

CR 2025/9

International Court
of Justice

THE HAGUE

Cour internationale
de Justice

LA HAYE

YEAR 2025

Public sitting

held on Thursday 1 May 2025, at 10 a.m., at the Peace Palace,

President Iwasawa presiding,

***on the Obligations of Israel in relation to the Presence and Activities of the United Nations,
Other International Organizations and Third States in and in relation to
the Occupied Palestinian Territory***

(Request for advisory opinion submitted by the General Assembly of the United Nations)

VERBATIM RECORD

ANNÉE 2025

Audience publique

tenue le jeudi 1^{er} mai 2025, à 10 heures, au Palais de la Paix,

sous la présidence de M. Iwasawa, président,

***sur les Obligations d'Israël en ce qui concerne la présence et les activités de l'Organisation
des Nations Unies, d'autres organisations internationales et d'États tiers dans
le Territoire palestinien occupé et en lien avec celui-ci***

(Demande d'avis consultatif soumise par l'Assemblée générale des Nations Unies)

Present: President Iwasawa
 Vice-President Sebutinde
 Judges Tomka
 Abraham
 Xue
 Bhandari
 Nolte
 Charlesworth
 Brant
 Gómez Robledo
 Cleveland
 Tladi

Registrar Gautier

Présents : M. Iwasawa, président
M^{me} Sebutinde, vice-présidente
MM. Tomka
Abraham
M^{me} Xue
MM. Bhandari
Nolte
M^{me} Charlesworth
MM. Brant
Gómez Robledo
M^{me} Cleveland
M. Tladi, juges

M. Gautier, greffier

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Ms Amy Sander, Barrister, Essex Court Chambers, member of the Bar of England and Wales,

Ms Naomi Hart, Barrister, Essex Court Chambers, member of the Bar of England and Wales,

Ms Faena Fayyaz, Senior State Counsel, Attorney General's Office.

The Government of the United Mexican States is represented by:

HE Ms Carmen Moreno Toscano, Ambassador of the United Mexican States to the Kingdom of the Netherlands,

Mr Pablo Arrocha Olabuenaga, Legal Adviser, Ministry of Foreign Affairs,

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Ms Salmi Kapena, Legal Officer, Ministry of Justice and Labour Relations,

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S. Exc. M. Rolf Einar Fife, ambassadeur en mission spéciale, ministère des affaires étrangères,

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M^{me} Emilie Borgen Hermann, stagiaire, affaires juridiques et multilatérales, ambassade du Royaume de Norvège au Royaume des Pays-Bas.

The PRESIDENT: Please be seated. Good morning. The sitting is now open.

The Court meets this morning to hear the following participants on the question submitted by the General Assembly, namely, the Maldives, Mexico, Namibia and Norway. Each of the delegations has 30 minutes at its disposal for its presentation. The Court will observe a short break after the presentation of Mexico.

I shall now give the floor to His Excellency Mr Ahmed Usham, speaking on behalf of the Maldives. Sir, you have the floor.

Mr USHAM:

1. Mr President, Members of the Court, I have the honour to appear before you on behalf of the Republic of Maldives.

2. The issues before the Court in these proceedings could not be of higher importance. They arise in a context of utmost desperation and suffering in the Occupied Palestinian Territory.

3. The Maldives has long stood at the forefront of advocacy for the people of Palestine¹. Our position has never wavered, nor has our fight to realize, for the Palestinians, the right to self-determination, the right to dignity and the right to life.

4. The Maldives has consistently spoken out on the need to ensure the delivery of humanitarian assistance in the Occupied Palestinian Territory². UNRWA is the body widely recognized as the “backbone”³ and the “beating heart” of that assistance⁴. The Maldives, like many other States, has expressed grave alarm at Israel’s deliberate steps to dismantle this body⁵.

5. In its written statement, the Maldives has highlighted the numerous ways in which Israel has interfered with UNRWA’s activities. These actions are not isolated incidents; they form part of

¹ See written statement of the Republic of Maldives, 28 February 2025, para. 1.

² President’s Office, Republic of Maldives, “The President welcomes the ceasefire deal reached on Gaza” (16 January 2025), available at <https://presidency.gov.mv/Press/Article/32804>.

³ See e.g. Letter from Secretary-General of the United Nations to Mr Benjamin Netanyahu, Prime Minister of the State of Israel (4 October 2024), included in Material relating to the request by the General Assembly for an advisory opinion of the Court, Doc. No. N300, p 3.

⁴ “Humanitarian Response in Gaza ‘Completely Dependent’ on Palestine Refugee Agency, Relief Chief Tells Security Council, Urging Countries to Restore Funding”, United Nations Security Council Meetings Coverage (9504th meeting), UN doc. SC/15575 (31 January 2024), available at <https://press.un.org/en/2024/sc15575.doc.htm>.

⁵ See e.g. President’s Office, Republic of Maldives, “President Dr Muizzu urges meaningful change and decisive action in support of Palestine at Joint Arab-Islamic Summit” (11 November 2024), available at <https://presidency.gov.mv/Press/Article/32116>.

a broader pattern of Israel disregarding international law. The Maldives has cast a spotlight on one of the many devastating concrete impacts of Israel's conduct by focusing on access to water in the Occupied Palestinian Territory. It has explained how each of these forms of conduct has entailed flagrant breaches of Israel's duties as an occupying Power and as a Member of the United Nations.

6. These proceedings present a historic opportunity for the Court to reaffirm Israel's obligations in relation to the delivery of humanitarian assistance and to ensure that international law produces tangible results for the Palestinian people, whose lives depend on it.

7. Today, the Maldives' oral submissions will focus on two topics.

(a) First, Ms Amy Sander's submissions will respond to Israel's misplaced reliance on security concerns and military necessity in an attempt to evade its international legal obligations.

(b) Second, Dr Naomi Hart will address the legal consequences of Israel's purported withdrawal from the agreement set out in the 1967 Exchange of Letters between Israel and UNRWA.

8. To conclude my remarks, the Maldives stands unaverred in its support of an independent and sovereign Palestinian State, founded on the pre-1967 borders, with East Jerusalem as its rightful capital. We will not falter in our advocacy for a permanent ceasefire and for the safe and dignified return of displaced Palestinians to their homes. The Palestinian people have an inalienable right to unhindered access to humanitarian assistance. The Maldives stands firm in its support for UNRWA and its ability to perform its indispensable mandate without unlawful interference. Our commitment is clear and unshakable: as recalled on Monday⁶, the cause of Palestine is one of justice, and we trust that this Court's opinion will advance that just cause in accordance with international law.

9. Mr President, I thank you for your attention and ask that you give the floor to Ms Sander.

The PRESIDENT: I thank Mr Usham. I now invite Ms Amy Sander to address the Court. You have the floor, Madam.

Ms SANDER:

1. Mr President, Members of the Court, it is an honour to appear before you on behalf of the Republic of Maldives.

⁶ CR 2025/4, Palestine, pp. 28–29, para. 55 (Mansour).

INTRODUCTION

2. “[P]artisan”⁷. “[O]ne-sided”⁸. Denying Israel’s “security and military needs”⁹. Those are the descriptors that are used to challenge the weight of submissions before you, which insist that Israel cannot evade its obligations by appeals to military expediency.

3. Mindful of certain judges’ recent reminder that questions before the Court should be approached in a “balanced” manner¹⁰, this morning the Maldives engages with this challenge directly.

4. The overarching point is this. When assessing the relevance of Israel’s security and military needs to its provision of humanitarian assistance to the civilian population of the occupied territories, this requires analysis of the *particular* rules to identify their *precise* contours and pin-point how security needs are factored into the *specific* context at issue. As Judge Tladi has observed, “[i]nternational law is not agnostic to security concerns” but “the notion of security interests does not constitute an independent legal rule” or optional add-on “permitting a State to depart from fundamental rules of the system”¹¹.

5. My submission will focus on considering this overarching point with respect to Israel’s obligations as an occupying Power.

ISRAEL’S OBLIGATIONS AS OCCUPYING POWER

6. The obligations of an occupying Power have been specifically framed to apply in contexts of armed conflicts where security and military interests are necessarily heightened. Those interests are thus embedded in the formulation of the primary obligations. Assessing precisely where the careful balance lies between military and humanitarian considerations requires precise analysis of the rules which are applicable to three core questions in these proceedings.

⁷ Written statement of Israel, para. 3.

⁸ Written statement of Israel, paras. 4 and 65; CR 2025/7, United States, p. 16, para. 39 (Simmons); CR 2025/7, Hungary, p. 39, para. 20 (Kocsis).

⁹ Written statement of Israel, paras. 3, 65 and 91; CR 2025/7, Hungary, p. 39, para. 20 (Kocsis).

¹⁰ *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem, Advisory Opinion of 19 July 2024*, joint opinion of Judges Tomka, Abraham and Aurescu, para. 10.

¹¹ *Ibid.*, declaration of Judge Tladi, para. 45.

Can Israel's security or military interests serve as a basis to refuse consent to UNRWA acting in the OPT?

7. The first core question: can Israel's security or military interests serve as a basis to refuse consent to UNRWA acting in the occupied territories to provide essential supplies?

