

INTERNATIONAL COURT OF JUSTICE

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

(ADVISORY OPINION)

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WRITTEN STATEMENT OF MEXICO

February 2025

## TABLE OF CONTENTS

<b>I.</b>	<b>INTRODUCTION .....</b>	<b>1</b>
<b>II.</b>	<b>JURISDICTION AND PROPRIETY OF THE REQUEST .....</b>	<b>2</b>
<b>A.</b>	<b>The Court has jurisdiction .....</b>	<b>2</b>
<b>B.</b>	<b>There are no compelling reasons for the Court to exercise discretion not to render the requested advisory opinion.....</b>	<b>3</b>
<b>III.</b>	<b>SCOPE OF QUESTION.....</b>	<b>4</b>
<b>IV.</b>	<b>FACTUAL BACKGROUND.....</b>	<b>5</b>
<b>A.</b>	<b>A worsened humanitarian crisis .....</b>	<b>5</b>
<b>B.</b>	<b>History of UNRWA.....</b>	<b>7</b>
<b>C.</b>	<b>Humanitarian Aid in Jeopardy: The Impact of Israel’s recent policies on UNRWA .....</b>	<b>8</b>
<b>D.</b>	<b>Israel’s Policies and Their Consequences for International Organizations, Third States, and Other Entities in the OPT .....</b>	<b>10</b>
<b>E.</b>	<b>Recent developments .....</b>	<b>11</b>
<b>V.</b>	<b>OBLIGATIONS OF ISRAEL UNDER INTERNATIONAL HUMANITARIAN LAW .....</b>	<b>12</b>
<b>A.</b>	<b>Israel as an Occupying Power .....</b>	<b>12</b>
<b>B.</b>	<b>Israel’s obligations to ensure and facilitate the provision of humanitarian relief and essential supplies .....</b>	<b>13</b>
<b>VI.</b>	<b>OBLIGATIONS OF ISRAEL UNDER INTERNATIONAL HUMAN RIGHTS LAW .....</b>	<b>15</b>
<b>A.</b>	<b>Israel is bound to comply with international human rights law in the OPT .....</b>	<b>15</b>
<b>B.</b>	<b>Israel’s obligations under the ICCPR, the ICESCR and CERD regarding discrimination.....</b>	<b>16</b>
<b>C.</b>	<b>Israel’s Obligations under CAT, CRC, the ICESCR and CEDAW regarding the protection of women and children .....</b>	<b>17</b>
<b>VII.</b>	<b>OBLIGATIONS OF ISRAEL UNDER THE LAW OF PRIVILEGES AND IMMUNITIES .....</b>	<b>19</b>
<b>VIII.</b>	<b>OBLIGATIONS OF ISRAEL AS A MEMBER OF THE UNITED NATIONS.....</b>	<b>20</b>
<b>IX.</b>	<b>CONCLUDING REMARKS .....</b>	<b>22</b>

## I. INTRODUCTION

1. On 19 December 2024, at the 54th meeting of its Seventy-Ninth Session, the United Nations (UN) General Assembly adopted resolution 79/232.<sup>1</sup> Through this resolution it decided, in accordance with Article 96 of the Charter of the United Nations, to request the International Court of Justice (ICJ) to render an advisory opinion under Article 65 of the Statute of the Court, on a priority basis and with the utmost urgency. The tenth operative paragraph of this resolution reads as follows:

*“The General Assembly,*

*Decides, in accordance with Article 96 of the Charter of the United Nations, to request the International Court of Justice, pursuant to Article 65 of the Statute of the Court, on a priority basis and with the utmost urgency, to render an advisory opinion on the following question, considering the rules and principles of international law, as regards in particular the Charter of the United Nations, international humanitarian law, international human rights law, privileges and immunities applicable under international law for international organizations and States, relevant resolutions of the Security Council, the General Assembly and the Human Rights Council, the advisory opinion of the Court of 9 July 2004, and the advisory opinion of the Court of 19 July 2024, 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*

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<sup>1</sup> See G.A. Res. 79/232, U.N. Doc. A/RES/79/232 (Dec. 19, 2024).

*benefit of the Palestinian civilian population, and in support of the Palestinian people's right to self-determination?"*

2. Afterwards, in its Order of 23 December 2024, the Court considered the urgency of the request and decided to accelerate the procedure, in conformity with Article 103 of its Rules. Accordingly, it fixed 28 February 2025 as the time-limit within which UN members could present written statements on the aforementioned question, in accordance with Article 66, paragraph 2, of the Statute of the ICJ.

3. Considering the relevance of the question in light of the ongoing situation in the Occupied Palestinian Territory (OPT), Mexico hereby submits the following written statement pursuant to the ICJ Order.

4. This written statement is organized in nine sections. First, the introduction outlines the origin of the advisory opinion request. Second, the reasons that support this Court's jurisdiction to render the advisory opinion. Third, the scope of the question submitted. Fourth, the relevant background. Sections fifth to eighth present Mexico's considerations on Israel's obligations under international humanitarian law, international human rights law, law of privileges and immunities, and United Nations law. Finally, section nine sets out the conclusions drawn from the foregoing analysis.

## **II. JURISDICTION AND PROPRIETY OF THE REQUEST**

### **A. The Court has jurisdiction**

5. The Charter of the United Nations and the Statute of the International Court of Justice, Articles 96(1) and 65(1) respectively, specify the two requirements upon which the exercise of the Court's advisory jurisdiction is based: (a) the requesting body is authorized to ask for an advisory opinion, and (b) the request concerns a legal question.<sup>2</sup>

6. Regarding the first requirement, Article 65(1) of the Court's Statute establishes that the Court may give an advisory opinion at the request of a body authorized by or in accordance with the Charter of the United Nations to make such a request. In this regard, Article 96(1) of the Charter explicitly and unqualifiedly authorizes the General Assembly to request an advisory opinion.

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<sup>2</sup> See *Application for Review of Judgement No. 273 of the United Nations Administrative Tribunal, Advisory Opinion*, I.C.J. Reports 1982, pp. 333-334, at para. 21

7. With respect to the second requirement, the Court has explained that “*questions framed in terms of law and raising problems of international law ... are by their very nature susceptible of a reply based on law*”<sup>3</sup> and therefore “*appear ... to be questions of a legal character*”.<sup>4</sup> Political considerations do not suffice to deprive the legal character of the question.<sup>5</sup>

8. The question submitted to the Court through Resolution 79/232 concerns Israel’s obligations under international law and it explicitly requests consideration of international rules and principles. Since the reply must be grounded in these legal foundations, the question is of a legal nature.

**B. There are no compelling reasons for the Court to exercise discretion not to render the requested advisory opinion**

9. Once the Court’s jurisdiction is established, the remaining question is whether it should exercise its discretionary power to decline the request for an advisory opinion. This discretion exists to safeguard the integrity of the Court’s judicial function as the principal organ of the United Nations, and it is reserved for cases where there are compelling reasons to refuse the requested opinion.<sup>6</sup>

10. The Court has stated that a compelling reason for it to decline to give an advisory opinion would be when the reply would circumvent the principle that a State is not obliged to allow its disputes to be submitted to judicial settlement without its consent.<sup>7</sup> However, the situation at hand is different. The question seeks clarity from the Court with respect to the obligations of Israel in relation to the presence and activities of the United Nations, other international organizations, and third States in and in relation to the OPT.

