a lawful activity under general international law and does not require the prior authorization of the occupying Power. At most, the occupying Power may organize the delivery of the humanitarian assistance, carrying out checks on the entry of goods necessary for the civilian population and regulating their passage according to prescribed times and routes¹⁶⁵. As the Court stated in the case of military activities in and against Nicaragua, “[t]here can be no doubt that the provision of strictly humanitarian aid to persons or forces in another country, whatever their political affiliations or objectives, cannot be regarded as unlawful intervention, or as in any other way contrary to international law.”¹⁶⁶

According to the Court, in order not to be condemned as an unlawful intervention in the internal affairs of a State, assistance must be given without discrimination to all in need in the territory concerned¹⁶⁷. Such is the case with regard to UNRWA’s activities.

C. The forced cessation of UNRWA’s activities constitutes a violation of international humanitarian law

99. The Union of the Comoros considers that the measures prohibiting UNRWA’s activities in the Palestinian territories not only constitute a breach of Israel’s obligations as an occupying Power (1), but may also constitute war crimes (2) and crimes of genocide (3).

1. Impeding UNRWA’s activities is a breach of Israel’s obligations as an occupying Power

100. It is not in dispute that UNRWA carries out activities of assistance to populations in the Palestinian territory not only through the care that it provides, but also by maintaining education services, ensuring social protection and distributing food vouchers¹⁶⁸. The Union of the Comoros recalls that, since the blockade was imposed on Gaza by Israel in 2007, humanitarian access has been considerably limited, with serious consequences for the civilian population. This blockade has resulted in severe restrictions on the materials needed for the reconstruction of essential infrastructure, including that relating to food and health services. And Israeli restrictions on the entry of building materials, medicines and basic supplies have made it difficult, if not impossible, to deliver emergency food aid¹⁶⁹.

101. In this respect, according to an OCHA update, Israeli road and border controls have seriously hindered the ability of humanitarian organizations to provide food assistance and to respond

¹⁶⁵ Geneva Convention relative to the Protection of Civilian Persons in Time of War, Art. 55, para. 1, and Art. 59, para. 4.

¹⁶⁶ *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America)*, *Merits, Judgment*, I.C.J. Reports 1986, pp. 124-125, para. 242.

¹⁶⁷ *Ibid.*, para. 243.

¹⁶⁸ See above, Introduction.

¹⁶⁹ OCHA, “Humanitarian Situation Update #231 | Gaza Strip”, www.ochaopt.org, 22 Oct. 2024, online, consulted on 18 Feb. 2025, <https://www.ochaopt.org/content/humanitarian-situation-update-231-gaza-strip>.

to the fundamental needs of the population of Gaza¹⁷⁰. The OCHA update also stresses that the limitations on the entry of food products and other essential goods, and the restrictions imposed on humanitarian workers, are seriously damaging the effectiveness of humanitarian assistance.

102. The OCHA further makes the point in its update that Israel has been imposing restrictions on imports of certain essential food products into Gaza, in particular since the blockade. Although some basic food products are being allowed to enter the territory, numerous items needed for the long-term survival of the population, such as agricultural seed, fishing materials and vital farming equipment, are often prohibited. This prevents sustainable long-term solutions from being developed to improve food security in the region. Moreover, Israeli restrictions on imports of medical supplies, such as medicines and essential medical equipment, have had serious effects on the hospitals and clinics in the Gaza Strip¹⁷¹. These restrictions have led to shortages of the medicines and medical equipment needed to treat the sick and wounded.

103. In addition, essential infrastructure for food supplies and the delivery of assistance has been systematically damaged or destroyed by Israeli military actions, in particular during the offensives in Gaza. This includes food warehouses, storage facilities and logistics infrastructure used by NGOs. A report by Human Rights Watch documents the destruction by Israel of key civilian infrastructure in Gaza, adding that the attacks have hindered access to humanitarian assistance and worsened the food situation facing the population¹⁷².

104. In the West Bank, the restrictions on movement, in particular through Israeli checkpoints and the separation wall, are often preventing patients, including those in medical emergencies, from reaching hospitals in time. Reports have documented cases of Palestinians, including those with bullet wounds or in need of special treatment, facing frequent delays in receiving care, putting their lives at risk. Organizations such as Médecins du monde, Oxfam, Save the Children and Action contre la Faim, together with 24 other NGOs, have denounced acts of obstruction of their humanitarian operations during November 2024¹⁷³.

105. The NGO Médecins Sans Frontières has drawn attention to the difficulties it faces in view of the frequent constraints on co-ordinating relief imposed by the Israeli authorities and their refusal to grant permits for entering the occupied territories, thereby hindering the delivery of humanitarian assistance, including healthcare services¹⁷⁴.

¹⁷⁰ *Ibid.*

¹⁷¹ Human Rights Watch, “Gaza: Israeli Attacks, Blockade Devastating for People with Disabilities”, www.hrw.org, 1 Nov. 2023, online, consulted on 18 Feb. 2025, www.hrw.org/news/2023/11/01/gaza-israeli-attacks-blockade-devastating-people-disabilities; Human Rights Watch, “Israel: Unlawful Gaza Blockade Deadly for Children”, www.hrw.org, 19 Oct. 2023, online, consulted on 18 Feb. 2025, <https://www.hrw.org/news/2023/10/18/israel-unlawful-gaza-blockade-deadly-children>.

¹⁷² Human Rights Watch, “Extermination and Acts of Genocide: Israel Deliberately Depriving Palestinians in Gaza of Water”, www.hrw.org, 19 Dec. 2024, online, consulted on 18 Feb. 2025, <https://www.hrw.org/report/2024/12/19/extermination-and-acts-genocide/israel-deliberately-depriving-palestinians-gaza>.

¹⁷³ See also: <https://medecinsdumonde.ch/actualite/acces-humanitaire-a-gaza-situation-alarmante-et-obstruction-de-laide-par-israel> or: <https://medecinsdumonde.ch/app/uploads/2024/11/Gaza-Humanitarian-Access-Snapshot-7.pdf>, consulted on 20 Feb. 2025.

¹⁷⁴ S. Forey, “Israel’s ‘campaign’ to undermine humanitarian NGOs”, *Le Monde*, 21 Oct. 2024: https://www.lemonde.fr/en/international/article/2024/10/21/israel-s-campaign-to-undermine-humanitarian-ngos_6730032_4.html, consulted on 20 Feb. 2025.

106. Israel's actions, in particular its restrictions on NGOs, the destruction of medical infrastructure and the administrative constraints, constitute violations of international humanitarian law and the Palestinians' right to health. These measures seriously hinder access to essential medical care and compromise the ability of humanitarian organizations to provide vital assistance. The Security Council has expressed its "deep concern about the catastrophic humanitarian situation in the Gaza Strip"¹⁷⁵. Any additional constraints, on the basis of the Israeli laws relating to UNRWA, would further breach the above-mentioned obligations and aggravate the situation of suffering faced by the populations of the occupied territories. While Israel has some leeway in its national territory with regard to UNRWA's activities, that is not the case in the Palestinian territory, where its status of occupying Power obliges it to maintain those activities.