8. Israel has stated that it has a broad "discretion"¹² to administer the occupied territory. But such a high-level assertion is of limited assistance, noting that in any event this Court has confirmed that administrative duty is to be exercised for the benefit of the local population¹³. More instructive is to ask: what do the specific rules on relief in occupied territories say?

9. If an occupying Power is not itself providing essential supplies, such as water, it *must* agree to relief schemes¹⁴. Article 59 of the Fourth Geneva Convention is clear on that.

10. It is also clear that Israel as the occupying Power retains (in principle) a discretion as to which State or "impartial humanitarian organization"¹⁵ provides the relief scheme, provided that there is more than one that can do so in practice, and it is not obliged to agree to relief from a humanitarian organization that is not impartial.

11. And it is through that prism of "impartiality" that an occupying Power's security or military interests may be accommodated within the carefully calibrated legal framework. The Maldives makes six points.

12. First, the intended meaning of impartiality is to be informed by the Red Cross Principles¹⁶ which focus on who the organization offers aid to: it is impartial if it brings relief to the local population without any adverse distinction¹⁷. Israel's written statement demonstrates that Israel's complaint in fact concerns an alleged lack of neutrality¹⁸. Contrary to what was submitted yesterday¹⁹, neutrality is on its ordinary terms a separate concept — requiring that the organization does not take sides in hostilities or engage in controversies of a political, racial, religious or

¹² Written statement of Israel, para. 91; written statement of the USA, para. 5.

¹³ *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. 105.

¹⁴ Fourth Geneva Convention, Article 59.

¹⁵ *Ibid.*

¹⁶ XXth International Conference of the Red Cross, Resolution IX, "Proclamation of the Fundamental Principles of the Red Cross", available at https://library.icrc.org/library/docs/CI/CI_1965_RAPPORT_ENG.pdf.

¹⁷ Written statement of the Maldives, para. 39 (b).

¹⁸ Written statement of Israel, Section II A. See also para. 49.

¹⁹ CR 2025/7, United States, p. 11, para. 17 (Simmons).

ideological nature²⁰. The Maldives accepts, however, that neutrality must also be relevant to the interpretation of Article 59 read in context.

13. My second point is that lack of either impartiality or neutrality must be assessed objectively. The Maldives does not accept Israel's submission that it depends on what the occupying Power "perceive[s]"²¹. That would be an unworkable standard, open to abuse.

14. Third and relatedly, there must be sufficient evidence of that objective matter²². That is consistent with the well-established interpretive principle of effectiveness²³ and the obligation of good faith performance of a treaty obligation²⁴. It is also consistent with the position of several States in the negotiations of an article concerning relief in Additional Protocol I²⁵, namely that refusal of such relief must not be for "arbitrary or capricious" reasons²⁶. Here, Israel has had opportunities to share relevant evidence but, as noted by the Secretary-General, has chosen not to do so²⁷.

15. My fourth point, even when individual humanitarian workers engage in conduct that violates principles of impartiality or neutrality, that does not necessarily mean the organization *itself* loses any claim to be impartial or neutral²⁸. Even taking Israel's case at its highest, of UNRWA's total personnel of some 30,000²⁹, it is less than 5 per cent that Israel alleges in its written statement are not neutral³⁰. Further, the United Nations has found through *two* separate investigations that the

²⁰ XXth International Conference of the Red Cross, Resolution IX, "Proclamation of the Fundamental Principles of the Red Cross", available at https://library.icrc.org/library/docs/CI/CI_1965_RAPPORT_ENG.pdf.

²¹ Written statement of Israel, para. 95.

²² Written statement of China, para. 59.

²³ *Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Georgia v. Russian Federation), Preliminary Objections, Judgment, I.C.J. Reports 2011 (I)*, pp. 125-126, paras. 133-134.

²⁴ Vienna Convention on the Law of Treaties, Article 26.

²⁵ Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Civilian Victims of International Armed Conflicts of 8 June 1977, *UNTS*, Vol. 1125, p. 3, Art. 62.

²⁶ O.R. XII, p. 336, CDDH/II/SR.87, paras. 27-31, available at https://tile.loc.gov/storage-services/service/ll/lmlp/RC-records_Vol-12/RC-records_Vol-12.pdf at pp. 336-337.

²⁷ Identical letters from the UN Secretary-General addressed to the President of the General Assembly and the President of the Security Council, 8 January 2025, A/79/716-S/2025/18 (<https://docs.un.org/en/A/79/716>), p. 4.

²⁸ Written statement of China, para. 59.

²⁹ UNRWA website, available here: <https://www.unrwa.org/who-we-are/organizational-structure#:~:text=UNRWA%20is%20one%20of%20the,delivers%20services%20directly%20to%20beneficiaries>.

³⁰ Written statement of Israel, para. 22.

evidence shows that Israel's allegations against UNRWA itself are unfounded³¹, as highlighted by many participants this week³².

16. My fifth point, in circumstances where there is only one impartial humanitarian organization that can, in practice, provide the essential supplies, the occupying Power's discretion is necessarily limited. Yesterday it was submitted that the Court "should not" address certain "factual issues"³³. Sufficiency of information is for the Court's assessment³⁴, and on the factual question of whether UNRWA plays a unique role in delivering humanitarian assistance to Palestinians³⁵, there is an abundance of evidence³⁶.

17. Finally, and critically, the occupying Power's discretion to refuse a relief scheme is limited by its overriding duty to ensure population needs are in fact met³⁷. Is Israel fulfilling this duty? The "reality on the ground", which Israel insists should be the focus³⁸, demonstrates that it is not. This is reflected in the horrifying information collated by the Maldives with respect to water supplies across the occupied territories³⁹. Indeed, as recalled earlier this week, Israel's own Prime Minister stated that as of 2 March "the entry of all goods and supplies to the Gaza Strip will be halted"⁴⁰.

³¹ Written statement of the Maldives paras. 17-20.

³² CR 2025/4, Egypt, p. 37, para. 37 (Abdelkader); CR 2025/5, Algeria p. 40, para. 16 (Alnasser); CR 2025/5, Belgium, p. 50, para. 14 (Misonne); CR 2025/8, Jordan, p. 39, para. 19 (Crosato Neumann).

³³ CR 2025/7, United States, p. 11, para. 18 (Simmons).

³⁴ *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. 46-47.

³⁵ CR 2025/7, United States, p. 11, para. 18 (Simmons).

³⁶ Written statement of the Maldives, Section 1 (b) and written statement of the United Nations Secretary-General, para. 109. See also e.g. written statements of: the African Union (para. 30); Bolivia (para. 91); Brazil (paras 34-39); Chile (para. 107); China (para. 88); Comoros (para. 27); Egypt (para. 65); Iceland (para. 10); Ireland (paras. 20-21); Jordan (para. 3.130); the League of Arab States (paras. 69 and 83); Luxembourg (para. 6); Mexico (para. 28); OIC (para. 112); Pakistan (para. 224); Philippines (para. 15); Qatar (para. 3); the Russian Federation (paras. 3 and 36-38); Saudi Arabia (paras. 14-15); Senegal (para. 83); Slovenia (para. 36); South Africa (paras. 32-35); Turkey (p. 18); Vanuatu (para. 29). See also e.g., CR 2025/3, Palestine, p. 102, paras. 9-10 (Imseis); CR 2025/5, Colombia, p. 62, para. 30 (Jaramillo Jassir); CR 2025/7, Russian Federation, p. 20, para. 8 (Musikhin); CR 2025/8, Jordan, p. 39, para. 19 (Crosato Neumann); CR 2025/8, Luxembourg, p. 57, para. 18 (Schell).

³⁷ Written statement of the Maldives, para. 39 (c) citing Dapo Akande and Emanuela-Chiara Gillard (eds.), *Oxford Guidance on the Law Relating to Humanitarian Relief Operations in Situations of Armed Conflict* (commissioned and published by United Nations Office for the Co-ordination of Humanitarian Affairs, 2016), available at <https://www.unocha.org/sites/unocha/files/dms/Documents/Oxford%20Guidance%20Conclusions%20pdf.pdf> (see paras. 33 and 51). See also written statement of France, para. 68; written statement of the United Nations Secretary-General, para. 153.

³⁸ Written statement of Israel, para. 54.

³⁹ Written statement of the Maldives, paras. 6-9.

⁴⁰ Government of Israel, "Prime Minister's Office Announcement", *gov.il*, 2 March 2025 (<https://www.gov.il/en/pages/spoke-part020325>), cited at CR 2025/3, Palestine, p. 63, para. 4 (Reichler).

Can Israel's security or military interests serve as a basis to restrict, disrupt or otherwise impede activities of UNRWA in the OPT?

18. Turning now to the second of my three core questions: can Israel's security or military interests serve as a basis to restrict, disrupt or otherwise impede the activities of UNRWA in providing essential supplies in the occupied territories?

19. Reflecting the careful balancing of interests, only in prescribed circumstances which do not apply here. The Maldives refers to three provisions of the Fourth Geneva Convention addressing occupied territories.