11. As stated by this Court, “*advisory opinions have the purpose of furnishing to the requesting organs the elements of law necessary for them in their action*”.<sup>8</sup> Since the Court’s

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<sup>3</sup> *Western Sahara, Advisory Opinion, I.C.J. Reports 1975*, p. 18, at para. 15

<sup>4</sup> *Idem*.

<sup>5</sup> See *Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion, I.C.J. Reports 1996*, p. 234, para. 13; and *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, I.C.J. Reports 2004*, p. 155, at para. 41

<sup>6</sup> See *Accordance with International Law of the Unilateral Declaration of Independence in Respect of Kosovo, Advisory Opinion, I.C.J. Reports 2010*, p. 416, at paras. 29-31.

<sup>7</sup> See *Western Sahara, Advisory Opinion, I.C.J. Reports 1975*, p. 25, at para. 33.

<sup>8</sup> *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, I.C.J. Reports 2004*, p. 162, at para. 60.

response to a request for an opinion constitutes its participation in the United Nations activities, it should not be declined.<sup>9</sup>

12. Resolution 79/232 explicitly states the General Assembly's deep concern over Israel's measures that undermine the presence, activities, and immunities of the United Nations, its agencies, and other international organizations, as well as the representation of third States in the OPT, which provide essential services and humanitarian aid. The purpose is to provide the General Assembly with legal certainty regarding Israel's obligations in this context.

13. Additionally, the current ceasefire between Israel and Hamas is not a compelling reason not to render the requested advisory opinion, since the question concerns Israel's obligations in relation to the presence and activities of the United Nations, other international organizations, and third States in the OPT, not just the armed conflict.

14. Therefore, it is the position of the Mexican State that the Court should exercise its jurisdiction and issue the advisory opinion requested by the General Assembly.

### **III. SCOPE OF QUESTION**

15. The Court has previously interpreted the questions submitted to it in the context of an advisory opinion when it has turned necessary for purposes of clarity.<sup>10</sup> Given the complexity of the question posed by the General Assembly, it is essential for the Court to determine the scope of the question before conducting a deep analysis to respond.

16. The question relates to the obligations of Israel in a dual character: as an occupying power and as a member of the United Nations. These obligations relate to the presence and activities of three different subjects in and in relation to the OPT: the United Nations, other international organizations, and third States. This conveys a twofold approach: the presence of these subjects in the OPT and their activities related to it.<sup>11</sup>

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<sup>9</sup> See *Interpretation of Peace Treaties with Bulgaria, Hungary and Romania (First Phase)*, Advisory Opinion, *I.C.J. Reports* 1950, p. 71.

<sup>10</sup> See *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Advisory Opinion, *I.C.J. Reports* 2004, p. 154, at para. 38; See also *Admissibility of Hearings of Petitioners by the Committee on South West Africa*, Advisory Opinion, *I.C.J. Reports* 1956, pp. 25-26.

<sup>11</sup> See G.A. Res. 79/232, U.N. Doc. A/RES/79/232 (Dec. 20, 2024).

17. Additionally, the obligations under consideration are directed towards ensuring the benefit of the Palestinian civilian population, and in support of the Palestinian people's right to self-determination.

18. As part of these obligations, the question explicitly refers to the obligation of Israel 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.

19. Then, in defining the scope of the question, it is essential to focus on the dual capacity in which Israel's obligations arise as an occupying power with direct responsibilities toward the Palestinian population under international law, and as a member of the United Nations bound by its Charter and relevant decisions. The analysis distinguishes between Israel's duty to facilitate the presence and operations of the United Nations, other international organizations, and third States within the OPT, and its obligations to ensure that their activities remain unhindered when directly connected to the OPT.

20. Furthermore, the core of these obligations lies in guaranteeing that humanitarian aid, essential services, and development assistance reach the Palestinian civilian population without obstruction, while respecting and promoting their right to self-determination.

21. The following sections will follow this approach in elucidating Israel's obligations.

#### **IV. FACTUAL BACKGROUND**

##### **A. A worsened humanitarian crisis**

22. The occupation and blockade of Gaza have permeated every aspect of Palestinian life, imposing severe hardships that long predate the October 7 attacks.<sup>12</sup> Israel began restricting the movement of goods and people in and out of Gaza in 1991,<sup>13</sup> progressively tightening these measures over the years. What started as mobility controls has evolved into a comprehensive siege, strangling Gaza's economy, isolating its population, and systematically obstructing the flow of essential goods and humanitarian aid.

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<sup>12</sup> See United Nations Office for the Coordination of Humanitarian Affairs (OCHA), Review of the Humanitarian Situation in the Occupied Palestinian Territory for 2004 (Apr. 3, 2005).

<sup>13</sup> See United Nations Human Rights Council, Human Rights Situation in Palestine and Other Occupied Arab Territories: Joint Written Statement Submitted by the Palestinian Centre for Human Rights, Al Mezan Centre for Human Rights, Al-Haq, and Others, U.N. Doc. A/HRC/24/NGO/51 (Sep. 2, 2013).

23. In 2007 Israel further tightened the blockade, drastically restricting access to food, water, fuel, and electricity, while sealing all crossings and halting humanitarian aid.<sup>14</sup> Since then, the consequences have been devastating: two-thirds of the population, already dependent on assistance, were left in critical need, and by 2023, approximately 2.1 million Palestinians across the OPT required some form of humanitarian assistance.<sup>15</sup>

24. Following the October 7 attacks, Israel escalated its collective punishment measures against the Palestinian population. Israel's Minister of Energy and Infrastructure ordered a total electricity cutoff, followed by the cessation of water supplies and fuel imports until mid-November.<sup>16</sup> By mid-October, water desalination plants had shut down, leaving over 650,000 people without clean water. The Gaza Power Plant ceased operations on October 11, further exacerbating the humanitarian crisis.<sup>17</sup>

25. The deprivation of essential resources contributed to an escalating food crisis, in accordance with the United Nations World Food Program, 90% of Gaza's population has faced acute food insecurity, with northern Gaza experiencing the worst conditions.<sup>18</sup> The Integrated

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<sup>14</sup> See Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel, Report of the Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel, U.N. Doc. A/HRC/56/26, Advance Unedited Version, 27 May 2024, Human Rights Council, Fifty-sixth session (18 June–12 July 2024).

<sup>15</sup> See OCHA, Humanitarian Needs Overview 2023, Occupied Palestinian Territory (Jan. 25, 2023).

<sup>16</sup> See UNRWA, The Gaza Strip: UNRWA finally receives fuel; much more is needed for humanitarian operations (Nov. 18, 2023), available at <https://www.unrwa.org/newsroom/official-statements/gaza-strip-unrwa-finally-receives-fuel-much-more-needed-humanitarian>; Gisha, Timeline of restrictions on entry of fuel into Gaza (Dec. 26, 2023), available at <https://gisha.org/en/graph/1-timeline-of-restrictions-on-entry-of-fuel-into-gaza/>; OCHA, Hostilities in the Gaza Strip and Israel: Flash Update #5 (Oct. 11, 2023), available at <https://www.unocha.org/publications/report/occupied-palestinian-territory/hostilities-gaza-strip-and-israel-flash-update-5>; Gisha, Fourth turbine at Gaza's power plant temporarily activated (Aug. 16, 2023), available at <https://gisha.org/en/fourth-turbine-temporarily-activated/>.