107. Furthermore, the Union of the Comoros considers that, as the Court recalled in its 2024 Opinion, the ending of military operations does not automatically put an end to the status of occupying Power, nor release it from its obligations in that capacity. The State of Israel therefore continues to be bound by its obligations as occupying Power, given that the local authorities remain unable to exercise their functions¹⁷⁶.

2. The termination of UNRWA's activities and those of the other providers of humanitarian assistance may constitute a war crime.

108. The Union of the Comoros recalls that wilfully causing great suffering, or serious injury to body or health, constitutes a war crime¹⁷⁷. Given that UNRWA is the main provider of medical installations in the Occupied Palestinian Territories¹⁷⁸, the termination of its activities would deprive the civilian population of access to basic care and endanger the survival of a great many people, primarily vulnerable populations such as children.

109. Moreover, UNRWA is also the main — and in some territories the only — provider of urgently needed humanitarian assistance, in particular food aid. The situation is already critical in the Palestinian territories, where deaths by starvation are rising steeply¹⁷⁹. Preventing UNRWA from fulfilling its mission could therefore lead to a situation of widespread famine¹⁸⁰. The Union of the Comoros recalls that intentionally using starvation of civilians as a method of warfare by depriving them of objects indispensable to their survival, including wilfully impeding the delivery of relief

¹⁷⁵ UNSC resolution 2728 (2024).

¹⁷⁶ *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. 107.

¹⁷⁷ See Art. 50 of Geneva Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, 12 Aug. 1949, ratified by the State of Israel on 6 July 1951; Art. 51 of Geneva Convention (II) for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, 12 Aug. 1949, ratified by the State of Israel on 6 July 1951; Art. 130 of Geneva Convention (III) relative to the Treatment of Prisoners of War, 12 Aug. 1949, ratified by the State of Israel on 6 July 1951; and Art. 147 of Geneva Convention (IV) relative to the Protection of Civilian Persons in Time of War, 12 Aug. 1949, ratified by the State of Israel on 6 July 1951. See also Art. 8 (2) (a) (iii) of the Rome Statute of the International Criminal Court of 17 July 1998.

¹⁷⁸ Identical letters dated 9 December 2024, addressed to the President of the General Assembly and the President of the Security Council by the Secretary-General, 10 Dec. 2024, A/79/684–S/2024/892.

¹⁷⁹ Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, Francesca Albanese, 1 July 2024, A/HRC/55/73, paras. 39–41.

¹⁸⁰ *Ibid.*

supplies as provided for under the Geneva Conventions, is a serious breach of those conventions and constitutes a war crime¹⁸¹.

110. Lastly, United Nations staff — including that of UNRWA — and any other staff carrying out a humanitarian mission or participating in relief operations must be protected from any attack that might prevent them from discharging their mandate. The same applies to their equipment and premises. Any constraint in this regard also constitutes a war crime¹⁸².

3. The termination of UNRWA's activities and those of the other providers of humanitarian assistance may constitute a crime of genocide

111. The Convention on the Prevention and Punishment of the Crime of Genocide¹⁸³ defines genocide as “any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such: . . . [d]eliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part”¹⁸⁴.

112. Hence, acts that do not directly kill, but which may lead to destruction of the group by inflicting conditions of life endangering its survival, may constitute material evidence of the crime of genocide.

113. The General Assembly has pointed out that, since the enactment of the laws terminating UNRWA's activities, Israel has caused widespread destruction of vital infrastructure, in particular water, sewage and electricity networks¹⁸⁵. As observed by the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967:

“Israel has pursued a pattern of conduct ‘deliberately inflicting on the group conditions of life calculated to bring about its physical destruction’, as evidenced by the systematic destruction of already precarious life-sustaining healthcare, food security and Water, Sanitation and Hygiene for All (WASH) infrastructure. Although varying in intensity across the occupied territory, in Gaza this destructive violence has already led to starvation, epidemics and forced displacement with no possibility of safe return — as expressly intended. The destruction of infrastructure across the occupied Palestinian territory imperils the long-term survival of the group. The deliberate degradation of

¹⁸¹ See Arts. 23, 55, para. 1, and 59, para. 1, of Geneva Convention (IV) relative to the Protection of Civilian Persons in Time of War (specific to the situation of occupation); Art. 54, paras. 1 and 2, of the Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977, not ratified by Israel but reflecting customary law; ICRC study on Customary International Humanitarian Law, 2006, Rules 55 and 56; and Art. 8 (2) (b) (xxv) of the Rome Statute.

¹⁸² Convention on the Safety of United Nations and Associated Personnel, 9 Dec. 1994, Art. 7, para. 1; Art. 71, para. 2, of the Protocol Additional to the Geneva Conventions of 12 Aug. 1949 (Protocol I); Art. 8 (2) (b) (iii) and (xxiv) of the Rome Statute.

¹⁸³ Convention on the Prevention and Punishment of the Crime of Genocide, 9 Dec. 1948, entered into force on 12 Jan. 1951 and ratified by Israel on 9 Mar. 1950.

¹⁸⁴ *Ibid.*, Art. II (c).

¹⁸⁵ UNGA resolution 79/229, Permanent sovereignty of the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem, and of the Arab population in the occupied Syrian Golan over their natural resources, 23 Dec. 2024, A/RES/79/229, [fifteenth] recital of the preamble.

public health is a technique of genocide ‘by attrition’. More than 500,000 children with no schooling and 88,000 students without universities are doomed to dire outcomes.”¹⁸⁶

Accordingly, the Union of the Comoros can only take the view that ending those UNRWA activities still under way will aggravate the population’s subsistence conditions, cause it to suffer starvation, render unusable certain objects essential for its survival, reduce the medical services that are vital to it, deprive it of housing and clothing, and deny it access to education, employment and hygiene¹⁸⁷. Material evidence of the crime of genocide could thus be provided.

114. Moreover, the Union of the Comoros would draw the Court’s attention to the fact that the termination of UNRWA’s activities is likely to signify an *intention* to destroy, in whole or in part, Palestinians as a group¹⁸⁸ and constitute the element of intent or *mens rea* of the crime of genocide¹⁸⁹. The Israeli Finance Minister declared in August 2024 that it was “justified and moral” to starve the whole population of Gaza, even if it caused two million civilians to die of hunger¹⁹⁰. The measures adopted by Israel with a view to depriving the population of the services provided by UNRWA, whether in relation to food, housing or cultural, medical or educational services, when considered together form a pattern of conduct indicative of genocidal intent¹⁹¹.

115. Furthermore, the Union of the Comoros recalls that all States have a duty to prevent the crime of genocide, in particular by ensuring “unhindered humanitarian assistance to Gaza and full financing and protection of UNRWA, including from attacks on its premises and personnel and from libellous smear campaigns, and ensure the continuity of its mandate in all fields”¹⁹².