20. First, Article 63 provides that measures may be imposed with respect to the activities of a relief society, but:

- (a) the reason for the measures must be an "urgent" one of "security";
- (b) the measures can only be "temporary and exceptional"; and
- (c) there is an implicit requirement of proportionality between the security objective and the measure taken⁴¹.

21. *A contrario*, an occupying Power cannot rely upon reasons of security to justify the *general* suspension of all humanitarian activities in an occupied territory⁴² or, as in this case, to implement legislation which has as its objective or effect the permanent dismantling of UNRWA⁴³.

22. The second provision is the fourth paragraph of Article 59 addressing a right to search consignments and regulate their passage. On its plain terms, this right does not apply to an occupying Power⁴⁴. In any event, that right, whilst potentially informed by security concerns, must be exercised in a proportionate and targeted manner. Specifically, it cannot undermine the very purpose of Article 59 which is to ensure the population is adequately supplied⁴⁵ or the occupying Power's separate obligation to facilitate rapid distribution of consignments pursuant to Article 61⁴⁶.

23. The third provision is Article 60 and this provides that it is *only* in cases of "urgent necessity" and "in the interests of the population of the occupied territory" that the occupying Power

⁴¹ Written statement of Comoros, para. 97.

⁴² Cf. written statement of Israel, fn. 85.

⁴³ Written statement of the Maldives, para. 49 (*d*).

⁴⁴ *Ibid.*, para. 41 (*c*).

⁴⁵ Written statement of France, para. 70. See e.g. CR 2025/7, France, p. 33, para. 43 (Colas); CR 2025/8, Luxembourg, p. 58, para. 21 (Schell).

⁴⁶ Written statement of Palestine, para. 3.30.

may divert relief consignments from the purpose for which they were intended. So, it is a power of diversion not cessation and, whilst security interests could be relevant, the interests of the population remain paramount.

**Can Israel's security or military interests serve as a basis for
restricting UNRWA personnel in the OPT?**

24. The third core question: can Israel's security or military interests serve as a basis to restrict UNRWA personnel from contributing to the provision of essential supplies?

25. The basis for asserting that they can is Article 71 of Additional Protocol I. Assuming Article 71 applies to Israel⁴⁷ as customary international law, the Maldives makes four points.

26. First, approval of personnel must be subject to the overriding obligation of the occupying Power to ensure the relevant supplies for the civilian population and facilitate relief schemes⁴⁸.

27. Second, whilst subparagraph 3 does envisage measures impacting the activities of personnel, measures are restricted to *limiting* (not eliminating) the personnel's activities or *temporarily* restricting their movements.

28. Third, that power can "only" be exercised in one circumstance: "imperative military necessity", which has not been demonstrated here.

29. Fourth, the power may be exercised with respect to specific personnel, but not the organization itself⁴⁹. A view supported by the context: subparagraph 4 provides that the mission of "any of the personnel", i.e. specific persons, may be terminated if that person fails to take into account relevant security requirements.

CONCLUSION

30. Mr President, Members of the Court, the Maldives is alive to the quest for balance on these sensitive topics. By engaging in good faith with the arguments of Israel pulling in the opposite direction to that of the Maldives, and by seeking to unravel the knot between them by precise reference to the applicable rules, the Maldives hopes to contribute to that quest.

⁴⁷ Cf. e.g. written statement of the US, fn. 17; written statement of Egypt, paras. 268-270.

⁴⁸ Fourth Geneva Convention, Arts. 55 and 59.

⁴⁹ Written statement of Egypt, para. 270; written statement of Bolivia, para. 130; written statement of the Kingdom of the Netherlands, para. 2.23.

31. I now ask you to call Dr Hart to the podium to conclude the Maldives' submissions.

The PRESIDENT: I thank Ms Sander. I now give the floor to Dr Naomi Hart.

Ms HART:

1. Mr President, Members of the Court, on 28 October 2024 the Israeli Knesset passed a law stating that the “invitation” for UNRWA to operate in Israel’s territory, as set out in the 1967 Exchange of Letters⁵⁰, was to “expire” imminently⁵¹. Days later, Israel wrote to the President of the General Assembly stating that it “withdraws its request to UNRWA”⁵². By these actions, Israel purported to — to use its term — “abrogate” the “provisional” agreement reached in the Exchange of Letters⁵³.

2. Today, it is an honour to address, on behalf of the Republic of Maldives, the legal consequences of Israel’s purported withdrawal from the Exchange of Letters as regards its obligations to confer immunities and privileges on UNRWA and its personnel.

3. I will focus on two questions.

(a) First: what are the consequences of this purported withdrawal on Israel’s obligations under the UN Charter and the General Convention?

(b) Second: what are the consequences for Israel’s obligations under the Exchange of Letters itself?

I. ISRAEL’S PURPORTED WITHDRAWAL FROM THE EXCHANGE OF LETTERS AND THE CONSEQUENCES FOR OBLIGATIONS UNDER OTHER TREATIES

4. I turn to the first question. The fundamental point, already highlighted by the Maldives⁵⁴ and the overwhelming majority of other participating States⁵⁵, is that Israel’s obligations under the

⁵⁰ Written statement of Israel, paras. 10, 11, 50.

⁵¹ Law for the Cessation of UNRWA Activities (2024), section 1 (a) (unofficial translation in Letter from the Secretary-General addressed to the President of the General Assembly, UN doc. A/79/558 (28 October 2024)).

⁵² Letter from Director General of Ministry of Foreign Affairs of Israel, Letter to President of UN General Assembly (3 November 2024), included in Material relating to the request by the General Assembly for an advisory opinion of the Court, Doc. No. N302.

⁵³ Written statement of Israel, paras. 10-11, 50.

⁵⁴ Written statement of the Maldives, para. 71.

⁵⁵ See, e.g., written statement of the African Union, paras. 142-150; written statement of Belgium, paras. 66-67; written statement of Brazil, paras. 86, 89-91; written statement of Egypt, para. 118; written statement of France, para. 57; written statement of Iceland, para. 27; written statement of Ireland, para. 32; written statement of the League of Arab States, para. 180; written statement of Luxembourg, para. 29; written statement of Malaysia, para. 92; written statement of

Charter and the General Convention exist independently of any agreement reflected in the Exchange of Letters and thus survive any purported termination of that agreement.

5. Starting with the UN Charter, Article 105 (1) confers on the United Nations, including subsidiary organs such as UNRWA⁵⁶, an entitlement to privileges and immunities necessary for the fulfilment of the United Nations' purposes. Under Article 105 (2), UN officials similarly enjoy such privileges and immunities "as are necessary for the independent exercise of their functions".

6. Those entitlements are not conditional on any other agreement being reached⁵⁷. Further, they cannot be narrowed by any other agreement⁵⁸, given that Article 103 provides for the Charter's supremacy over any other conflicting international agreement.

7. The General Convention is a treaty contemplated by Article 105 (3) of the Charter in that it "determin[es] the details of the application" of Article 105, but of course it does so without attenuating any Charter obligations.

8. The obligations owed under the General Convention are integral to membership of the United Nations. This is clear from the Convention's preamble, which refers to Article 105, as well as Section 31 which envisages that all Member States shall accede to the Convention. Section 35 provides that a State shall remain bound by the Convention "for so long as that Member remains a Member of the United Nations".

9. Section 36 sets out confined circumstances in which "supplementary agreements" may "adjust[] the provisions of [the] Convention" for individual Member States, if entered into by the UN Secretary-General and approved by the General Assembly.

Namibia, para. 133; written statement of Pakistan, paras. 136, 145; Written statement of Palestine, paras. 5.24-5.25; written statement of Qatar, para. 25; written statement of Russian Federation, para. 48; written statement of Kingdom of Saudi Arabia, para. 64; written statement of Slovenia, para. 38; written statement of South Africa, paras. 133-139; written statement of Tunisia, para. 71; written statement of the Secretary-General of the United Nations, para. 199. See also CR 2025/3, Palestine, p. 83, para. 23 (Ní Ghrálaigh); CR 2025/6, Brazil, pp. 25-26, paras. 36-37 (Viegas); CR 2025/8, Luxembourg, p. 63, para. 40 (Schell).

⁵⁶ Written statement of the Maldives, paras. 64, 70; written statement of Israel, para. 12; Note Verbale from Office of Legal Affairs of the United Nations to Ministry of Foreign Affairs of Israel (18 November 2024), included in Material relating to the request by the General Assembly for an advisory opinion of the Court, doc. No. N303, p. 2.

⁵⁷ Written statement of the Secretary-General of the United Nations, para. 198.

⁵⁸ Cf. written statement of the Hague Initiative for International Cooperation, para. 31.

10. Let us turn, then, to the Exchange of Letters. As I will show, the irresistible conclusion is that nothing in the Exchange was intended to, or did in fact, replace, derogate from or adjust the terms of the General Convention or the UN Charter⁵⁹.

11. As a starting point, the Exchange of Letters is *not* between the UN Secretary-General and Israel. This is not a “supplementary agreement” under Section 36 of the General Convention.