<sup>17</sup> See Reliefweb, Gaza strip: Critical water and wastewater infrastructure (Oct. 17, 2023), available at <https://reliefweb.int/map/occupied-palestinian-territory/gaza-strip-critical-water-and-wastewater-infrastructure-17-october-2023>; UNRWA, A matter of life and death: water runs out for 2 million people in Gaza (Oct. 14, 2023), available at <https://www.unrwa.org/newsroom/official-statements/matter-life-and-death-water-runs-out-2-million-people-gaza>; OCHA, Hostilities in the Gaza Strip and Israel: Flash Update #8 (Oct. 14, 2023), available at <https://www.ochaopt.org/content/hostilities-gaza-strip-and-israel-flash-update-8>; OCHA, Hostilities in the Gaza Strip and Israel: Flash Update #5 (Oct. 11, 2023), <https://www.ochaopt.org/content/hostilities-gaza-strip-and-israel-flash-update-5>; Gisha, Fourth turbine at Gaza's power plant temporarily activated (Aug. 16, 2023), available at <https://gisha.org/en/fourth-turbine-temporarily-activated/#:~:text=At%20a%20time%20when%20countries,with%20an%20increasingly%20harsh%20climate.&text=Gaza%20has%20been%20suffering%20from%20an%20acute%20shortage%20of%20electricity%20for%20years>.

<sup>18</sup> See Integrated Food Security Phase Classification (IPC), IPC Acute Food Insecurity Analysis September 2024 – April 2025 (Nov. 8, 2024), available at [https://www.ipcinfo.org/fileadmin/user\\_upload/ipcinfo/docs/IPC\\_Gaza\\_Strip\\_Acute\\_Food\\_Insecurity\\_Malnutrition\\_Sept2024\\_Aug2025\\_Special\\_Brief.pdf](https://www.ipcinfo.org/fileadmin/user_upload/ipcinfo/docs/IPC_Gaza_Strip_Acute_Food_Insecurity_Malnutrition_Sept2024_Aug2025_Special_Brief.pdf); IPC, IPC Acute Food Insecurity Analysis December 2023 – February 2024 (Jan., 2024), available at [https://www.ipcinfo.org/fileadmin/user\\_upload/ipcinfo/docs/IPC\\_Gaza\\_Acute\\_Food\\_Insecurity\\_Dec2023Feb2024.pdf](https://www.ipcinfo.org/fileadmin/user_upload/ipcinfo/docs/IPC_Gaza_Acute_Food_Insecurity_Dec2023Feb2024.pdf).



Food Security Phase Classification (IPC) reported that by March 2024, around 1.1 million people in Gaza “*have completely exhausted their food supplies and coping capacities and are struggling with catastrophic hunger (IPC phase 5) and starvation*”. That represented at least 300,000 more people than the estimated 800,000 victims of the 1994 genocide in Rwanda, and according to the organization, this is the “*highest number of people ever recorded, as facing catastrophic hunger*” by the IPC system.

26. The destruction of agriculture, fishing, and food production, combined with siege-related import restrictions, has made it nearly impossible to access sufficient food. As of March 2024, 1.1 million people were at risk of starvation.<sup>19</sup>

27. Despite this Court ordered Israel in January and March 2024 to allow the provision of humanitarian aid and basic services, attacks on aid convoys continued.<sup>20</sup> The siege, combined with ongoing hostilities and forced displacement, has disproportionately affected vulnerable groups, including children, the elderly, persons with disabilities, and pregnant and lactating women, severely restricting their fundamental rights and survival.

## **B. History of UNRWA**

28. The United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) was established as a subsidiary organ of the General Assembly, pursuant to General Assembly resolution 302 (IV) of 8 December 1949.<sup>21</sup> Its mandate is to provide humanitarian assistance and protection to registered Palestine refugees in the Agency’s area of operations pending a just and lasting solution to their plight. UNRWA commenced operations on 1 May 1950, and periodically renewed its mandate.<sup>22</sup>

29. General Assembly resolutions routinely state that UNRWA’s operations in these areas remain “essential”.<sup>23</sup> It is a human development and humanitarian services organization that encompasses primary and vocational education, primary health care, relief and social services,

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<sup>19</sup> See IPC, IPC Acute Insecurity Analysis 15 February – 15 July 2024 (Mar. 18, 2024), available at [https://www.ipcinfo.org/fileadmin/user\\_upload/ipcinfo/docs/IPC\\_Gaza\\_Strip\\_Acute\\_Food\\_Insecurity\\_Feb\\_July\\_2024\\_Special\\_Brief.pdf](https://www.ipcinfo.org/fileadmin/user_upload/ipcinfo/docs/IPC_Gaza_Strip_Acute_Food_Insecurity_Feb_July_2024_Special_Brief.pdf).

<sup>20</sup> 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, General List No. 192; *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 28 March 2024, General List No. 192.

<sup>21</sup> See G.A. Res. 302 (IV), U.N. Doc. A/RES/302 (IV) (Dec. 8, 1949).

<sup>22</sup> See The Agency’s host States invariably vote periodically in favour of General Assembly resolutions renewing the Agency’s mandate.

<sup>23</sup> See G.A. Res. 63/93, U.N. Doc. A/RES/63/93 (Dec. 5, 2008).

infrastructure and camp improvement, microfinance, and emergency response, including in situations of armed conflict. The General Assembly affirmed in its resolution ES-10/25 that “no organization can replace or substitute the Agency’s capacity and mandate to serve Palestine refugees and civilians in urgent need of life-saving humanitarian assistance”.<sup>24</sup>

30. As of 2023, UNRWA had 58 camps and 5.9 million registered Palestinian refugees, of whom 1.6 were in the Gaza Strip, 901 in the West Bank, 2.4 million in Jordan, 487,000 in Lebanon, and 580,000 in Syria.<sup>25</sup> UNRWA provides an average of over 15,000 medical consultations per day and over 500,000 per month in Gaza despite the ongoing armed conflict in Gaza. UNRWA is unique and irreplaceable.<sup>26</sup> Suspending UNRWA operations would deprive millions of Palestine refugees of life-saving assistance, erase decades of expertise, and eliminate an unmatched humanitarian access network within the OPT.<sup>27</sup>

### **C. Humanitarian Aid in Jeopardy: The Impact of Israel’s recent policies on UNRWA**

32. On January 27, 2024, Israel alleged that a dozen UNRWA employees participated in Hamas’ October 7 attacks.<sup>28</sup> Following these claims, over a dozen States and the EU suspended funding to UNRWA. UNRWA Commissioner-General Philippe Lazzarini warned that cutting funding at this critical time threatens Gaza’s entire humanitarian response, as 2 million Palestinians rely on UNRWA’s aid for survival.<sup>29</sup> In response, the Secretary-General appointed a Review Group, headed by Catherine Colonna, to objectively investigate misconduct allegations.

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<sup>24</sup> G.A. Res. ES-10/25, U.N. Doc. A/RES/ES-10/25 (Dec. 11, 2024).

<sup>25</sup> See UNRWA, UNRWA in Action (2023), available at [https://www.unrwa.org/sites/default/files/content/resources/unrwa\\_in\\_action\\_2023\\_eng.pdf](https://www.unrwa.org/sites/default/files/content/resources/unrwa_in_action_2023_eng.pdf)

<sup>26</sup> See Secretary General, Identical letters dated 8 January 2025 from the Secretary-General addressed to the President of the General Assembly and the President of the Security Council, U.N. Doc. A/79/716-S/2025/18 (Jan. 9, 2025).

<sup>27</sup> See Secretary General, Identical letters dated 8 January 2025 from the Secretary-General addressed to the President of the General Assembly and the President of the Security Council, U.N. Doc. A/79/716-S/2025/18 (Jan. 9, 2025).