VI. ISRAEL’S OBLIGATIONS PURSUANT TO INTERNATIONAL HUMAN RIGHTS LAW

116. The Union of the Comoros recalls that customary international human rights law and the human rights conventions are applicable in periods of armed conflict and occupation, and that the

¹⁸⁶ Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, 1 Oct. 2024, para. 63. See also Anatomy of a genocide, Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, 1 July 2024, A/HRC/55/73: “77 per cent of health-care facilities, 68 per cent of the telecommunications infrastructure, large numbers of municipal services (72), commercial and industrial sites (76), almost half of all roads, over 60 per cent of Gaza’s 439,000 homes, 68 per cent of residential buildings, all universities and 60 per cent of other educational facilities, including 13 libraries”.

¹⁸⁷ See Situation of human rights in the Palestinian territories occupied since 1967, report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, Francesca Albanese — Genocide as colonial erasure, in accordance with Human Rights Council resolution 5/1, 1 Oct. 2024, A/79/384.

¹⁸⁸ Palestinians are an ethnic group within the meaning of the 1951 Genocide Convention in that its members share a common language or culture. See ICTR, *The Prosecutor v. Akayesu*, Trial Chamber I, Judgement, 2 Sept. 1998, paras. 512 to 515.

¹⁸⁹ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro)*, Judgment, I.C.J. Reports 2007 (I), p. 122, para. [188].

¹⁹⁰ <https://www.timesofisrael.com/smotrich-it-may-be-justified-to-starve-2-million-gazans-but-world-wont-let-us/> cited in the report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, 1 Oct. 2024, A/79/384, para. 93.

¹⁹¹ Extraordinary Chambers in the Courts of Cambodia, Case 002/02 Judgment, para. 801 (citing S/1994/674, para. 94); International Criminal Tribunal for the Former Yugoslavia, *Prosecutor v. Zdravko Tolimir*, Case No. IT-05-88/2-T, Judgment, 12 Dec. 2012, para. 745; International Criminal Tribunal for the Former Yugoslavia, *Prosecutor v. Milomir Stakić*, Case No. IT-97-24-A, Appeal Judgment, 22 Mar. 2006, para. 55; International Criminal Tribunal for Rwanda, *The Prosecutor v. Yussuf Munyakazi*, Case No. ICTR-97-36A-A, Appeal Judgment, 28 Sept. 2011, para. 142; all cited in the report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, 1 Oct. 2024, A/79/384.

¹⁹² Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, 1 Oct. 2024, A/79/384, para. 91 (g).

Palestinians are under Israel's jurisdiction within the meaning of those conventions (A). Accordingly, the Union of the Comoros respectfully asks the Court to find that the forced cessation of UNRWA's activities would constitute a breach of the obligations of the State of Israel (B).

A. The Palestinian territories are under Israel's jurisdiction within the meaning of the international human rights conventions

117. The Union of the Comoros recalls that international human rights law applies in a situation of armed conflict (1) and that the Palestinian territories are under Israel's jurisdiction within the meaning of the international human rights conventions (2).

1. International human rights law applies in a situation of armed conflict

118. The Union of the Comoros contests the position of the State of Israel, as put to the Human Rights Committee in its [2022] report for consideration, claiming that the instruments for protection of human rights do not apply to the Palestinian territories because of the situation of armed conflict. The Committee rejected that position in its most recent observations on implementation of the [International Covenant on Civil and Political Rights] by Israel, stating that the applicability of international humanitarian law did not preclude the application of human rights treaties¹⁹³. The Court did not disagree in its 2004 and 2024 Opinions, where it recalled that "the protection offered by human rights conventions does not cease in case of armed conflict or of occupation"¹⁹⁴.

119. Consequently, the existence of an armed conflict and the applicability of international humanitarian law do not render international human rights law inapplicable. Hence the human rights conventions to which Israel is party are applicable in this instance, as is customary international law.

2. The Palestinian territories are under Israel's jurisdiction within the meaning of the international human rights conventions

120. The Union of the Comoros considers that, contrary to the claims made by the State of Israel in the past¹⁹⁵, the populations of the Palestinian territories come under its jurisdiction because of the effective control that Israel exercises there. It is well established that individuals are subject to the jurisdiction of a State party not only when they are on its national territory, but also when they are in areas outside it, over which that party exercises its *authority* and *control*¹⁹⁶. The Court and the human rights bodies agree that such jurisdiction is established when the State exercises effective

¹⁹³ Human Rights Committee, Concluding observations on the fifth periodic report of Israel, CCPR/C/ISR/CO/5, 5 May 2022, para. [7].

¹⁹⁴ *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, I.C.J. Reports 2004 (I)*, pp. 177-178, paras. 105 and 106; *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. 99. See also *Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion, I.C.J. Reports 1996 (I)*, p. 240, para. 25: "the protection of the International Covenant on Civil and Political Rights does not cease in times of war, except by operation of Article 4 of the Covenant whereby certain provisions may be derogated from in a time of national emergency".

¹⁹⁵ Human Rights Committee, Concluding observations on the fourth periodic report of Israel, CCPR/C/ISR/CO/4, 21 Nov. 2014.

¹⁹⁶ The jurisprudence on the matter is plentiful. See, for example, *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 ICJ recognized extraterritorial application of the two 1966 Covenants and the Convention on the Rights of the Child. See also Human Rights Committee, *López Burgos v. Uruguay*, CCPR/C/13/D/52/1979, 29 July 1981, paras. 12.1-12.3.

control over a foreign territory¹⁹⁷ or when it exercises prerogatives of public powers¹⁹⁸. It does not need to have a physical presence in the territory in question¹⁹⁹. Such is the case with a situation of occupation: “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”²⁰⁰.

121. It is an established fact, moreover, that the State of Israel has occupied the Palestinian territories, imposed control over their populations and exercised prerogatives of public authority there since 1967²⁰¹. Consequently, in their observations on Israel’s reports to them, the committees established by the United Nations to monitor implementation of the human rights instruments have made it clear that the State of Israel’s obligations also apply to the Occupied Palestinian Territories²⁰². Israel therefore cannot argue a restrictive view of territorial jurisdiction in order to relieve itself of any obligation concerning humanitarian assistance for the populations in question, and its policy in this regard must be consistent with its obligations under international human rights law.

122. The international treaties of relevance to the present advisory proceedings are the International Covenant on Civil and Political Rights²⁰³, the International Covenant on Economic,

¹⁹⁷ See *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, I.C.J. Reports 2004 (I)*, pp. 180-181, para. 112; ECHR, *Loizidou v. Turkey* (preliminary objections), Application no. 5318/89, judgment of 23 Mar. 1995, paras. 62–64; ECHR, *Cyprus v. Turkey*, Application no. 25781/94, judgment of 10 May 2001, para. 77; ECHR, *Al-Skeini and Others v. the United Kingdom*, Application no. 55721/07, judgment of 7 July 2011, paras. 133-137; ECHR, *Case of Issa and Others v. Turkey*, Application no. 31821/96, judgment of 30 Mar. 2005, para. 71; ECHR, *Al-Saadoon and Mufdhi v. the United Kingdom*, Application no. 61498/08, decision of 30 June 2009, paras. 86-89; incarceration in prisons placed under the authority of one State in another State; ECHR, *Medvedyev and Others v. France*, Application no. 3394/03, judgment of 29 Mar. 2010, para. 67: control and authority exercised by the crew of a foreign vessel.