12. Within the Exchange, the letter from Michael Comay, Israel’s then Permanent Representative to the United Nations, confirms the agreement that “UNRWA would *continue* its assistance to the Palestine refugees”⁶⁰. Indeed, UNRWA had by then been operating in the Occupied Palestinian Territory for many years, during which time there is no doubt that it and its personnel enjoyed the privileges and immunities conferred by the UN Charter and the General Convention⁶¹.

13. At paragraph (g), Mr Comay’s letter states that Israel will “recognize that the [General Convention], to which Israel is a party, shall govern the relations between the Government [of Israel] and UNRWA in all that concerns UNRWA’s functions”. This was a straightforward affirmation of the obligations by which Israel was already and remained bound.

14. Other paragraphs within Mr Comay’s letter provide more granular details of the agreement concerning Israel’s treatment of UNRWA.

(a) Some of these details closely mirror the terms of the General Convention, which are thus duties independently owed under that Convention. For example, paragraph (a) states that Israel will “ensure the protection and security of the personnel, installations and property of UNRWA”, reflecting the Convention’s inviolability provisions⁶².

(b) Other paragraphs, such as paragraph (e), concerning provisions for radio, telecommunications and landing facilities, arguably do not have such direct analogues in the General Convention. However, the letter in response to Mr Comay from UNRWA’s Secretary-General states: “the facilities enumerated in paras. (a) to (g) of your letter are essential if the Agency is to operate effectively”. I reiterate that, pursuant to Article 105 (1) of the Charter, Israel is obliged to accord

⁵⁹ Cf. written statement of the Hague Initiative for International Cooperation, para. 34.

⁶⁰ Emphasis added.

⁶¹ Cf. written statement of the Hague Initiative for International Cooperation, para. 32; CR 2025/7, Hungary, p. 41, para. 32 (Kocsis).

⁶² See, e.g., General Convention, Article II, Sections 3-4.

UNRWA all privileges and immunities that are “necessary for the fulfilment of its purposes”. Thus, Israel was bound to accord these privileges and immunities independently of the Exchange of Letters⁶³.

- (c) Mr Comay’s letter states that Israel “will facilitate the task of UNRWA to the best of its ability, *subject only to regulations or arrangements which may be necessitated by considerations of military security*”⁶⁴. The Court will recall that considerations of military expediency do *not* allow a State to deny a UN body the privileges and immunities to which it is entitled under the Charter and the General Convention⁶⁵. As no “supplementary agreement” has adjusted Israel’s obligations under the General Convention, and no other agreement is permitted to conflict with the UN Charter by virtue of Article 103, the Exchange of Letters cannot be taken as having introduced any caveat to Israel’s obligations under those instruments, including an entitlement to depart from those obligations on security grounds⁶⁶.

15. The bottom line is this. An instrument such as the Exchange of Letters may play a valuable function in affirming and particularizing parties’ understanding of their rights and obligations regarding privileges and immunities⁶⁷. However, such an instrument is not *constitutive* of those rights and obligations, which are instead rooted in other treaties to which a State must remain a party for as long as it is a member of the United Nations.

⁶³ See also CR 2025/8, Jordan, p. 31, para. 4 (Bjorge).

⁶⁴ Emphasis added.

⁶⁵ Written statement of the Maldives, paras. 83-84, citing Note to the Under-Secretary-General of the Department of Peacekeeping Operations, United Nations, UN Juridical Yearbook 2003, p. 521 at p. 522, para. 11; “Summary by the Secretary-General of the report of the United Nations Headquarters Board of Inquiry into certain incidents in the Gaza Strip between 27 December 2008 and 19 January 2009”, annexed to Letter from the Secretary-General to the President of the Security Council (4 May 2009), UN doc. A/63/855 - S/2009/250, paras. 16, 91; Lance Bartholomeusz, “Inviolability of Premises (Article II Section 3 General Convention)” in August Reinisch (ed), *The Conventions on the Privileges and Immunities of the United Nations and its Specialized Agencies: A Commentary* (2016), pp. 130-131; Rosalyn Higgins, Philippa Webb, Dapo Akande, Sandesh Sivakumaran, James Sloan, *Oppenheim’s International Law: United Nations* (2017), p. 574, footnote 116.

⁶⁶ See, e.g., CR 2025/6, Brazil, p. 26, para. 37 (Viegas). Cf. written statement of the Hague Initiative for International Cooperation, para. 34.

⁶⁷ See similarly written statement of South Africa, para. 131; written statement of the Secretary-General of the United Nations, para. 196.

16. It follows that, even if Israel were able to withdraw from the Exchange of Letters, that would not affect its underlying and independent treaty obligations to accord privileges and immunities to UNRWA and its personnel⁶⁸.

II. ISRAEL'S PURPORTED WITHDRAWAL FROM THE EXCHANGE OF LETTERS AND THE CONSEQUENCES FOR OBLIGATIONS UNDER THAT AGREEMENT

17. That leads me to my second topic. What are the consequences of that same purported termination for Israel's obligations under the Exchange of Letters itself?

18. The Exchange of Letters was intended to be a legally binding agreement. This is clear from the use of terminology denoting legal obligation⁶⁹, such as “confirm our agreement”, as well as indicia such as the provision that the rights and obligations would “remain in force until replaced or cancelled”⁷⁰. It has also been published in the United Nations *Treaty Series*⁷¹. As for the use of the word “provisional”⁷², it is clear from context that all that word indicated was that the agreement could ultimately be “replaced or cancelled”.

19. Crucially, those words — “replaced or cancelled” — do not confer a right of unilateral denunciation⁷³. This agreement is thus within the scope of the international law rule set out in Article 56 of the 1986 Vienna Convention on the Law of Treaties⁷⁴: either party can denounce the treaty only if it is established that, at the time the treaty was concluded, the parties intended to admit

⁶⁸ See 1986 Vienna Convention on the Law of Treaties between States and International Organizations or between International Organizations, Article 43. See also United Nations General Assembly Resolution ES-10/25, “Support for the mandate of the United Nations Relief and Works Agency for Palestine Refugees in the Near East”, UN doc. A/ RES/ES-10/25 (11 December 2024), para. 14; United Nations Secretary-General written statement, para. 199; Note Verbale from Office of Legal Affairs of the United Nations to Ministry of Foreign Affairs of Israel (8 January 2025), included in Material relating to the request by the General Assembly for an advisory opinion of the Court, doc. No. N306, p. 5.

⁶⁹ See, e.g., *Aegean Sea Continental Shelf (Greece v. Turkey)*, Judgment, *I.C.J. Reports 1978*, p. 39, para. 96; *Chagos Marine Protected Area Arbitration (Mauritius v. United Kingdom)*, Award, 18 March 2015, para. 423. Cf. *Obligation to Negotiate Access to the Pacific Ocean (Bolivia v. Chile)*, Judgment, *I.C.J. Reports 2018 (II)*, p. 548, para. 126.

⁷⁰ See, e.g., *Maritime Delimitation in the Indian Ocean (Somalia v. Kenya)*, Preliminary Objections, Judgment, *I.C.J. Reports 2017*, p. 21, para. 42.

⁷¹ For significance of treaty registration, see *Maritime Delimitation in the Indian Ocean (Somalia v. Kenya)*, Preliminary Objections, Judgment, *I.C.J. Reports 2017*, pp. 21-22, para. 42.

⁷² Cf. written statement of Israel, paras. 10-11.

⁷³ See, e.g., CR 2025/4, Malaysia, p. 54, para. 21 (Othman Said).

⁷⁴ 1986 Vienna Convention on the Law of Treaties between States and International Organizations or between International Organizations; *Interpretation of the Agreement of 25 March 1951 between the WHO and Egypt, Advisory Opinion*, *I.C.J. Reports 1980*, pp. 94-95, para. 47.

the possibility of denunciation, or a right of denunciation may be implied by the nature of the treaty. Two points arise from this.

20. First, it may be tempting to draw an analogy between this Exchange of Letters and the headquarters agreement between the World Health Organization and Egypt considered by the Court in its 1980 Advisory Opinion. There, the Court held that, given the nature of that agreement, Egypt *was* entitled to bring it to an end unilaterally. However, the Exchange of Letters is *not* of the same nature.

- (a) First and fundamentally, it is not an agreement concerning UNRWA being headquartered in Israel. Instead, it concerns the operation of a humanitarian relief agency in territory over which Israel is occupying Power, but *not* sovereign⁷⁵.
- (b) Second, as occupying Power, Israel is obliged to ensure the availability of humanitarian supplies and to allow relief societies to pursue their humanitarian activities⁷⁶, as addressed by Ms Sander.
- (c) Third, UNRWA was acting in the Occupied Palestinian Territory pursuant to a General Assembly mandate⁷⁷.

21. In light of those factors, contrary to Israel's submissions, this agreement was not one that "either party could abrogate at will"⁷⁸, and nor is it of a nature that would allow this⁷⁹. In the absence of UNRWA's agreement, Israel's purported denunciation of the Exchange of Letters is of no legal effect.

22. Second, even if Israel *could* denounce the agreement in the Exchange of Letters, it would be required, at a minimum, to provide a reasonable period of notice, and to engage in prior good faith

⁷⁵ *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. 254, 256, 262. See also written statement of Pakistan, paras. 121-122; CR 2025/7, France, p. 28, para. 15 (Colas).