<sup>28</sup> See AP News, Document spells out allegations against 12 UN employees Israel says participated in Hamas attack (Jan. 6, 2024), available at <https://apnews.com/article/israel-hamas-war-news-01-29-2024-4c49c2fb89c3bfd4963f2260b34943c1>; The Wall Street Journal, Hamas Leader Killed in Lebanon Was Also a U.N. Staffer, (Sep. 30, 2024), available at [https://www.wsj.com/world/middle-east/hamas-leader-in-lebanon-was-also-a-u-n-staffer-7ca3758c?mod=article\\_inline](https://www.wsj.com/world/middle-east/hamas-leader-in-lebanon-was-also-a-u-n-staffer-7ca3758c?mod=article_inline)

<sup>29</sup> See UNRWA, Statement of Philippe Lazzarini, Commissioner-General of UNRWA, at the UN Security Council (Oct. 9, 2024), available at <https://www.unrwa.org/newsroom/official-statements/statement-philippe-lazzarini-commissioner-general-unrwa-united-nations-security-council>

33. UNRWA facilities have also come under direct attack, including the incident in September 2024, where six staff members were killed in Israeli airstrikes targeting a school-turned-shelter.<sup>30</sup> UN Secretary-General António Guterres condemned these attacks as flagrant violations of international humanitarian law.<sup>31</sup> Former U.S. Secretaries of State Antony Blinken and Defense Lloyd Austin, blamed Israel for worsening starvation in Gaza, warning that failure to improve aid access within 30 days could impact future U.S. military aid to Israel.<sup>32</sup>

34. On October 28, 2024, the Knesset, the Parliament of Israel, declared UNRWA a “terrorist group” and banned it from operating within Israel. It passed two bills on October 6, 2024, aimed at ceasing UNRWA's operations. Essentially, the laws banned UNRWA from operating in Israeli territory and forbid Israeli state authorities from having contact with it.<sup>33</sup>

35. In this sense, the bills cut the agency from access to Israeli entrance permits into Gaza and the West bank, stating that UNRWA shall not establish any representation, provide any services or conduct any activities in the territory of Israel. As Israel controls all entry points into Gaza, cutting ties with UNRWA has crippled the agency’s ability to provide aid, further worsening the humanitarian situation.<sup>34</sup>

36. On April 22, 2024, UNRWA welcomed the Colonna Report’s findings, which confirmed that UNRWA has long-established neutrality safeguards and investigative procedures in place to address misconduct. By August 2024, the UN Office of Internal Oversight Services concluded its review of 19 UNRWA staff members. Evidence was insufficient in 9 cases, and one case was dismissed outright due to lack of evidence.<sup>35</sup>

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<sup>30</sup> See UNRWA, UNRWA situation report #155 on the humanitarian crisis in the Gaza strip and the West Bank, including East Jerusalem (Jan. 16, 2025), available at <https://www.unrwa.org/resources/reports/unrwa-situation-report-155-situation-gaza-strip-and-west-bank-including-east-jerusalem>

<sup>31</sup> See UN News, Gaza: Six UNRWA staff killed in strikes on school sheltering displaced people (Sep. 11, 2024), <https://news.un.org/en/story/2024/09/1154206>

<sup>32</sup> See Wall Street Journal, Biden Administration Issues Warning to Israel on Gaza Aid (Oct. 15, 2024), available at <https://cdn-ceo-ca.s3.amazonaws.com/1jgtqn1-Biden%20Administration%20Issues%20Warning%20to%20Israel%20on%20Gaza%20Aid%20-%20WSJ.pdf>

<sup>33</sup> See Wall Street Journal, Israel cuts ties with U.N. agency, creating new hurdles for Palestinian aid (Oct. 29, 2024), available at [https://www.wsj.com/world/middle-east/israel-cuts-ties-with-u-n-agency-creating-new-hurdles-for-palestinian-aid-89ace8dc?mod=article\\_inline](https://www.wsj.com/world/middle-east/israel-cuts-ties-with-u-n-agency-creating-new-hurdles-for-palestinian-aid-89ace8dc?mod=article_inline)

<sup>34</sup> See *Idem*.

<sup>35</sup> See UNRWA, UNRWA: Claims versus facts (2025), available at <https://www.unrwa.org/unrwa-claims-versus-facts-2025>

#### **D. Israel's Policies and Their Consequences for International Organizations, Third States, and Other Entities in the OPT**

37. Although UNRWA is the main direct provider of basic services —education, health, relief and social services, protection, camp infrastructure and improvement, microfinance, and emergency assistance to 1.5 million registered Palestine refugees in Gaza— other International Organizations and Thirds States are facing restrictive policies that block their access and threaten the humanitarian community's ability to respond effectively, due to the ongoing Israeli military operations and blockade.

38. Widespread destruction of infrastructure has caused severe shortages of food, water, and medical supplies, displacing nearly 2 million people. Hospitals are overwhelmed, operating with limited resources as the healthcare system approaches collapse. Restrictions on the entry of humanitarian aid and essential goods have further compounded the challenges faced by the civilian population.<sup>36</sup>

39. Conflict continues to place severe limitations on the ability of humanitarian organizations. The delivery of life-saving multi-sector humanitarian assistance, critical for famine prevention and response is impeded by extremely restricted humanitarian access. Humanitarian organizations and commercial trucks face heightened vulnerabilities and extremely limited food availability, access, and utilization, as well as access to healthcare, water, and sanitation.

40. In September 2024, 83 percent of all humanitarian movements to northern Gaza were either denied or impeded.<sup>37</sup> In fact, some international organizations had to pause the delivery of humanitarian assistance because of the safety conditions. The UN World Food Program (WFP) paused deliveries of life-saving food and aid to northern Gaza until conditions are in place that allow for safe distributions.<sup>38</sup>

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<sup>36</sup> See Refugees International, Scorecard: Israel Fails to Comply with U.S. Humanitarian Access Demands in Gaza (Nov. 12, 2024), available at <https://www.refugeesinternational.org/reports-briefs/scorecard-israel-fails-to-comply-with-u-s-humanitarian-access-demands-in-gaza/>.

<sup>37</sup> See Humanitarian Action, Global Humanitarian Overview 2025 (Dec. 4, 2024), available at <https://humanitarianaction.info/document/global-humanitarian-overview-2025/article/occupied-palestinian-territory-2#:~:text=Humanitarian%20access%20in%20the%20Occupied%20Palestinian%20Territory&text=In%20September%202024%2C%2083%20per,urgent%20needs%20receive%20critical%20aid.>

<sup>38</sup> See World Food Programme, UN Food Agency pauses deliveries to the North of Gaza (Feb. 20, 2024), available at <https://www.wfp.org/news/un-food-agency-pauses-deliveries-north-gaza>.