¹⁹⁸ ECHR, *Al-Skeini and Others v. the United Kingdom*, Application no. 55721/07, judgment of 7 July 2011, paras. 133-137.

¹⁹⁹ ECHR, *Pad and Others v. Turkey*, Application no. 60167/00, 28 June 2007, paras. 52-55, concerning gunfire from helicopters; Inter-American Commission on Human Rights, *Alejandro and Others v. Cuba*, Report no. 86/99, 29 Sept. 1999, para. 25, concerning shots fired from the air.

²⁰⁰ *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. 99, and *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 recalls that Israel continues to be bound by the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and the Convention on the Elimination of All Forms of Racial Discrimination with regard to its behaviour towards the Occupied Palestinian Territory: *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. 100, and *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 and 112.

²⁰¹ *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. 90-94.

²⁰² See, for example, the position taken by the Human Rights Committee in its fifth assessment of the implementation of the International Covenant on Civil and Political Rights by the State of Israel: Human Rights Committee, Concluding observations on the fifth periodic report of Israel, CCPR/C/ISR/CO/5, 5 May 2022, para. 6. Likewise by the Committee on the Elimination of Racial Discrimination (CERD): Concluding observations on the combined seventeenth to nineteenth periodic reports of Israel, CERD/C/ISR/CO/17-19, 27 Jan. 2020; and CERD, Consideration of reports submitted by States parties under Article 9 of the Convention: conclusions of the Committee on the Elimination of Racial Discrimination: Israel, 30 Mar. 1998, doc. CERD/C/304/Add.45. And by the Committee on Economic, Social and Cultural Rights in its fourth assessment of the implementation of the International Covenant on Economic, Social and Cultural Rights: Committee on Economic, Social and Cultural Rights, Concluding observations on the fourth periodic report of Israel, E/C.12/ISR/CO/4, 12 Nov. 2019, para. 8.

²⁰³ International Covenant on Civil and Political Rights, adopted on 16 Dec. 1966, entered into force on 23 Mar. 1976 and ratified by Israel on 3 Oct. 1991.

Social and Cultural Rights²⁰⁴, the International Convention on the Elimination of All Forms of Racial Discrimination²⁰⁵, the Convention on the Elimination of All Forms of Discrimination against Women²⁰⁶, the Convention on the Rights of the Child²⁰⁷ and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment²⁰⁸. All these conventions impose on Israel, with regard to the individuals under its jurisdiction, both negative obligations to refrain and positive obligations to protect. In all their jurisprudence, the human rights bodies refer to a trio of obligations, namely to *respect*, *protect* and *fulfil* the enjoyment of human rights²⁰⁹.

B. The forced cessation of UNRWA's activities constitutes a violation of the norms of international human rights law

123. UNRWA is the body entrusted with guaranteeing the exercise of certain human rights enshrined in the instruments listed in the previous section. The suspension of its activities therefore prevents those rights from having effect.

124. The Union of the Comoros considers that the termination of UNRWA's activities and those of other providers of humanitarian assistance constitutes a violation, in particular, of the right to life (1), the right to work (2), the right to an adequate standard of living (3), the right to health (4) and the right to education (5).

1. Violation of the right to life

125. As a contracting party to the International Covenant on Civil and Political Rights, the State of Israel is required, in accordance with Article 6 thereof, to guarantee individuals under its jurisdiction the right to life²¹⁰. This means, among other things, that States must take measures to ensure the survival of populations, including "access without delay . . . to essential goods and services such as food, water, shelter [and] health care"²¹¹. It is indisputable that the scope of the right to life includes, among its negative obligations, that of not hindering the provision of humanitarian assistance to a population placed in a situation of danger, and, among its positive obligations, that of contributing to the provision of such relief. Article 24 of the Covenant also obliges the parties to adopt special measures for the protection of children, to ensure that they all survive²¹². Given children's vulnerability in a situation of military occupation, the application of such a provision is particularly relevant in the case at hand, especially with regard to ensuring access to humanitarian assistance. The same obligation arises from the Convention on the Rights of the Child, which

²⁰⁴ International Covenant on Economic, Social and Cultural Rights, adopted on 16 Dec. 1966, entered into force on 3 Jan. 1976 and ratified by Israel on 3 Oct. 1991.

²⁰⁵ International Convention on the Elimination of All Forms of Racial Discrimination, adopted on 21 Dec. 1965, entered into force on 4 Jan. 1969. Israel ratified the Convention on 3 Jan. 1979.

²⁰⁶ Convention on the Elimination of All Forms of Discrimination against Women, adopted on 18 Dec. 1979, entered into force on 3 Sept. 1981. Israel ratified the Convention on 3 Oct. 1991.

²⁰⁷ Convention on the Rights of the Child, adopted on 20 Nov. 1989, entered into force on 2 Sept. 1990. Israel ratified the Convention on 3 Oct. 1991.

²⁰⁸ Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted on 10 Dec. 1984, entered into force on 26 June 1987. Israel ratified the Convention on 3 Oct. 1991.

²⁰⁹ See, for example, Economic and Social Council of the United Nations, Report on the right to adequate food as a human right submitted by Mr Asbjørn Eide, Special Rapporteur, E/CN.4/Sub.2/1987/23, 7 July 1987, paras. 112-114.

²¹⁰ International Covenant on Civil and Political Rights, Art. 6.

²¹¹ *Ibid.*, Art. 24; Human Rights Committee, General Comment No. 36 on Article 6: right to life, CCPR/C/GC/36, 3 Sept. 2019, para. 26.

²¹² Human Rights Committee, General Comment No. 36 on Article 6: right to life, *ibid.*, para. 60.

recognizes in Article 6 that every child has the “inherent right to life”²¹³. In a more general sense, Article 3 requires States parties to take into consideration, whenever making decisions concerning children, “the best interests” of the child²¹⁴.

126. Moreover, under the International Convention on the Elimination of All Forms of Racial Discrimination and the Convention on the Elimination of All Forms of Discrimination against Women, Israel is required to eliminate all forms of discrimination, both racial and gender-based, in the enjoyment of the right to life, and to take action against any practice tantamount to such discrimination²¹⁵. The Union of the Comoros would draw the Court’s attention to the situation facing women in the Palestinian territories: they are often the victims of intersecting forms of discrimination owing to their gender, origin and displaced person status²¹⁶.

127. In addition, the Union of the Comoros recalls that the right to life is an absolute right from which there can be no derogation, even in a situation of armed conflict²¹⁷, and that the Human Rights Committee has insisted that application of Article 6 of the Covenant must also benefit individuals who are under the control of a third State, as in the case of populations of territories under the authority of an occupying Power: “[f]urthermore, States parties must respect and protect the lives of individuals located in places that are under their effective control, such as occupied territories”²¹⁸.

The Committee also took the view that the application of international humanitarian law in no way relieves a State of its obligations with regard to the right to life, and that “article 6 continues to apply also in situations of armed conflict to which the rules of international humanitarian law are applicable, including to the conduct of hostilities”²¹⁹. The Committee on the Rights of the Child and the Committee on the Elimination of Discrimination against Women have adopted identical positions with regard to the extraterritorial application of the right to life as guaranteed by the corresponding conventions²²⁰.