⁷⁶ Geneva Convention relative to the Protection of Civilian Persons in Time of War, signed 12 August 1949, 75 UNTS 287 (entered into force 21 October 1950), Articles 55, 59, 63.

⁷⁷ See, e.g., United Nations General Assembly Resolution 302 (IV), UN doc. A/ RES/302(IV) (8 December 1949); United Nations General Assembly resolution 77/123, "Assistance to Palestine Refugees", UN doc. A/RES/77/123 (15 December 2022), para. 6.

⁷⁸ Written statement of Israel, para. 11.

⁷⁹ See also written statement of the African Union, para. 147.

consultations and negotiations with UNRWA, with a view to causing the minimum possible prejudice to UNRWA's work⁸⁰. Israel has complied with none of these requirements.

23. Mr President, Members of the Court, that concludes the submissions of the Maldives.

The PRESIDENT: I thank the representatives of the Maldives for their presentation. I now invite the next participating delegation, Mexico, to address the Court and I call upon Her Excellency Ambassador Carmen Moreno to take the floor.

Ms MORENO TOSCANO:

I. INTRODUCTION

1. Mr President, Madam Vice-President, distinguished Members of the Court.

2. My name is Carmen Moreno Toscano, Ambassador of Mexico to the Kingdom of the Netherlands. It is a great honour for me to appear before the International Court of Justice on behalf of the United Mexican States, and to participate in these oral proceedings concerning the *Obligations of Israel in relation to the Presence and Activities of the United Nations, Other International Organizations and Third States in and in relation to the Occupied Palestinian Territory*.

3. Allow me to express Mexico's deepest respect for the essential role that this Court plays as the principal judicial organ of the United Nations and for the opportunity afforded to States and organizations to contribute to its deliberations in this urgent matter.

4. Mexico asserts that this Court has jurisdiction to render the requested advisory opinion, as all the requirements — outlined in Mexico's written statement — have been satisfied.

5. Mexico is aware that certain States have urged the Court to decline to render an opinion. However, the advisory function of this Court is not contentious in nature and exists precisely to assist the United Nations in clarifying complex legal questions. The present request does not adjudicate Israel's conduct but seeks legal guidance on the scope of its obligations under international law.

⁸⁰ *Interpretation of the Agreement of 25 March 1951 between the WHO and Egypt, Advisory Opinion, I.C.J. Reports 1980*, pp. 93-96, paras. 44, 48-49, cited in Maldives written statement, para. 76; Letter from Secretary-General of the United Nations to Mr Danny Ben Yosef Danon, Permanent Representative of Israel to the United Nations (27 January 2025), included in Material relating to the request by the General Assembly for an advisory opinion of the Court, doc. No. N308, p. 3.

6. As this Court has previously affirmed, advisory opinions serve to provide legal clarity to the organs of the United Nations and assist them in the fulfilment of their mandates⁸¹. Mexico highlights the Court's Advisory Opinion on the *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*, where it confirmed the relevance of its Opinion for the General Assembly⁸². In this context, the significance of this procedure is all the greater in light of the urgent humanitarian crisis unfolding in the State of Palestine and the growing restrictions affecting the presence and activities of international actors engaged in relief and protection efforts.

7. With this in mind, and with the permission of the Court, the statement of Mexico will be delivered as follows:

- (a) First, the relevant facts considered by Mexico.
- (b) Second, Mexico's position on the obligations of Israel as a Member of the United Nations and under the law of privileges and immunities.
- (c) Third, Mexico's position on the obligations of Israel under international humanitarian law and international human rights law.
- (d) Fourth, our concluding remarks.

8. Mexico's intention is to support the Court in its task, reaffirming our unwavering commitment to the rule of law, the principles of the United Nations Charter, and the promotion and protection of international humanitarian and human rights law.

9. With the permission of this honourable Court, I ask you, Mr President, to invite Ms Patricia Pérez to present the relevant facts considered by Mexico.

The PRESIDENT: I thank Ambassador Moreno. I now invite Ms Patricia Pérez to address the Court. You have the floor, Madam.

⁸¹ See *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.

⁸² See *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. 30 et seq.

Ms PÉREZ GALEANA:

II. FACTUAL BACKGROUND

1. Mr President, distinguished Members of the Court, it is a privilege to stand before you to adequately address the legal issues raised in the request submitted by the General Assembly. It is essential to briefly recall the circumstances that have prompted this proceeding. Just two days ago, the UN Secretary-General António Guterres told the Security Council that “the humanitarian situation throughout the Gaza Strip has gone from bad, to worse, to beyond imagination”.

2. Since 7 October 2023, following the escalation of hostilities between Hamas and Israel, the civilian population of Gaza has endured severe suffering due to repeated bombardments, mass displacement and the almost-total collapse of essential infrastructure.

3. Particularly concerning has been the situation faced by the United Nations Relief and Works Agency for Palestine Refugees in the Near East. As the principal provider of basic services to Palestinian refugees in Gaza and the West Bank, UNRWA’s role is unique and irreplaceable. Yet in January 2024, following allegations made by the Israeli authorities against certain UNRWA personnel, a number of States suspended their funding to the agency, seriously undermining its operational capacity.

4. Moreover, Israel has moved forward with legal and administrative measures to obstruct UNRWA’s operations. Other international organizations and third States seeking to provide humanitarian assistance in Gaza have been similarly impeded.

5. Mexico expresses its deep concern over the breakdown of the ceasefire in Gaza, which has further limited the entry of vital supplies. The unilateral decision to resume hostilities has resulted in a devastating setback for humanitarian relief efforts and exacerbated the already dire conditions. This concern is shared by independent United Nations human rights experts, who describe Israel’s decision as something that reopened “the gates of hell”⁸³.

6. Since last 2 March, Israeli authorities have halted the entry of all lifesaving supplies, including food, medicine, fuel and cooking gas, for 2.1 million people. Israel has also cut power to

⁸³ UN Human Rights Office of the High Commissioner, Press Release, *Gaza: Experts Condemn Israeli Decision to Re-Open ‘Gates of Hell’ and Unilaterally Change Conditions of Truce Deal* (6 Mar. 2025), <https://www.ohchr.org/en/press-releases/2025/03/gaza-experts-condemn-israeli-decision-re-open-gates-hell-and-unilaterally>.

southern Gaza's desalination plant, limiting access to clean water for 600,000 people. Additionally, Israeli military operations in the northern West Bank have displaced 40,000 Palestinians.

7. Mexico also draws this Court's attention to the Security Council meeting of last 3 April⁸⁴, where the United Nations High Commissioner for Human Rights stated that the war on Gaza has seen the greatest number of aid workers killed in any conflict. He particularly pointed out the recent uncovered mass grave, where 15 first responders — including eight Palestine Red Crescent Society paramedics, six civil defence members and one UN officer — were buried, including their vehicles, in an outrageous effort to cover this act. They were killed in an unprovoked and heinous attack while on mission to save lives.

8. The gravity of this situation deepens with every passing day, even as we speak.

9. These facts illustrate the extent to which the humanitarian situation in the State of Palestine continues to deteriorate, despite repeated calls from the international community for restraint, access and protection. They also reinforce the legal and moral urgency of the question before this Court, particularly in view of Israel's obligations under international law.

10. With the permission of the Court, I ask you, Mr President, to give the floor to Mr Pablo Arrocha, Legal Adviser of the Mexican Ministry of Foreign Affairs, to present Mexico's considerations regarding the obligations of Israel under international law and our concluding remarks. Thank you.

The PRESIDENT: I thank Ms Pérez. I now give the floor to Mr Pablo Arrocha.

Mr ARROCHA OLABUENAGA:

III. OBLIGATIONS OF ISRAEL AS A MEMBER OF THE UNITED NATIONS AND UNDER THE LAW OF PRIVILEGES AND IMMUNITIES

1. May it please the Court. Mr President, Your Excellencies, it is a great honour to stand again before this Court albeit under these dramatic circumstances.

2. The advisory opinion to be rendered is essential to reasserting the fundamental principles of international law, particularly in situations of occupation. The ability of the United Nations and its

⁸⁴ UN Press Release, *Following Discovery of Mass Grave in Gaza with Bodies of 15 Aid Workers, Human Rights Chief Warns Security Council about Heightened Risk of Atrocity Crimes*, UN Press Release SC/16037 (3 Apr. 2025), <https://press.un.org/en/2025/sc16037.doc.htm>.

organs to carry out their work depends largely on the respect for privileges and immunities granted under international law, including to its personnel, and on the co-operation of all Member States. These principles are not optional; they are binding obligations that derive from the UN Charter and from the Convention on the Privileges and Immunities of the United Nations, to which Israel is a party.

3. Under Article 105 (1) of the UN Charter, the United Nations enjoys, in the territory of each of its Members, “such privileges and immunities as are necessary for the fulfilment of its purposes”. These are further specified in the 1946 General Convention on the Privileges and Immunities of the United Nations, whose Article II provides for the inviolability of UN premises, archives and communications, and the immunity of its property and assets from any form of interference.