41. A report issued by UNICEF and WFP, found that the situation is particularly extreme in the Northern Gaza Strip. Nutrition screenings found that 15.6 per cent - or 1 in 6 children under 2 years of age - are acutely malnourished.<sup>39</sup> The effects of malnutrition affect those most vulnerable, including young children, and pregnant and breastfeeding women, while also being affected by a lack of access to safe water and sanitation; while facing widespread disease; and a collapsed health system<sup>40</sup>. Especially since 55% of the agricultural land was destroyed.<sup>41</sup>

42. Therefore, systematic attacks on food sovereignty endangers the survival of the population some analysis warned of a risk that Famine may occur by the end of May 2024.<sup>42</sup>

43. Although some States, like Qatar,<sup>43</sup> Saudi Arabia,<sup>44</sup> Tunisia,<sup>45</sup> Türkiye<sup>46</sup>, Egypt<sup>47</sup> and the European Union<sup>48</sup> have provided humanitarian assistance to Gaza, the situation remains dire. By May 2024, the fatalities in the Gaza Strip were estimated to have exceeded 34,800. Of them, 24,682, including 7,356 children and 5,419 women, were identified as of 30 April. The number of injured was estimated at 77,908. Disaggregated data were only available for 53,019 (including 12,332 children and 13,996 women).<sup>49</sup>

## **E. Recent developments**

44. On January 19, 2025, a ceasefire between Israel and Hamas was negotiated by the United States, Egypt, and Qatar. The agreement aimed to halt hostilities and facilitate

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<sup>39</sup> See Global Nutrition Cluster, Nutrition Vulnerability and Situation Analysis/Gaza (Feb., 2024), available at <https://www.nutritioncluster.net/sites/nutritioncluster.com/files/2024-02/GAZA-Nutrition-vulnerability-and-SitAn-v7.pdf>.

<sup>40</sup> See *Idem*.

<sup>41</sup> See United Nations Satellite Centre, UNOSAT Damage to Cropland Overview Map (Jul. 31, 2024), available at <https://unosat.org/products/3905>

<sup>42</sup> See IPC, IPC Acute Insecurity Analysis 15 February – 15 July 2024 (Mar. 18, 2024), available at [https://www.ipcinfo.org/fileadmin/user\\_upload/ipcinfo/docs/IPC\\_Gaza\\_Strip\\_Acute\\_Food\\_Insecurity\\_Feb\\_July\\_2024\\_Special\\_Brief.pdf](https://www.ipcinfo.org/fileadmin/user_upload/ipcinfo/docs/IPC_Gaza_Strip_Acute_Food_Insecurity_Feb_July_2024_Special_Brief.pdf).

<sup>43</sup> See Middle East Monitor, Qatar launches air bridge for aid to Gaza through Jordan (Feb. 4, 2025), available at <https://www.middleeastmonitor.com/20250204-qatar-launches-air-bridge-for-aid-to-gaza-through-jordan/>

<sup>44</sup> See Saudi Press Agency, Saudi Arabia Announces a Monthly Financial Grant to Alleviate the Palestinian Humanitarian Crisis in Gaza (Sep. 29, 2024), available at <https://www.spa.gov.sa/en/N2179888>

<sup>45</sup> See News, Tunisia sends 1st ship of humanitarian aid to Gaza (Jul. 23, 2024), available at <https://english.news.cn/africa/20240723/933b81e5872f46549cd2a5bd77f149d2/c.html>

<sup>46</sup> See Reuters, Turkish relief agency presents two ships to take aid direct to Gaza (Mar. 27, 2024), available at <https://www.reuters.com/world/middle-east/turkish-relief-agency-presents-two-ships-take-aid-direct-gaza-2024-03-27/>

<sup>47</sup> See UN News, unpacking Egypt's vital aid role in Gaza and Sudan (Feb. 13, 2024), available at <https://news.un.org/en/interview/2024/02/1146512>

<sup>48</sup> See European Commission, EU announces new €120 million humanitarian aid package for Gaza (Jan. 15, 2025), available at [https://ec.europa.eu/commission/presscorner/detail/en/ip\\_25\\_271](https://ec.europa.eu/commission/presscorner/detail/en/ip_25_271).

<sup>49</sup> See United Nations Human Rights Council, Report of the Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel, U.N. Doc. A/HRC/56/26 (Jun. 14, 2024).

humanitarian aid delivery. Israel's government officially approved the proposal, and the first hostage release began on January 19.<sup>50</sup>

45. Despite the ceasefire, tensions have persisted. Hamas has accused Israel of violating the truce by obstructing the delivery of humanitarian aid, and Hamas has delayed the release of additional hostages. Israel denied these allegations and has warned of resuming military operations if hostages are not released as scheduled.<sup>51</sup>

46. In February 2025, President Donald Trump announced U.S. will not resume funding to UNRWA.<sup>52</sup>

47. Having established the factual background, the submissions will provide information on what are Israel's legal obligations as an occupying power under International Humanitarian Law, International Human Rights Law, and relevant United Nations regulations.

## **V. OBLIGATIONS OF ISRAEL UNDER INTERNATIONAL HUMANITARIAN LAW**

### **A. Israel as an Occupying Power**

48. The central question is whether Israel holds the legal status of an occupying Power in the OPT under international humanitarian law (IHL). This status has been confirmed by this honorable Court.

49. The primary legal framework governing the obligations of occupying Powers is the Fourth Hague Convention of 1907 and its annexed Hague Regulations. Article 42 defines occupation as occurring when a territory "*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.*"<sup>53</sup>

50. Although Israel is not a Party to the Fourth Hague Convention, this Court has recognized the customary international law status of the Hague Regulations. In its Wall

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<sup>50</sup> See Center for Preventive Action, Israeli-Palestinian Conflict (Jan. 22, 2025), available at <https://www.cfr.org/global-conflict-tracker/conflict/israeli-palestinian-conflict>

<sup>51</sup> See CNN World, How the fragile Israel-Hamas ceasefire deal could unravel (Feb. 12, 2025), available at <https://edition.cnn.com/2025/02/11/middleeast/israel-hamas-ceasefire-deal-intl/index.html>

<sup>52</sup> See AP, Trump announces withdrawal from UN human rights body and halt to funding for Palestinian refugees (Feb. 4, 2025), available at <https://apnews.com/article/trump-un-human-rights-palestinian-refugees-israel-05e1d57bbb41df38771d1ab69adb21a3>

<sup>53</sup> Regulations Respecting the Laws and Customs of War on Land annexed to the Fourth Hague Convention of 18 October 1907, Art. 42.

Advisory Opinion, the Court affirmed: “*The Court considers that the provisions of the Hague Regulations have become part of customary law, as is in fact recognized by all the participants in the proceedings before the Court.*”<sup>54</sup>

51. The Court reaffirmed the IHL definition in the *Wall advisory opinion*, as well as in the *Case Concerning Armed Activities on the Territory of the Congo*, reiterating that “*territory is considered to be 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.*”<sup>55</sup>

52. To determine if a State is to be considered as an “occupying Power” in the meaning of the term as understood in international humanitarian law, this Court has examined before if an authority has in fact been established and exercised by the intervening State in the territories in question.<sup>56</sup>

53. In the case of Israeli presence in the OPT, this Court has already ascertained the existence of a regime of occupation<sup>57</sup> and that Israel’s obligations as an occupying Power have remained commensurate with the degree of its effective control over the Gaza Strip.<sup>58</sup> This characterization has also been upheld by the United Nations General Assembly.<sup>59</sup>

54. Thus, Israel continues to occupy certain Palestinian Territories, including the Gaza Strip, and is bound by the rules of IHL concerning occupation.

#### **B. Israel’s obligations to ensure and facilitate the provision of humanitarian relief and essential supplies**

55. The rules governing the obligations of occupying Powers are set out in the 1949 Geneva Convention Relative to the Protection of Civilian Persons in Time of War (Geneva Convention

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<sup>54</sup> *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, I.C.J. Reports 2004*, p. 172, at para. 89.

<sup>55</sup> *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda), Judgment, I.C.J. Reports 2005*, p. 229, at para. 172.