128. The Union of the Comoros recalls the dramatic situation in the Palestinian territories, in Gaza in particular. At least 1.9 million people — or about 90 per cent of the population — have been displaced in the Gaza Strip during the war. Many have been displaced repeatedly, some ten times or more²²¹. On 1 February 2025, UNICEF stated that at least 14,500 children had reportedly been killed

²¹³ International Convention on the Rights of the Child, Art. 6.

²¹⁴ *Ibid.*, Art. 3.

²¹⁵ International Convention on the Elimination of All Forms of Racial Discrimination, Art. 5 (e); Convention on the Elimination of All Forms of Discrimination against Women, adopted on 18 Dec. 1979, Art. 2 (d).

²¹⁶ UNRWA, “Ending Violence Against Palestine Refugee Women and Girls”, www.unrwa.org, 26 Nov. 2022, online, consulted on 18 Feb. 2024, <https://www.unrwa.org/newsroom/news-releases/ending-violence-against-palestine-refugee-women-and-girls>.

²¹⁷ See International Covenant on Civil and Political Rights, Art. 4, para. 2; Convention for the Protection of Human Rights and Fundamental Freedoms, Rome, 4 Nov. 1950, Art. 15; and American Convention on Human Rights, San José, 22 Nov. 1969, Art. 27, para. 2.

²¹⁸ Human Rights Committee, General Comment No. 36 on Article 6: right to life, CCPR/C/GC/36, 3 Sept 2019, para. 63.

²¹⁹ *Ibid.*, para. 64.

²²⁰ See, for example, Committee on the Rights of the Child, *L. H. et al v. France*, CRC/C/85/D/79/2019, 2 Nov. 2020; Committee on the Rights of the Child, *Sacchi et al v. Argentina*, CRC/C/88/D/104/2019, 8 Oct. 2021; Committee on the Elimination of Discrimination against Women, General recommendation No. 37 (2018) on the gender-related dimensions of disaster risk reduction in the context of climate change, CEDAW/C/GC/37, [12 Mar. 2018], para. 43.

²²¹ UNRWA, “Situation Report #158 on the Humanitarian Crisis in the Gaza Strip and the West Bank, including East Jerusalem, Friday, February 7, 2025, All information updated for 29 January – 4 February 2025”, consulted on 19 Feb. 2025.

in the Gaza Strip since the beginning of the war and 23,000 injured, representing an average of 32 children killed each day. Some 17,000 children were unaccompanied or separated from their families or both, while thousands more were likely to be trapped under the rubble. All 335,000 children under five were at high risk of malnutrition²²². Through its emergency assistance and its ability to react, UNRWA is the guarantor of the survival of the populations of the Occupied Palestinian Territories. Hundreds of thousands of lives depend on the maintenance of its activity²²³. Accordingly, the obligations to respect, protect and fulfil the right to life require the State of Israel to facilitate, not hinder, access to humanitarian assistance.

2. Violation of the right to work

129. The International Covenant on Economic, Social and Cultural Rights, to which Israel is party, enshrines the right of everyone to work, or more specifically “to gain his living by work which he freely chooses or accepts”, and obliges the parties to take “appropriate steps to safeguard this right”²²⁴.

130. States are therefore under the obligation to refrain from impairing individuals’ employment opportunities²²⁵. Any interference in the enjoyment of the right to work must be necessary and proportionate, and no blanket measures are permitted²²⁶. The prohibition of *all* UNRWA’s activities is neither necessary nor proportionate, and violates the provisions of the Covenant.

Furthermore, according to the Committee on Economic, Social and Cultural Rights, Articles 2, 3 and 6 of the Covenant, taken together, prohibit any discrimination — on grounds of national origin or political status, for example — in access to and maintenance of employment²²⁷. Likewise, the International Convention on the Elimination of All Forms of Racial Discrimination requires the parties, among other things, to fight any discrimination in the enjoyment of the right to work based on race or ethnic origin²²⁸. As a party to this instrument, Israel has the obligation not to impede access to employment opportunities for the Palestinian populations of the territories placed under its control. Similarly, the Convention on the Elimination of All Forms of Discrimination against Women obliges parties to take action to eliminate any discrimination against women in their enjoyment of the right to work.

131. Under its mandate, UNRWA employs Palestinian refugees, making a significant contribution to the incomes and subsistence of the victims of the conflict²²⁹. It follows, therefore, that the cessation of the Agency’s activities in the Occupied Palestinian Territories would deprive

²²² UNICEF, State of Palestine Humanitarian Situation Report No. 34 (Year-End), 1 Jan.-31 Dec. 2024, <https://www.unicef.org/media/167341/file/State-of-Palestine-Humanitarian-SitRep-No.-34,-31-December-2024.pdf>, consulted on 19 Feb. 2025.

²²³ UNRWA, What We Do. Relief & Social Services, www.unrwa.org, online, consulted on 13 Feb. 2025, <https://www.unrwa.org/what-we-do/relief-social-services>.

²²⁴ International Covenant on Economic, Social and Cultural Rights, Art. 6.

²²⁵ [Committee on Economic, Social and Cultural Rights, The right to work. General Comment No. 18, E/C.12/GC/18, 24 Nov. 2005], paras. 23 and 33.

²²⁶ *Ibid.*, paras. 21 and 34.

²²⁷ *Ibid.*, para. 12 (b).

²²⁸ International Convention on the Elimination of All Forms of Racial Discrimination, Art. 5 (e) (i).

²²⁹ UN News, “Amid a funding crisis, UNRWA’s work in Lebanon could end by March”, news.un.org, 6 Feb. 2024, online, <https://news.un.org/en/story/2024/02/1146272>, consulted on 19 Feb. 2025.

refugees of their employment and breach their fundamental rights. Depriving thousands of families of their income by eliminating their jobs will increase poverty and unemployment in the Palestinian territory; the unemployment rate already stood at 51.1 per cent in 2024, according to the International Labour Organization²³⁰.

132. In the light of this established legal framework, and given the undisputed role played by UNRWA in providing employment for the Palestinian populations, Israel's termination of the Agency's activities would impede the enjoyment of the right to work and constitute a regressive action in terms of taking the "appropriate steps" required in order to fulfil its obligation in this regard.

3. Violation of the right to an adequate standard of living

133. Article 11 of the International Covenant on Economic, Social and Cultural Rights recognizes "the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions" and "the fundamental right of everyone to be free from hunger".

It obliges States to take measures to guarantee the effective enjoyment of this right, including in times of disaster, armed conflict or military occupation²³¹. With its reference to a certain standard of living, the scope of Article 11 includes a wide range of human conditions. In addition, the Convention on the Rights of the Child sets out specific guarantees in this regard for minors, as they are particularly vulnerable. It requires the parties to take appropriate measures to secure "the conditions of living necessary for the child's development"²³².