4. As a Member of the United Nations, Israel is bound by these provisions, including those concerning the respect and protection of its agencies. Any measure that obstructs the work of UNRWA — or other UN entities — such as denial of access, attacks on its personnel, facilities, or legislative restrictions, contravenes these legal obligations and undermines the purposes and principles of the Organization.

5. Some written statements in these proceedings appear to suggest that co-operation with United Nations agencies — such as UNRWA — can be suspended at will by the occupying State. Mexico submits that such interpretations are inconsistent with the UN Charter and with the Convention on the Privileges and Immunities of the United Nations, which provide legal safeguards for the independent functioning of the Organization, and which cannot be unilaterally suspended, as there is no provision allowing for it.

6. Moreover, Article 2, paragraph 5, of the Charter provides that “[a]ll Members shall give the United Nations every assistance in any action it takes in accordance with the present Charter”.

7. Israel is also bound by Articles 55 and 56 of the Charter, which establish the duty of international co-operation in promoting respect for human rights, the principle of self-determination, and improving living conditions. These provisions commit all Member States to work individually and collectively to advance the dignity and well-being of peoples, especially those living under occupation or in humanitarian crisis. General Assembly resolution 79/141 explicitly calls for the

facilitation of aid and protection to the Palestinian people, specifically the necessity of international assistance to alleviate economic and social hardships in the Occupied Palestinian Territory.

8. Israel is also subject to obligations arising from the judicial decisions of this Court and Article 41 of the Court's Statute and its jurisprudence⁸⁵ confirm the binding nature of its provisional measures. In its Orders of 26 January, 28 March and 24 May 2024, issued in the *South Africa v. Israel* case, the Court instructed Israel to take all necessary steps to facilitate humanitarian assistance and to refrain from actions that obstruct such aid. These orders must be fully respected.

9. Mexico asks the Court to confirm and reaffirm that all UN Member States, including Israel, are legally bound to uphold the privileges and immunities of the United Nations and its agencies, to facilitate international co-operation and to abstain from any measures that hinder the delivery of humanitarian assistance in territories under occupation.

IV. OBLIGATIONS UNDER INTERNATIONAL HUMANITARIAN LAW AND INTERNATIONAL LAW OF HUMAN RIGHTS

10. Mr President, Excellencies, I now turn to the obligations that arise from Israel's continuing presence as an occupying Power in the State of Palestine, obligations rooted in international humanitarian law and international human rights law.

11. Mexico takes note that certain submissions have questioned the applicability of the law of occupation to parts of the State of Palestine. However, as this Court reaffirmed in its 2004 and 2024 Advisory Opinions, Israel acts as and is an occupying Power. This is not determined by formal declarations or political arrangements, but by its presence and effective control exercised, as a foreign power, in the territory of the State of Palestine.

12. This Court has previously confirmed the applicability of international human rights law and international humanitarian law in situations of occupation, including in the specific context of the Occupied Palestinian Territory, where these régimes are complementary and concurrently applicable.

⁸⁵ See *LaGrand (Germany v. United States of America)*, Judgment, I.C.J. Reports 2001, p. 506, para. 109.

Obligations under international humanitarian law

13. Under international humanitarian law, the legal status of Israel as an occupying Power is well established. It was also very clearly said by Judges Xue, Brant, Gómez Robledo and Tladi in their joint declaration to the Court's Order of 28 March 2024.

“Israel is the occupying Power in the Gaza Strip. It controls Gaza's land border and all its land crossing access as well as its air and maritime areas. Israel's dominant control over Gaza explains why Israel has the primary responsibility to ensure unhindered and unimpeded access, in particular, the land crossing access, for the delivery of humanitarian assistance to the Palestinians in Gaza.”⁸⁶

14. To make things worse, such occupation has extended over time, infringing its essentially temporary character and turning it into a permanent one. As it has been pleaded by the delegation of the State of Palestine before this Court, “permanent occupation is a legal oxymoron”⁸⁷.

15. Even the Court stated in its Advisory Opinion of 19 July 2024 that the policies and practices that Israel has implemented in the occupied territory manifest an intention to create a permanent and irreversible Israeli presence in the Occupied Palestinian Territory, which amounts to annexation and makes its continued presence unlawful⁸⁸.

16. The fact that an occupation is prolonged does not in itself change its legal status under IHL. The occupying Power retains its basic duty to administer the territory for the benefit of the local population. This Court has considered that “[t]o conclude otherwise would be contrary to the object and purpose of the Fourth Geneva Convention and would deprive the population subject to an ongoing occupation of the protection that it enjoys under international law”⁸⁹.

17. As the UN Secretary-General has said, “even war has rules”. Yes, war has rules and war has limits. IHL sets out those limits which seek to preserve humanity, even under the most violent circumstances of war.

18. As an occupying Power, Israel is bound by the Fourth Geneva Convention of 1949. Particularly, Articles 55, 56 and 59, which impose clear obligations to ensure, to the fullest extent of

⁸⁶ See *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)*, Request for the modification of the Order of 26 January 2024 indicating provisional measures, Order of 28 March 2024, joint declaration of Judges Xue, Brant, Gómez Robledo and Tladi, para. 7.

⁸⁷ See *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*, CR 2024/4, p. 64, para. 3 (Reichler).

⁸⁸ See *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. 179, 252 and 286.

⁸⁹ See *ibid.*, paras. 107-109.

the means available to it, the provision of food; medical supplies, establishments and services; and humanitarian relief, respectively.

19. The Court has already unanimously ordered Israel to

“[t]ake all necessary and effective measures to ensure, without delay, in full co-operation with the United Nations, the unhindered provision at scale by all concerned of urgently needed basic services and humanitarian assistance, including food, water, electricity, fuel, shelter, clothing, hygiene and sanitation requirements, as well as medical supplies and medical care to Palestinians throughout Gaza, including by increasing the capacity and number of land crossing points and maintaining them open for as long as necessary”⁹⁰.

20. Israel must abide by these obligations and refrain from actions such as taking over the key southern Gaza corridor, which it did last 12 April, separating Rafah from the rest of the Gaza Strip, giving residents fewer options to seek shelter⁹¹. This is not a theoretical or distant crisis — it is unfolding in real time, with consequences that the law cannot ignore.

21. Already a year ago the World Food Programme alerted that 70 per cent of the population in Gaza was suffering from catastrophic levels of hunger. As of 10 March 2024, 1.1 million people in Gaza — that is 300,000 more people than the estimated victims in the Rwandan genocide — had completely exhausted their food supplies and coping capacities and were struggling with catastrophic hunger and starvation⁹². This prompted the former head of OCHA, Martin Griffiths, to say that “the international community should hang its head in shame for failing to stop it”⁹³.

22. This horrific situation has not gotten any better. On 8 April 2025, the Secretary-General indicated, “more than an entire month has passed without a drop of aid into Gaza. No Food. No fuel. No medicine. No commercial supplies . . . Gaza is a killing field, and civilians are in an endless death loop”⁹⁴.

⁹⁰ See *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)*, Request for the modification of the Order of 26 January 2024 indicating provisional measures, Order of 28 March 2024, para. 51 (2) (a).

⁹¹ Israel Says It Has Taken Over Key Southern Gaza Corridor, DW (3 April 2025), <https://www.dw.com/en/israel-says-it-has-taken-over-key-southern-gaza-corridor/a-72227626>.

⁹² Famine imminent in northern Gaza, new report warns (18 March 2024), <https://www.wfp.org/news/famine-imminent-northern-gaza-new-report-warns>.

⁹³ See <https://x.com/UNReliefChief/status/1769746065991852212?s=20>.

⁹⁴ Secretary-General’s Press Encounter on Gaza, https://www.un.org/sg/en/content/sg/press-encounter/2025-04-08/secretary-generals-press-encounter-gaza-scroll-down-for-arabic?_gl=1*_wwti7v*_ga*MTkyNjQ3ODQ0Ni4xNzIyMzQ3MzY5*_ga_TK9BQL5X7Z*MTc0NDIyMTY2Ni4yNjguMC4xNzQ0MjIxNjY2LjAuMC4w*_ga_S5EKZKS B78*MTc0NDIyMTY2Ni4zNi4xLjE3NDQyMjE2OTguMjguMC4w.

23. And just last week, on 25 April, the WFP indicated that it

“has run out of food in the Gaza Strip as Israel continues to block the entry of all humanitarian aid into the enclave . . . The situation inside the Gaza Strip has once again reached a breaking point: people are running out of ways to cope, and the fragile gains made during the short ceasefire have unraveled . . . Without urgent action to open borders for aid and trade to enter, WFP’s critical assistance may be forced to end.”⁹⁵

24. Simply put: starvation is being used as a method of warfare. The use of starvation of the civilian population as a method of war is prohibited under customary international law, both for international and non-international armed conflicts. The Rome Statute of the International Criminal Court criminalizes this conduct in both types of conflicts, indicating that “intentionally using starvation of civilians as a method of warfare by depriving them of objects indispensable to their survival, including wilfully impeding relief supplies” is a war crime. The ICC has already issued arrest warrants on this account.