<sup>56</sup> See *Ibid*, p. 230, at paras. 173-174.

<sup>57</sup> See *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, I.C.J. Reports 2004*, pp. 167 and 181, at paras. 78 and 112.

<sup>58</sup> See *Legal Consequences Arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem, Advisory Opinion, General List No. 186*, p. 31, at para. 94.

<sup>59</sup> See G.A. Res. ES-10/14, U.N. Doc. A/RES/ES-10/14 (Dec. 12, 2003); G.A. Res. A/RES/77/247, U.N. Doc. A/RES/77/247 (Dec. 30, 2022).

IV). Particularly important is article 59, related to the obligation to ensure and facilitate the provision of humanitarian relief and essential supplies.<sup>60</sup>

56. Relevant to this point is also article 55 of the Geneva Convention IV, whose first paragraph clearly establishes that “[t]o the fullest extent of the means available to it, the Occupying Power has the duty of ensuring the food and medical supplies of the population; it should, in particular, bring in the necessary foodstuffs, medical stores and other articles if the resources of the occupied territory are inadequate.”<sup>61</sup>

57. These obligations must be understood in harmony with article 27, which states that protected persons “are entitled, in all circumstances, to respect for their persons, their honour, their family rights, their religious convictions and practices, and their manners and customs” and that “[t]hey shall at all times be humanely treated.”<sup>62</sup>

58. In fact, Israel’s obligation to facilitate humanitarian aid was already highlighted by the provisional measures ordered by this Court on 26 January 2024, in the context of the *Case concerning the Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)*. The order of the Court provided that “Israel shall take immediate and effective measures to enable the provision of urgently needed basic services and humanitarian assistance to address the adverse conditions of life faced by Palestinians in the Gaza Strip.”<sup>63</sup>

59. However, the factual developments and the evidence accumulated in earlier sections of the present written statement show an obstruction of the delivery of essential humanitarian assistance, resulting in severe shortages of food, water, and medical supplies.

60. The obligations vested upon Israel as an occupying Power by virtue of international humanitarian law continue to be imperative. Israel has yet to fulfill its duty to ensure the provision of humanitarian relief and essential supplies in accordance with article 59 of the Geneva Convention IV, an obligation reaffirmed by the International Court of Justice’s order

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<sup>60</sup> See Geneva Convention Relative to the Protection of Civilian Persons in Time of War (Geneva Convention IV), 75 UNTS 287, Art. 59. In its relevant parts, the article states 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”, and that “[a]ll Contracting Parties shall permit the free passage of these consignments and shall guarantee their protection”.

<sup>61</sup> *Idem.*, article 59.

<sup>62</sup> *Ibid.*, article 27.

<sup>63</sup> *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, General List No. 192, p. 25, at para. 86.



of provisional measures in *South Africa v. Israel*. Effective measures must be taken immediately to ensure that the rights of the protected populations are upheld.

61. Naturally, Israel's obligations do not relate only to the humanitarian relief provided by third States, but also to the activities of humanitarian organizations and their ability to reach populations in need without undue restrictions. In this context, attacks on UNRWA infrastructure and personnel, as well as any other unlawful action aimed at hindering the population of the Gaza Strip's access to humanitarian aid, violate the aforementioned order of provisional measures, which identified the existence of a real and imminent risk of irreparable prejudice to the rights of the Palestinians in Gaza.

62. Mexico has already availed itself of the opportunity to express before this Court, in the *South Africa v. Israel* case, that the deliberate obstruction of humanitarian assistance can generate life-threatening conditions with important gender-differentiated effects. Mexico wishes to underscore the specific vulnerabilities of women and girls during humanitarian crises, such as the one that the Court will analyze in the course of this advisory proceeding, as restricted access to essential resources exacerbates health risks and social inequalities.

63. The systemic denial of humanitarian aid, and the differentiated effects that it entails, warrant careful revision by this Court to the light of the obligations of occupying Powers according to international humanitarian law.

## **VI. OBLIGATIONS OF ISRAEL UNDER INTERNATIONAL HUMAN RIGHTS LAW**

### **A. Israel is bound to comply with international human rights law in the OPT**

64. The protection offered by human rights conventions does not cease in case of armed conflict or of occupation,<sup>64</sup> and they may apply outside the national territory.<sup>65</sup> This Court has asserted that international human rights instruments are applicable in respect of acts done by a State in exercise of its jurisdiction outside its own territory, particularly occupied territories.<sup>66</sup>

65. Mexico considers that Israel must comply with its international human rights obligations in the OPT in conformity with the International Covenant on Civil and Political

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<sup>64</sup> See *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Advisory Opinion, *I.C.J. Reports* 2004, pp. 177-178, at paras. 105-106.

<sup>65</sup> See *Ibid*, p. 179, at para. 109.

<sup>66</sup> See *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.

Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Elimination of All Forms of Racial Discrimination (CERD), the International Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), the Convention on the Rights of the Child (CRC) and its two additional protocols, and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).

66. In this sense, as highlighted by the following paragraphs, Israel's positive obligations under international human rights law (IHRL) include: (i) the obligation to ensure non-discrimination, and to prevent and eliminate all forms of racial, ethnic, or national discrimination; (ii) the obligation to prevent torture and ill-treatment; (iii) the obligation to protect the rights of children; and (iv) the obligation to prevent Gender-Based Violence.

**B. Israel's obligations under the ICCPR, the ICESCR and CERD regarding discrimination.**

67. Under Article 2(1) and Article 26 of the ICCPR and Article 2(2) of the ICESCR States are obligated to guarantee the enjoyment of rights without discrimination based on race, religion or ethnicity. Additionally, Article 1 of CERD defines racial discrimination as any distinction, exclusion, or restriction impairing the enjoyment of human rights on equal footing.

68. The ICJ has clarified that racial discrimination under Article 1, paragraph 1, of CERD consists of two elements: (i) a distinction, exclusion, restriction or preference based on prohibited grounds – such as race, color, descent, or national or ethnic origin– and (ii) that such treatment either intends or results in nullifying or impairing the recognition, enjoyment or exercise of human rights on an equal footing.<sup>67</sup>

69. In the present case, Mexico emphasizes Israel's obligation to avoid discrimination against protected groups, including Palestinian refugees, in line with its commitments under ICCPR, ICESCR, and CERD. Distinctions made between Palestinians and Israeli citizens in the enjoyment of fundamental rights –such as limiting UNRWA's operations and denying Palestinians access to critical humanitarian aid and essential services, including education, healthcare, and food security– undermine the duty of non-discrimination.

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<sup>67</sup> See *Application of the International Convention for the Suppression of the Financing of Terrorism and of the International Convention on the Elimination of All Forms of Racial Discrimination (Ukraine v. Russian Federation)*, Judgment, General List No. 166, p. 69, at para. 195.

70. Such differential treatment risks impairing the equal exercise of human rights for Palestinian refugees by disproportionately restricting their access to humanitarian aid. Limitations on UNRWA's activities in Gaza and the West Bank, alongside the prohibition on engagement by Israeli authorities, further exacerbate this restriction, impeding the fulfillment of Israel's obligations under international law.