134. In the first place, this right implies access to food. Taken together with Article 2 of the same Covenant, it obliges the parties to take steps to achieve progressively the realization of the right to an adequate standard of living. In turn, that means guaranteeing access to subsistence. In this respect, in its General Comment No. 12, the Committee on Economic, Social and Cultural Rights has asserted that "[e]very State is obliged to ensure for everyone under its jurisdiction access to the minimum essential food"²³³ and identified the obligations to respect, protect and fulfil this right²³⁴. The requirement to fulfil the right incorporates "an obligation to facilitate and an obligation to provide", while the obligation to respect it requires States "not to take any measures that result in preventing such access"²³⁵.

135. The Union of the Comoros recalls that, in its observations on the implementation of the International Covenant on Economic, Social and Cultural Rights by the State of Israel, the Committee on Economic, Social and Cultural Rights indicated that its obligations as a State party to the Covenant applied to all territories and people under its effective control, and therefore to the populations of the

²³⁰ ILO, "A year of war: Unemployment surges to nearly 80 per cent and GDP contracts by almost 85 per cent in Gaza", [www.ilo.org](https://www.ilo.org/resource/news/year-war-unemployment-surges-nearly-80-cent-and-gdp-contracts-almost-85), online, consulted on 13 Feb. 2025, <https://www.ilo.org/resource/news/year-war-unemployment-surges-nearly-80-cent-and-gdp-contracts-almost-85>.

²³¹ [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.

²³² International Convention on the Rights of the Child, Art. 27.

²³³ Committee on Economic, Social and Cultural Rights, General Comment No. 12. The right to adequate food (Art. 11), E/C.12/1999/5, 12 May 1999, para. 14.

²³⁴ *Ibid.*, para. 15.

²³⁵ *Ibid.*

Occupied Palestinian Territories²³⁶. The Committee also called on the State of Israel to ensure “the unhampered flow of essential foodstuffs and supplies” into the Occupied Palestinian Territories²³⁷. Accordingly, any policy that deliberately hinders humanitarian assistance, especially regarding food, constitutes interference in the enjoyment of the right to an adequate standard of living. Moreover, the International Convention on the Elimination of All Forms of Racial Discrimination²³⁸ and the Convention on the Elimination of All Forms of Discrimination against Women prohibit any discrimination in the enjoyment of the right to food and in access to urgently needed food assistance²³⁹.

136. UNRWA undoubtedly plays a central role in supplying food assistance to the Palestinian populations. For example, since 19 January 2025, when the ceasefire entered into force, the Agency has provided food assistance to more than 1.2 million people²⁴⁰. The survival of the population clearly depends on its assistance. Since its establishment, UNRWA has been one of the main guarantors of meeting the essential needs of the Palestinian populations. Citing this dependence on the Agency, Joyce Cleopa Msuya Mpanju, Assistant Secretary-General for Humanitarian Affairs and Deputy Emergency Relief Coordinator, recently stated that any prohibition of UNRWA’s activities would lead to the ending of delivery of life-saving aid to Gaza, widespread famine and an unprecedented humanitarian crisis²⁴¹. Moreover, by hindering access to the humanitarian assistance provided by UNRWA, Israel is helping to perpetuate the intersectional discrimination suffered by Palestinian women²⁴².

137. For all these reasons, the Union of the Comoros considers that the prohibition of UNRWA’s activities in the Occupied Palestinian Territories by Israel would seriously hinder the delivery of humanitarian assistance and thereby constitute a violation of the right to food under Article 11.

138. In addition, Article 11 of the Covenant includes the right to adequate housing²⁴³. In the view of the Committee on Economic, Social and Cultural Rights, the right to housing should not be interpreted in a restrictive way, but should apply to any form of shelter offered to an individual, namely “the right to live somewhere in . . . dignity”²⁴⁴. Furthermore, the housing must be adequate and meet certain standards concerning, for example, security, accessibility and location²⁴⁵.

²³⁶ Committee on Economic, Social and Cultural Rights, Concluding observations of the Committee on Economic, Social and Cultural Rights. Israel, E/C.12/1 Add.27, 4 Dec. 1998, para. 8.

²³⁷ Committee on Economic, Social and Cultural Rights, Concluding observations of the Committee on Economic, Social and Cultural Rights. Israel, E/C.12/1/Add.90, 26 June 2003, para. 35.

²³⁸ International Convention on the Elimination of All Forms of Racial Discrimination, Art. 5 (e).

²³⁹ International Convention on the Elimination of All Forms of Discrimination against Women, Art. 2.

²⁴⁰ UNRWA Situation Report #158 on the Humanitarian Crisis in the Gaza Strip and the West Bank, including East Jerusalem, p. 3.

²⁴¹ United Nations, “Warned of Imminent Famine in Northern Gaza, Speakers in Security Council Urge Immediate Ceasefire, Sustained Aid”, 12 November 2024, [press.un.org](https://press.un.org/en/2024/sc15895.doc.htm), online, consulted on 13 Feb. 2025, <https://press.un.org/en/2024/sc15895.doc.htm>.

²⁴² See the declaration of Judge Charlesworth appended to the Advisory Opinion of 19 July 2024 on *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*, paras. 2-10.

²⁴³ Committee on Economic, Social and Cultural Rights, General Comment No. 4: The right to adequate housing (Art. 11 (1) of the Covenant), 9 Dec. 1991, para. 1.

²⁴⁴ *Ibid.*, para. 7.

²⁴⁵ *Ibid.*, para. 8.

139. The Agency has always played a central role in the provision of shelter to the Palestinian populations of the region, working to secure their right to adequate housing in a context of displacement and permanent conflict. For example, since the 19 January 2025 ceasefire, over 6,700 tents have been put up in Gaza City, providing the most vulnerable with emergency shelter²⁴⁶. It is plain to see that the refuge offered by UNRWA through the camps that it manages represents, in the situation of armed conflict into which the region has been plunged and the occupation endured by the Palestinian populations, a fundamental guarantee of protection. The Union of the Comoros thus considers that the termination of the Agency's activities would constitute a breach of Article 11 of the Covenant.

140. The Union of the Comoros respectfully asks the Court to find that Israel, in order to comply with its international obligations, must put an end to its policy of hindering urgently needed humanitarian assistance, and instead assist the population under its authority and guarantee their enjoyment of humane and decent living conditions.

4. Violation of the right to health

141. The WHO Constitution proclaims that “[t]he health of all peoples is fundamental to the attainment of peace and security and is dependent on the fullest co-operation of individuals and States”²⁴⁷. The human right to health is moreover enshrined in Article 12 of the International Covenant on Economic, Social and Cultural Rights, according to which 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”. In the view of the Committee on Economic, Social and Cultural Rights, the obligation to respect the right to health implies not restricting access to humanitarian assistance in times of armed conflict²⁴⁸, while under the obligation to fulfil this right, the provision of care must be ensured²⁴⁹.

142. Moreover, the States parties to the Convention on the Rights of the Child recognize “the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health”; they must strive to ensure “that no child is deprived of his or her right of access to such health care services”²⁵⁰ and pursue full implementation of that right, among other things by providing necessary medical assistance and health care, and combating disease and malnutrition²⁵¹. Furthermore, the International Convention on the Elimination of All Forms of Racial Discrimination and the Convention on the Elimination of All Forms of Discrimination against Women prohibit any policy of discrimination concerning the “right to public health, medical care, social security and social services”²⁵² and oblige the parties to fight racial or gender-based discrimination in access to medical care²⁵³.