25. Excellencies, starvation is starvation is starvation. And there is no justification whatsoever for it.

26. It is in this context that the recent measures by Israel — including the restriction of access to humanitarian aid, the obstruction of fuel and medical supplies, and the systematic targeting of infrastructure critical to civilian survival — must be assessed. Such actions constitute collective punishment and reprisals against the civilian population which are also prohibited under IHL⁹⁶.

Obligations under international human rights law

27. Excellencies, Mexico reaffirms the dual applicability of IHL and human rights law in situations of occupation, which is central in the present advisory proceedings. Israel is bound to uphold international human rights law in the Occupied Palestinian Territory as a State party to the International Covenant on Civil and Political Rights (ICCPR)⁹⁷, the International Covenant on Economic, Social and Cultural Rights (ICESCR)⁹⁸, the Convention on the Rights of the Child

⁹⁵ WFP runs out of food stocks in Gaza as border crossings remain closed, WFP (25 April 2025), <https://www.wfp.org/news/wfp-runs-out-food-stocks-gaza-border-crossings-remain-closed>.

⁹⁶ International Committee of the Red Cross, Customary International Humanitarian Law, Rule 146: Reprisals Against Protected Persons, ICRC, <https://ihl-databases.icrc.org/en/customary-ihl/v1/rule146>.

⁹⁷ Ratified 3 Oct. 1991.

⁹⁸ Ratified 3 Oct. 1991.

(CRC)⁹⁹, the International Convention on the Elimination of All Forms of Racial Discrimination (CERD)¹⁰⁰, the International Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)¹⁰¹ and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)¹⁰².

28. This Court has asserted “that international human rights instruments are applicable ‘in respect of acts done by a State in the exercise of its jurisdiction outside its own territory’, particularly in occupied territories”¹⁰³. Article 27 of the Fourth Geneva Convention states, *inter alia*, that protected persons shall, at all times, be humanely treated.

29. Articles 2 and 26 of the ICCPR, Article 2 (2) of the ICESCR and Article 1 of the CERD prohibit discrimination in the exercise of rights. Practices that restrict Palestinian access to aid, healthcare, water and freedom of movement — which do not apply to Israeli settlements — amount to discriminatory treatment.

The PRESIDENT: Excuse me for interrupting you. Could you please slow down for the interpreters? Thank you very much.

Mr ARROCHA OLABUENAGA: I will do, Mr President. Thank you, and I apologize to the interpreters.

30. Furthermore, under CAT and customary international law, the deliberate denial of food and essential services may constitute inhuman treatment or torture, particularly when it affects vulnerable groups such as children. Moreover, in accordance with the CRC, States must ensure children’s access to healthcare, education and adequate nutrition, while taking all appropriate measures to protect them from harm. Likewise, under CEDAW, Israel is obligated to prevent gender-based violence and guarantee that women have access to essential resources.

⁹⁹ Ratified 3 Oct. 1991.

¹⁰⁰ Ratified 3 Jan. 1979.

¹⁰¹ Ratified 3 Oct. 1991.

¹⁰² Ratified 3 Oct 1991.

¹⁰³ See *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, I.C.J. Reports 2004 (I)*, pp. 177-179, paras. 105-106 and 109; see also *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.

31. Consequently, Israel must ensure the enjoyment of the right to life, the prohibition of torture and inhuman or degrading treatment, the right to food, health, water and education, and the rights of children and women without discrimination for all persons living in the Occupied Palestinian Territory.

32. The Court should clarify the scope of these obligations as they relate to the activities of the United Nations and other actors in the Occupied Palestinian Territory. By doing so, it will strengthen the legal framework for the protection of civilians and contribute to the restoration of respect for the rule of law in one of the world's most protracted and severe humanitarian crises.

V. CLOSING REMARKS

33. Mr President, distinguished Members of the Court, allow me to conclude with the following remarks.

34. The Hamas attack of 7 October 2023, which took the life of around 1,200 innocent people, and from which there are still hostages in captivity, was a heinous act of terror that we condemn.

35. However, legally and morally, the reality that has been unfolding before our eyes in Gaza cannot and must not be justified. As it has been said by the UN Secretary-General, “nothing can justify the collective punishment of the Palestinian people”¹⁰⁴.

36. UNRWA Commissioner-General Philippe Lazzarini, on 14 March last year, said that more children have been killed in Gaza in recent months than in four years of conflict worldwide with at least 12,300 children who have died compared with 12,193 globally between 2019 and 2022¹⁰⁵.

37. According to the latest UNRWA situation update in Gaza¹⁰⁶, valid as of last 22 April, since 7 October 2023, at least 51,266 Palestinians have been reportedly killed, with many more unaccounted for, and with about 70 per cent of those killed being women and children; 916 Palestinians have been reportedly killed also in the West Bank, including East Jerusalem; and over 290 UNRWA staff have been killed. According to the United Nations, at least 1.9 million

¹⁰⁴ See Secretary-General's statement to the press — on the Middle East, 15 January 2024, <https://www.un.org/sg/en/content/sg/statement/2024-01-15/secretary-generals-statement-the-press-the-middle-east>.

¹⁰⁵ See Gaza: Number of children killed higher than from four years of world conflict, <https://news.un.org/en/story/2024/03/1147512>.

¹⁰⁶ See UNRWA Situation Report #168 on the Humanitarian Crisis in the Gaza Strip and the West Bank, including East Jerusalem, <https://www.unrwa.org/resources/reports/unrwa-situation-report-168-situation-gaza-strip-and-west-bank-including-east-jerusalem>.

people — about 90 per cent of the population across the Gaza Strip — have been repeatedly displaced during the war, over ten times or more.

38. The necessity and urgency to stop this tragedy, which has been categorized as genocide by the Special Rapporteur on the situation of human rights in the Palestinian territory occupied since 1967, Francesca Albanese, prompted the General Assembly to turn to the Court. Right now, humanitarian corridors are closing; children have no food; lives are being lost.

39. The legal obligations and rules of law under consideration of the Court in these proceedings are not abstract principles. The reality and the lives of millions of individuals depend on their effective implementation.

40. The humanitarian catastrophe that all of us are witnessing is a deliberate choice, consequence of a political decision, and it is therefore avoidable and reversible.

41. It requires Israel:

- First, as a Member of the United Nations, to respect the principles of the Charter, including the duty to co-operate with the Organization and to uphold the legal protections afforded to its institutions and personnel.
- Second, in its capacity as an occupying Power, to comply with the rules of IHL, including those concerning the protection of civilians and the facilitation of humanitarian relief. This includes the duty to allow and facilitate, without impediment, the activities of the United Nations, international agencies and third States that provide vital assistance to the population under occupation.
- And third, to comply with its obligations under international human rights law, including the obligation to ensure the enjoyment of fundamental rights without discrimination, and to prevent inhuman or degrading treatment, including that which results from the denial of basic necessities.

42. However, as it has constantly been repeated by so many voices, from the Secretary-General to Members of this honourable Court in a joint declaration, the basic premise to achieve all this is that Israel must suspend its military operations immediately. In the meantime, Israeli authorities must ensure complete and unfettered access for humanitarian goods throughout Gaza. No ifs, no buts.

43. This is a pivotal moment, not only for the protection of the role of the United Nations and of international law. The preservation of our shared humanity is on the line. The world should not

and cannot normalize the dehumanization of an entire people. No conflict can come at the cost of human dignity.

44. We trust and we hope that the Court will agree with us to uphold this premise, for all our sakes. Thank you very much.

The PRESIDENT: I thank the representatives of Mexico for their presentation. Before I invite the next delegation to take the floor, the Court will observe a break of 15 minutes. The hearing is suspended.

The Court adjourned from 11.05 a.m. to 11.20 a.m.

The PRESIDENT: Please be seated. The sitting is resumed. I now invite the next participating delegation, Namibia, to address the Court and I call Her Excellency Dr Mekondjo Kaapanda-Girnus to the podium. You have the floor, Madam.

Ms KAAPANDA-GIRNUS:

I. INTRODUCTION

1. Mr President, distinguished Members of the Court, it is my distinct honour to appear before you on behalf of the Republic of Namibia in these proceedings.

2. Namibia co-sponsored the resolution of the General Assembly requesting this advisory opinion. It is, in fact, a mark of our commitment that we are now participating — for the third time — in advisory proceedings on the question of Palestine.

3. Mr President, in history, when confronted with moments of horror, we — members of the international community — have always faced a stark choice. We can look the other way and do nothing. We can abandon the institutions that we have built. And we can gloss over the indefensible.

4. That, however, is not the path that has led us here.

5. Even before the end of World War II, in the face of the suffering of the victims of war — including the Jewish people — 44 governments chose to establish an international agency for the

“provision of food, fuel, clothing, shelter and other basic necessities”¹⁰⁷. After the war, instead of abandoning global institutions, States chose to rebuild and to create a new organization — the “United Nations”, including this Court as its “principal judicial organ”¹⁰⁸. And instead of abandoning universal norms like the laws of war, States chose to adopt not only the Geneva Conventions, but also the Genocide Convention, the Universal Declaration of Human Rights, among many others. *That* is the path that led us here.