71. Mexico also highlights the obligation to prevent intersectional discrimination. For instance, policies that prioritize water access to Israeli settlements in the West Bank over Palestinian communities disproportionately impact Palestinian women and girls, who have specific needs related to hygiene and privacy.<sup>68</sup> The decline of the agricultural sector, driven by such policies, has further marginalized Palestinian women by reducing employment opportunities, exacerbating their economic and social vulnerabilities.<sup>69</sup>

72. In this sense, Mexico underscores Israel's binding obligation under the ICCPR, ICESCR, and CERD to prevent discrimination and ensure equal access to humanitarian aid and essential services. Policies that disproportionately impact Palestinian communities, particularly those that hinder access to vital resources and humanitarian assistance, raise serious concerns regarding compliance with these international legal obligations.

### **C. Israel's Obligations under CAT, CRC, the ICESCR and CEDAW regarding the protection of women and children**

73. The prohibition of torture is a peremptory norm of customary international law.<sup>70</sup> Under Articles 1 and 2 of the CAT, States are obliged to: (i) refrain from committing acts of torture, (ii) prevent officials and others acting in an official capacity from engaging in torture, and (iii) adopt effective legislative, administrative, and judicial measures to prevent acts of torture in any territory under their jurisdiction.

74. In the case of *Prosecutor v. Furundžija*, the International Criminal Tribunal for the Former Yugoslavia stated that the *jus cogens* nature of the prohibition of torture serves to

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<sup>68</sup> See UN Women, Scarcity and Fear: A Gender Analysis of the Impact of the War in Gaza on Vital Services Essential to Women's and Girls' Health, Safety, and Dignity - Water, Sanitation and Hygiene (WASH) (Apr. 2024), available at <https://www.unwomen.org/sites/default/files/2024-04/gender-alert-gender-analysis-of-the-impact-of-the-war-in-gaza-on-vital-services-essential-to-womens-and-girls-health-safety-en.pdf>

<sup>69</sup> See United Nations General Assembly, Report of the Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel, U.N. Doc. A/77/328 (Sep. 14, 2022).

<sup>70</sup> See Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1465 UNTS 85, Art. 2(2); See *Prosecutor v. Furundžija*, Case No. IT-95-17/1-T, Judgment, ICTY (Dec. 10, 1998), p. 59, at para. 154.

internationally delegitimize any legislative, administrative, or judicial act authorizing torture. This means that adopting national legislation inconsistent with this obligation gives rise to State responsibility, leading to legal claims for cessation and reparation.<sup>71</sup>

75. The European Court of Human Rights (ECtHR) has defined inhuman treatment as measures that cause “*if not actual bodily injury, at least intense physical and mental suffering*”.<sup>72</sup> The deliberate deprivation of food and essential supplies can cause such suffering, particularly when directed at vulnerable civilian populations. Under General Comment No. 12 of the *UN Committee on Economic, Social, and Cultural Rights*, States have an obligation to respect existing access to adequate food and refrain from any actions that obstruct or undermine such access.<sup>73</sup>

76. In this context, Mexico highlights that States must avoid measures—such as blockades—that could lead to severe physical and mental suffering among civilians, especially women and children. A humanitarian blockade resulting in starvation, malnutrition, and suffering may meet the threshold of “severe pain and suffering” under CAT, potentially constituting torture when carried out with the knowledge and acquiescence of State officials. Article 2 of CAT unequivocally prohibits such acts, even during armed conflict.

77. Furthermore, such blockades violate international obligations under the Convention on the Rights of the Child (CRC) by endangering the survival and development of children. Article 24(2)(c) of the CRC requires States to take measures to combat malnutrition and ensure access to adequate food and clean drinking water. These obligations align with Articles 11 and 12 of the International Covenant on Economic, Social, and Cultural Rights (ICESCR), which safeguard the right to food and the highest attainable standard of health.

78. The impact of blockades also raises concerns under the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). General Recommendation No. 19 explicitly recognizes that acts causing severe harm to women—including deprivation of essential resources—constitute gender-based violence and violate Articles 1 and 2 of CEDAW.

79. Mexico stresses that impeding access to humanitarian assistance through blockades can lead to the starvation and suffering of civilians, particularly women and children, potentially

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<sup>71</sup> See *Prosecutor v. Furundžija, Case No. IT-95-17/1-T, Judgment*, ICTY (Dec. 10, 1998), p. 57, at para. 150.

<sup>72</sup> See *Ireland v. United Kingdom, App. No. 5310/71, 2, ECtHR*. (1978), at para. 167.

<sup>73</sup> See UN Committee on Economic, Social and Cultural Rights, General Comment No. 12: The Right to Adequate Food (Art. 11), U.N. Doc. E/C.12/1999/5 (May 12, 1999), at para. 15.

violating multiple international legal obligations. These include Articles 1 and 2 of CAT, Articles 11 and 12 of ICESCR, Articles 2, 6, 24, and 27 of CRC, and Articles 1 and 2 of CEDAW, interpreted alongside General Recommendation No. 19.

80. To fulfill its international legal obligations, a State must immediately cease any practices that result in torture, inhuman treatment, or gender-based violence. Additionally, it must ensure unimpeded access to essential supplies, safeguarding the rights to food, health, and survival for all civilians under its jurisdiction.

## **VII. OBLIGATIONS OF ISRAEL UNDER THE LAW OF PRIVILEGES AND IMMUNITIES**

81. Under Article 105(1) and (2) of the UN Charter, as well as the General Convention on the Privileges and Immunities of the United Nations, Israel has an obligation to respect the privileges and immunities granted to UNRWA and other UN agencies. These legal protections are essential to ensure that UN agencies can carry out their humanitarian mandates without interference or obstruction from member states.

82. Article 105(1) of the UN Charter stipulates that: *“The Organization shall enjoy in the territory of each of its Members such privileges and immunities as are necessary for the fulfillment of its purposes.”* This obligation requires member states, including Israel, to ensure that UN agencies like UNRWA can operate effectively and independently to achieve their humanitarian goals.

83. These obligations are further detailed in the Convention on the Privileges and Immunities of the United Nations, particularly Section 3, which affirms: *“The premises of the United Nations shall be inviolable.”* Moreover, it states that *“the property and assets of the United Nations, wherever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation, and any other form of interference, whether by executive, administrative, judicial, or legislative action.”* This inviolability is absolute and must be upheld irrespective of military or security considerations.

84. The UN General Assembly has previously underscored these obligations, particularly concerning military actions affecting UN premises.<sup>74</sup> The same principles apply to more recent incidents impacting UNRWA operations.

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<sup>74</sup> See G.A. Res. 64/89 U.N. Doc. A/RES/64/89 (Dec. 10, 2009).

85. Consequently, Israel has an ongoing obligation to respect the inviolability of UNRWA's premises and ensure that its humanitarian operations proceed without interference. Any actions that obstruct UNRWA's access or damage its facilities undermine the agency's capacity to fulfill its mandate, exacerbating the humanitarian crisis in Gaza. The Colonna Report emphasizes the importance of maintaining neutrality and transparency in UNRWA's work, suggesting that any concerns regarding the agency should be addressed through dialogue and constructive engagement, rather than obstruction.

86. Upholding these obligations is critical to ensuring the continued delivery of humanitarian aid and protecting the rights and well-being of vulnerable populations. Ensuring the inviolability of UNRWA and its personnel is not only a legal obligation under the UN Charter and the General Convention but also a fundamental duty aligned with international humanitarian principles.

### **VIII. OBLIGATIONS OF ISRAEL AS A MEMBER OF THE UNITED NATIONS**

87. As a member of the United Nations, Israel is subject to obligations derived from the UN Charter. When Israel was admitted to the UN, it declared that it unreservedly accepted the obligations of the United Nations Charter and undertook to honor them from the day it became a Member of the United Nations.<sup>75</sup> These obligations govern its conduct in the OPT, particularly in relation to the presence and activities of other States, international organizations, and the UN itself.