²⁴⁶ UNRWA Situation Report #158 on the Humanitarian Crisis in the Gaza Strip and the West Bank, including East Jerusalem, p. 3.

²⁴⁷ Israel ratified the WHO Constitution on 21 June 1949.

²⁴⁸ Committee on Economic, Social and Cultural Rights, General Comment No. 14 (2000). The right to the highest attainable standard of health (Article 12 of the International Covenant on Economic, Social and Cultural Rights), E/C.12/2000/4, 11 Aug. 2000, para. 34.

²⁴⁹ *Ibid.*, para. 36.

²⁵⁰ International Convention on the Rights of the Child, Art. 24, para. 1.

²⁵¹ *Ibid.*, Art. 24, para. 2.

²⁵² International Convention on the Elimination of All Forms of Racial Discrimination, Art. 5 (e).

²⁵³ International Convention on the Elimination of All Forms of Discrimination against Women, adopted on 18 Dec. 1979, entered into force on 3 Sept. 1981, Art. 12.

143. UNRWA is the main provider of health services to millions of Palestinians living under Israeli occupation in Gaza, the West Bank and East Jerusalem. Between 7 October 2023 and 19 January 2025, UNRWA provided 7.3 million medical consultations in the Gaza Strip. On 3 February 2025 alone, 1,068 UNRWA healthcare staff provided 12,131 consultations²⁵⁴. Since January 2024, vaccines have been administered by the Agency to 242,000 children²⁵⁵. It is therefore undeniable that the population depends on the Agency for effective access to medical care. Consequently, preventing it from fulfilling its mandate, in a context of absolute humanitarian emergency, would deprive the Palestinian population of essential health services and constitute a violation of a fundamental right.

144. The Union of the Comoros considers that the forced cessation of UNRWA's activities would constitute a breach of Israel's obligations to respect and fulfil the right to health in the Palestinian territories.

5. Violation of the right to education

145. As UNESCO has recalled, “education is a fundamental human right under international law”²⁵⁶ enshrined in several instruments, including the World Declaration on Education for All (1990)²⁵⁷, the Convention against Discrimination in Education (1960)²⁵⁸ and United Nations Security Council resolution 2601 (2021) on the protection of education in armed conflict²⁵⁹. Moreover, Articles 13 and 14 of the International Covenant on Economic, Social and Cultural Rights, to which Israel is party, require States to guarantee access to primary, secondary and higher education²⁶⁰, both on their national territory and in territories under their jurisdiction²⁶¹. The Committee on Economic, Social and Cultural Rights has stated that Article 13 is to be interpreted as permitting no retrogressive measures in its implementation²⁶², and as imposing obligations to respect, protect and fulfil the right to education²⁶³. More specifically, the obligation to respect that right requires States “to avoid measures that hinder or prevent the enjoyment” of the right²⁶⁴ — such as “the closure of educational institutions in times of political tension”²⁶⁵.

146. Furthermore, the Convention on the Rights of the Child obliges parties to ensure that children have access to education. Article 28 thereof requires States to fulfil the right to primary,

²⁵⁴ UNRWA Situation Report #158 on the Humanitarian Crisis in the Gaza Strip and the West Bank, including East Jerusalem, pp. 4-6.

²⁵⁵ *Ibid.*

²⁵⁶ UNESCO, Executive Board, Supporting the continuity of UNRWA's educational activities in the occupied Palestinian territory (8 X/EX/2 and Corr.), 28 Nov. 2024, 8 X/EX/Decisions.

²⁵⁷ World Conference on Education for All – Meeting Basic Learning Needs, Jomtien, Thailand, 5-9 Mar. 1990.

²⁵⁸ Convention against Discrimination in Education, 14 Dec. 1960, ratified by Israel on 22 Sept. 1961 and entered into force on 22 May 1962.

²⁵⁹ UNSC resolution 2601 (2021), 29 Oct. 2021, S/RES/2601 (2021).

²⁶⁰ International Covenant on Economic, Social and Cultural Rights, Art. 13.

²⁶¹ *Ibid.*, Art. 14.

²⁶² Committee on Economic, Social and Cultural Rights, E/C.12/1999/10, Implementation of the International Covenant on Economic, Social and Cultural Rights. General Comment No. 13 (Twenty-first session, 1999). The right to education (Article 13 of the Covenant), 8 Dec. 1999, para. 45.

²⁶³ *Ibid.*, para. 46.

²⁶⁴ *Ibid.*, para. 47.

²⁶⁵ *Ibid.*, para. [59].

secondary and higher education²⁶⁶. These provisions must be read in the light of Article 10 of the Convention on the Elimination of All Forms of Discrimination against Women, which requires the parties to act to eliminate discriminatory practices and measures concerning access to education for women and girls²⁶⁷. In addition, the International Convention on the Elimination of All Forms of Racial Discrimination obliges parties to fight discrimination on ethnic grounds in relation to access to education²⁶⁸.

147. Since its establishment, UNRWA has provided access to education for children in the Occupied Palestinian Territories, where its 380 schools are attended by more than 340,000 students²⁶⁹. In the West Bank, 50,000 children are currently enrolled in UNRWA schools²⁷⁰, but since the entry into force of the Israeli laws at issue, the 13 UNRWA schools serving more than 5,000 children in the northern West Bank have been unable to operate²⁷¹. It is therefore indisputable that the forced cessation of the Agency's activities has already had an impact on the enjoyment of the right to education, an impact that would be aggravated if that cessation were to be extended to all the Palestinian territories.

148. Hence the Union of the Comoros can only endorse the findings of UNESCO's Executive Board that the legislative measures taken by Israel, if implemented in full, would threaten the Palestinian children's right to education²⁷², and that such measures "violate International Law and International Humanitarian Law, and contravene relevant United Nations General Assembly resolutions concerning the immunities and protections of international organizations"²⁷³.

VII. THE CONSEQUENCES FOR ISRAEL OF THE BREACHING OF ITS INTERNATIONAL OBLIGATIONS

149. The Union of the Comoros recalls that "every internationally wrongful act of a State entails the international responsibility of that State", as is made clear in Article 1 of the Draft articles on responsibility of States for internationally wrongful acts of the International Law Commission, adopted by the General Assembly of the United Nations on 12 December 2001²⁷⁴. Article 2 of the same Draft articles defines an internationally wrongful act as "an action or omission . . . attributable to the State under international law; and constitut[ing] a breach of an international obligation of the State".

²⁶⁶ International Convention on the Rights of the Child, Art. 28.

²⁶⁷ International Convention on the Elimination of All Forms of Discrimination against Women, adopted on 18 Dec. 1979, entered into force on 3 Sept. 1981, Art. 10.

²⁶⁸ International Convention on the Elimination of All Forms of Racial Discrimination, adopted on 21 Dec. 1965, entered into force on 4 Jan. 1969, Art. 5 (e) (v).

²⁶⁹ UNRWA, "What We Do. Education", www.unrwa.org, online, consulted on 13 Feb. 2025, <https://www.unrwa.org/what-we-do/education>.