88. Articles 1 and 2 of the UN Charter specify the purposes and principles intended to guarantee the attainment of its primary objectives. Article 2(5) is particularly relevant, since it establishes that all members shall give the UN every assistance in any action it takes in accordance with the Charter. The effective working of the Organization require that its members observe strictly their commitments under the Charter.<sup>76</sup>

89. Articles 55 and 56 of the Charter establish the duty of international cooperation, requiring all UN member States, including Israel, to work collectively and individually to promote higher standards of living, economic development, and respect for human rights and the principle of self-determination.

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<sup>75</sup> See G.A. Res. 273(III), U.N. Doc. A/RES/273(III) (May 11, 1949).

<sup>76</sup> See *Reparation for injuries suffered in the service of the United Nations*, Advisory Opinion, I.C.J. Reports 1949, p. 183.

90. In this regard, General Assembly resolution 79/141 (2024) is relevant. While this resolution does not explicitly reference Articles 55 and 56, it reinforces principles consistent with them, particularly emphasizing the urgent humanitarian needs of the Palestinian people and the necessity of international assistance to alleviate economic and social hardships in the OPT.<sup>77</sup>

91. The resolution explicitly calls upon UN agencies, intergovernmental and non-governmental organizations, and regional and interregional organizations to extend economic and social assistance to the Palestinian people. This reinforces the duty of international cooperation enshrined in Article 56. Additionally, the resolution stresses the importance of ensuring the free movement of humanitarian personnel and aid, a key component for the well-being of the population, consistent with the objectives of Article 55. Resolution 79/141 does not create new legal obligations for Israel; rather, it underscores the importance of cooperation in supporting the Palestinian people.

92. Israel, as a UN member, is bound by Articles 55 and 56, which require it to support and not obstruct international efforts aimed at providing humanitarian and economic assistance. Consequently, Israel is expected to refrain from imposing restrictions that undermine the international community's collective duty under these provisions.

93. Similarly, other Security Council and General Assembly resolutions reaffirm that Israel cannot lawfully claim sovereignty over the OPT nor prevent the presence of international actors working in the OPT to provide humanitarian assistance.<sup>78</sup> Although not binding, these resolutions confirm previously existing obligations of Israel.

94. Besides, Israel has obligations deriving from the decisions rendered by the ICJ in connection with the OPT. Article 93 of the Charter specifies that all members of the UN are *ipso facto* parties to the Statute of the ICJ. Article 41 of this Statute grants the Court the power to indicate provisional measures in connection with any case it is considering. Orders on provisional measures rendered by the Court under Article 41 have binding effect.<sup>79</sup>

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<sup>77</sup> See G.A. Res. 79/141 U.N. Doc. A/RES/79/141 (Dec. 12, 2024).

<sup>78</sup> See S.C. Res. 2728, U.N. Doc. S/RES/2728 (Mar. 24, 2024); G.A. Res. 79/91, U.N. Doc. A/RES/79/91 (Dec. 12, 2024); S.C. Res. 2334 U.N. Doc. S/RES/2334 (Dec. 23, 2016).

<sup>79</sup> See *LaGrand (Germany v. United States of America)*, Judgment, *I.C.J. Reports 2001*, p. 506, at para. 109.

Accordingly, they create international legal obligations for any party to whom the provisional measures are addressed.<sup>80</sup>

95. Consequently, Israel must comply with the measures indicated by the Court in its orders of 26 January 2024,<sup>81</sup> 28 March 2024,<sup>82</sup> and 24 May 2024,<sup>83</sup> rendered in connection with the case *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)*.

96. Additionally, under Article 38 of the ICJ Statute, judicial decisions are subsidiary means for the determination of rules of law. This includes advisory opinions that, while not legally binding, carry significant legal authority as they interpret and clarify existing international legal obligations. Thus, Israel must also comply with the obligations identified by the ICJ in its advisory opinions of 9 July 2004<sup>84</sup> and of 19 July 2024.<sup>85</sup>

97. Israel must comply with all the aforementioned obligations arising from its membership in the United Nations.

## **IX. CONCLUDING REMARKS**

98. The foregoing analysis serves to clarify Israel's obligations under international law in its dual capacity: first, as an occupying power with direct responsibilities toward the Palestinian people; and second, as a member of the United Nations bound by the principles and obligations enshrined in the UN Charter.

99. As an occupying power, Israel is required to comply with international humanitarian law, particularly the Fourth Geneva convention and the Hague Regulations. These legal

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<sup>80</sup> See *Allegations of Genocide under the Convention on the Prevention and Punishment of the Crime of Genocide (Ukraine v. Russian Federation)*, Provisional Measures, Order of 16 March 2022, I.C.J. Reports 2022, p. 230, at para. 84.

<sup>81</sup> 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, General List No. 192, pp. 24-26, at para. 86.

<sup>82</sup> 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 28 March 2024, General List No. 192, pp. 12-13, at para. 51.

<sup>83</sup> 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 24 May 2024, General List No. 192, pp. 14-15, at para. 57.

<sup>84</sup> See *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Advisory Opinion, I.C.J. Reports 2004.

<sup>85</sup> See *Legal Consequences Arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*, Advisory Opinion, General List No. 186.



instruments impose clear duties, including the obligation to ensure and facilitate the provision of humanitarian aid and essential services to the Palestinian population. The continued presence and operations of the United Nations, other international organizations, and third States in the OPT are critical to meeting these needs, and Israel has a legal responsibility to allow and facilitate their work. Measures that restrict or obstruct their activities run counter to these legal obligations and risk exacerbating the humanitarian crisis.

100. Moreover, Israel is bound by international human rights law, which continues to apply during occupation. As a State party to international human rights treaties, including the ICCPR, ICESCR, CAT, CRC, CERD and CEDAW, Israel must respect, protect, and fulfill the fundamental rights of all individuals in the OPT. These obligations include ensuring non-discrimination, protecting the rights of vulnerable populations.

101. As a member of the United Nations, Israel has additional obligations under the UN Charter, including those related to international cooperation, respect for the privileges and immunities of UN agencies, and adherence to relevant decisions from UN organs. These obligations require Israel to support and not hinder international efforts aimed at alleviating the humanitarian and developmental challenges faced by the Palestinian population.

102. The effective operation of UNRWA and other humanitarian organizations is essential to fulfilling these commitments. Ensuring their ability to function without undue interference is a fundamental requirement of Israel's membership in the United Nations and its participation in the international community.

103. At the core of these obligations is the imperative to guarantee that humanitarian aid and essential services reach the Palestinian population without obstruction. Beyond the immediate humanitarian needs, these obligations also relate to the broader principle of self-determination, as recognized by international law. Facilitating access to aid and ensuring the continued presence of international actors within the OPT are not only legal responsibilities but also crucial elements in supporting the rights and dignity of the Palestinian people.

104. Mexico underscores the importance of full adherence to these obligations in accordance with the principles of international law. The advisory opinion requested from the International Court of Justice will provide authoritative legal guidance on these matters, reinforcing the fundamental principles that govern the responsibilities of States in situations of occupation and their broader commitments as members of the international community. In this context,

ensuring compliance with international law remains essential for the protection of human rights, the promotion of peace, and global stability.

The Hague, 28 February 2025

**Carmen Moreno Toscano**  
**Ambassador of Mexico to the Kingdom of the Netherlands**