²⁷⁰ UNRWA, "Palestinian people should not feel abandoned by the international community", www.unric.org, online, consulted on 13 Feb. 2025, <https://unric.org/en/unrwa-palestinian-people-should-not-feel-abandoned-by-the-international-community/>.

²⁷¹ UNRWA Situation Report #158 on the Humanitarian Crisis in the Gaza Strip and the West Bank, including East Jerusalem, p. 5.

²⁷² UNESCO, Executive Board, Supporting the continuity of UNRWA's educational activities in the occupied Palestinian territory (8 X/EX/2 and Corr.), 28 Nov. 2024, 8 X/EX/Decisions.

²⁷³ *Ibid.*

²⁷⁴ UNGA, Draft articles on responsibility of States for internationally wrongful acts, 12 Dec. 2001, A/RES/56/83, 13 pp.

150. The Union of the Comoros has shown that the laws enacted by the Knesset on 28 October 2024 constitute a breach of Israel's international obligations, in that they impede the activities of UNRWA and of the other bodies providing the humanitarian assistance necessary for the subsistence of the Palestinian people. Since the Knesset is a State organ, its decisions are imputable to Israel.

151. Consequently, Israel's international responsibility is likely to have been incurred, thereby imposing upon it the secondary obligations set forth in Articles 30 and 31 of the 2001 Draft articles on responsibility of States. First, Israel must cease the internationally wrongful act, if it is continuing, and offer appropriate assurances and guarantees of non-repetition, if the circumstances so require²⁷⁵. Second, Israel is under an obligation to make full reparation for the injury caused by the internationally wrongful act. This reparation may take one of the forms described in Articles 35 to 37 of the Draft articles: restitution, to the extent that it is not "materially impossible" or does not "involve a burden out of all proportion to the benefit"²⁷⁶ deriving from it; compensation, to the extent that restitution is materially impossible; or satisfaction, if neither restitution nor compensation are possible. These obligations of cessation, non-repetition and reparation "may be owed to another State, to several States, or to the international community as a whole, depending in particular on the character and content of the international obligation and on the circumstances of the breach"²⁷⁷.

152. The Union of the Comoros considers that impeding and interrupting the presence and humanitarian 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, constitute breaches of certain obligations *erga omnes* and norms of *jus cogens* recognized by the international community as a whole²⁷⁸. This refers in particular to the intransgressible rules of international humanitarian law, the right of people to self-determination and the prohibition of genocide.

153. Breaching these obligations leads to application of the régime of aggravated responsibility under Articles 40, 41, 48 and 54 of the 2001 Draft articles on responsibility of States. Under the terms of Article 40, this aggravated régime applies in cases of a *serious* breach by a State of an obligation arising under a *peremptory norm of general international law*²⁷⁹. The breach of such an obligation is serious if it involves "a gross or systematic failure by the responsible State to fulfil the obligation"²⁸⁰. The Union of the Comoros considers that the violation by Israel of its international obligations regarding the provision of humanitarian assistance to the Palestinian populations has not only been "carried out in an organized and deliberate way" but has also involved "violation[s] of a flagrant nature, amounting to a direct and outright assault on the values protected by the rule"²⁸¹.

154. The aggravated régime has two main consequences. First, no State may recognize as lawful a situation created by a serious breach, nor may it render aid or assistance in maintaining that situation.²⁸² Second, under Article 48 of the Draft articles, any State is entitled to invoke the

²⁷⁵ *Ibid.*, Art. 30.

²⁷⁶ *Ibid.*, Art. 35.

²⁷⁷ *Ibid.*, Art. 33.

²⁷⁸ See above, para. 76.

²⁷⁹ Draft articles on responsibility of States for internationally wrongful acts, Art. 40, para. 1.

²⁸⁰ *Ibid.*, Art. 40, para. 2.

²⁸¹ ILC, Draft articles on responsibility of States for internationally wrongful acts with commentaries thereto, *YILC*, 2001, Vol. II (Part Two), p.113.

²⁸² Draft articles on responsibility of States for internationally wrongful acts, Art. 41, para. 2.

responsibility of Israel, require cessation of the internationally wrongful act, and claim assurances and guarantees of non-repetition and performance of the obligation of reparation²⁸³.

155. In none of these situations is Israel at any time relieved of its duty to perform the obligations breached by its conduct, as is made clear in Article 29 of the Draft articles.

VIII. CONCLUSION

156. The analysis provided in this statement highlights the many violations of international law committed by Israel with regard to the Palestinian people and the United Nations bodies operating in the Occupied Palestinian Territory. As an occupying Power, Israel must respect its obligations under international humanitarian law and international human rights law alike. However, the forced cessation of UNRWA's activities and its hampering of humanitarian assistance constitute serious breaches of those obligations, thereby directly compromising the survival and well-being of the Palestinian population.

157. By hindering the operations of United Nations agencies and terminating the essential services provided by UNRWA, Israel is violating fundamental rights such as those to life, health, education and an adequate standard of living. Moreover, these actions form part of a wider policy to deny the Palestinian people its right to self-determination, in breach of Israel's international commitments and of the fundamental principles of the Charter of the United Nations.

158. The Union of the Comoros considers that the seriousness of these breaches goes beyond their immediate humanitarian consequences, as part of a broader pattern of systematically depriving the Palestinian people of its rights. Hindering humanitarian assistance and shutting down institutions like UNRWA that guarantee fundamental rights will lead to a situation where the civilian population faces untenable conditions, a situation which, under international criminal law, may be characterized as a crime against humanity and even a crime of genocide.

159. In this context, the Union of the Comoros takes the view that it falls to the international community, and in particular the competent organs of the United Nations, to take the necessary steps to ensure that Israel respects its international obligations and to guarantee protection of the rights of the Palestinian people. Allowing the impunity from which Israel is benefiting to continue would call into question the whole system of international law and the values it is meant to uphold. Failing to tackle these breaches would not only set a dangerous precedent under international law, but also compromise any prospect of peace and justice for the Palestinian people. Hence, the responsibility of the international community goes beyond condemnation in words: it calls for practical action to hold Israel responsible and put an end to these repeated breaches.

160. To conclude, the Union of the Comoros respectfully requests the Court to find that (i) it has jurisdiction to give the advisory opinion requested and that there are no "compelling reasons" for it to decline to do so; (ii) the forced cessation of the activities of the United Nations, including those of UNRWA and of other international organizations and third States in the Occupied Palestinian Territory constitutes a breach of Israel's obligations as a member of the United Nations; (iii) this forced cessation constitutes a breach of Israel's obligations as an occupying Power, and (iv) entails implementation of Israel's international responsibility.

²⁸³ *Ibid.*, Art. 48.

161. The Union of the Comoros reserves the right, where necessary, to revise, supplement or modify the wording of this Written statement and the arguments set out above, in the light of any documents that may subsequently be produced.

Respectfully submitted in
Addis Ababa, Ethiopia,
on 28 February 2025

by the Ambassador of the Union of the Comoros to the Federal Republic of Ethiopia and
Permanent Representative to the African Union

(Signed) Youssouf M. ASSOUMANI,
Agent.