6. Namibia knows that this path is not an easy one. The international community brought multiple proceedings before this Court on the question of South West Africa, culminating in the Court’s 1971 Opinion¹⁰⁹. In the face of that Opinion, the apartheid régime of South Africa refused to end its unlawful occupation of Namibia, and to permit the presence and activities of the UN Council for Namibia¹¹⁰ in our territory. The parallels are clear.

7. Nevertheless, the international community persisted in their solidarity and — after a long and arduous struggle — the Namibian people prevailed in 1990. As our late President, Dr Hage Geingob, often said: “Namibia is a child of international solidarity midwived by the United Nations”¹¹¹.

8. As a member of the international community, *and* as a historical beneficiary of international solidarity, we have the moral duty to seek this advisory opinion. By doing so, we aim not to “damage”¹¹², but rather to *defend* the international legal order and the value of multilateralism in promoting international peace and security.

¹⁰⁷ Agreement for United Nations Relief and Rehabilitation Administration, 9 November 1943, Art. 1 (2) (a). See also resolutions 57 and 60, Second Session of the UNRRA Council, Montreal, 15–27 September 1944, in George Woodbridge, *UNRRA: The History of the United Nations Relief and Rehabilitation Administration*, vol. iii, pp. 135 and 137; Sidney Liskofsky, “United Nations Relief and Rehabilitation Association”, in the *American Jewish Year Book*, vol. 48, 1946-47, pp. 448-452, at p. 449.

¹⁰⁸ Charter of the United Nations, adopted 26 June 1945, entered into force 24 October 1945, 1 UNTS XVI (the “UN Charter”), Art. 92.

¹⁰⁹ *International Status of South West Africa, Advisory Opinion, I.C.J. Reports 1950; Voting Procedure on Questions relating to Reports and Petitions concerning the Territory of South West Africa, Advisory Opinion, I.C.J. Reports 1955; Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970), Advisory Opinion, I.C.J. Reports 1971; South West Africa cases (Ethiopia v. South Africa; Liberia v. South Africa)*.

¹¹⁰ UN docs. A/RES/2248 (S-V), 19 May 1967; A/RES/2372 (XXII), 12 June 1968.

¹¹¹ His Excellency Dr Hage G. Geingob, President of the Republic of Namibia, General Debate Statement, 77th Session of the UN General Assembly, 21 September 2022, New York (https://gadebate.un.org/sites/default/files/gastatements/77/na_en.pdf).

¹¹² Written statement of Israel, para. 3.

9. The humanitarian catastrophe unfolding in the Occupied Palestinian Territory should compel all of us to uphold and protect the integrity of our international institutions and universal norms.

10. Mr President, in our submissions today, Namibia will focus on (i) the Court's jurisdiction in these proceedings; (ii) Israel's obligations as a Member of the United Nations; (iii) Israel's obligations arising from the Palestinian people's right to self-determination; and (iv) Israel's other obligations as the occupying Power.

11. Namibia will focus on UNRWA given its indispensable role in providing essential humanitarian and development assistance to millions of Palestinians in the OPT, and given the specific measures adopted by Israel targeting its operations. However, Namibia notes that much of its analysis also applies in relation to the presence and activities of other international actors in, and in relation to, the OPT.

12. Namibia respectfully disagrees with submissions made before this Court that these proceedings are aimed at depriving Israel of its sovereign right to defend itself¹¹³. Namibia further maintains that these proceedings in no way "compromise[] the Court's judicial integrity", nor do they "make[] the law indistinguishable from politics"¹¹⁴.

13. Mr President, Members of the Court, I thank you for your attention and respectfully ask that you invite Professor Okowa to address the Court.

The PRESIDENT: I thank Dr Kaapanda-Girrus. I now invite Professor Phoebe Okowa to address the Court.

Ms OKOWA:

1. Mr President, Members of the Court, it is both an honour and a special responsibility to appear before you on behalf of the Republic of Namibia.

¹¹³ *Ibid.*, para. 2.

¹¹⁴ *Ibid.*, para. 70.

II. NO COMPELLING REASONS EXIST FOR THE COURT TO DECLINE TO RENDER THE ADVICE REQUESTED

2. At the outset, Namibia wishes to respond very briefly to the argument — both explicitly and implicitly made — that the Court should decline to render an advisory opinion in these proceedings, either because the matter is *sub judice* in the pending case between South Africa and Israel (A)¹¹⁵, or because of the Court’s previous Advisory Opinions on the question of Palestine (B)¹¹⁶.

A. The question put before the Court is not *sub judice* in *South Africa v. Israel*

3. First, Namibia respectfully rejects the *sub judice* argument. These proceedings are fundamentally different from *South Africa v. Israel*: they are different in character; they serve different purposes; they engage different participants; and they concern different subject-matters. *South Africa v. Israel* concerns a specific question arising under a circumscribed basis of jurisdiction in the Genocide Convention.

4. In the present proceedings, the Court is not called upon to make any determination on the issue of genocide. Rather, the question posed by the General Assembly concerns Israel’s obligations in relation to the presence and activities of other international actors in and in relation to the OPT. Moreover, there is no basis in the Court’s jurisprudence for the claim that, because these proceedings “touch upon” issues relevant to *South Africa v. Israel*, the Court should refuse to provide assistance to the General Assembly in the discharge of its functions¹¹⁷. Just as the initiation of proceedings by South Africa in December 2023 did not prevent the Court from discharging its advisory function in 2024, their continuation now should not prevent the Court from responding to the General Assembly’s present request.

B. The question is not a repetition of the Court’s previous Advisory Opinions on the question of Palestine

5. *Second*, the question is not “one which the Court has . . . been called to address in earlier Advisory Opinions”¹¹⁸. The question of Palestine is the longest-lived problem on the agenda of the

¹¹⁵ *Ibid.*, para. 60.

¹¹⁶ *Ibid.*, para. 66.

¹¹⁷ See *ibid.*, para. 60.

¹¹⁸ *Ibid.*, para. 66.

United Nations and of this Court; yet on each occasion, the Court has addressed the issue presented in light of the terms of the request, and of the specific instruments relied on, recognizing the permanent responsibility of the United Nations for the Palestinian question.

6. One of the first Advisory Opinions rendered by this Court, the *Reparation for Injuries* case, concerned the capacity of the United Nations to bring a claim against Israel in relation to the death of Count Bernadotte, who was killed in the service of the United Nations¹¹⁹. The Court has subsequently given two Advisory Opinions¹²⁰ in relation to the legal consequences of Israel's practices and policies in the OPT, thereby addressing the questions arising on their own terms and in light of specific instruments.

7. However, this is the first time that the Court is asked to determine the legality of specific measures and practices directed at UNRWA and other international organizations in the OPT. The request is not a repetition of what the Court has already done. Therefore, Israel cannot plausibly object to the Court giving advice to the General Assembly in relation to the functions and operations of its own subsidiary organ.

8. In short, there are no compelling reasons for the Court to decline the request¹²¹.

III. ISRAEL'S OBLIGATIONS AS A UN MEMBER

9. Mr President, I now turn to Israel's obligations *as a Member of the United Nations* regarding the presence and activities of UNRWA in and in relation to the OPT. Here, Namibia makes two specific submissions: *first*, Israel must assist and co-operate with the United Nations (A), and *second*, Israel must respect the United Nations privileges and immunities (B).

A. Israel must assist and co-operate with the United Nations

10. Namibia submits that Israel's membership of the United Nations entails an obligation to provide every assistance to, and co-operate with, the United Nations in good faith. This is both a cardinal and a constitutive principle under the Charter.

¹¹⁹ *Reparation for Injuries Suffered in the Service of the United Nations*, Advisory Opinion, I.C.J. Reports 1949, p. 178.

¹²⁰ *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Advisory Opinion, I.C.J. Reports 2004 (I); *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*, Advisory Opinion of 19 July 2024.

¹²¹ *Legality of the Threat or Use of Nuclear Weapons*, Advisory Opinion, I.C.J. Reports 1996 (I), p. 235, para. 14.

11. *First*, Article 2 (5) obliges Israel to give the United Nations “*every assistance*” in any action it takes in accordance with the Charter. *Second*, under Article 56 of the Charter, Israel has pledged to take action “in co-operation with” the United Nations to achieve the Organization’s purposes of promoting universal respect for human rights, economic and social development, and provide solutions to economic and social problems¹²². *Third*, under Article 2 (2) of the Charter, Israel must perform all of its obligations in good faith. The obligation of Israel to co-operate with the United Nations in good faith also exists under general international law¹²³.

12. In this respect, UNRWA is the primary vehicle through which the United Nations has sought, and is seeking, to achieve these aims. Its mandate has been repeatedly renewed by the General Assembly, and it remains indispensable in providing critical assistance and humanitarian aid to the Palestinian people.

13. Israel, however, argues that it does not have an obligation to assist or co-operate with UNRWA. *First*, Israel proposes that Article 2 (5) is not applicable, because it is “limited to enforcement action taken by the UN Security Council under Chapter VII of the Charter”¹²⁴.

14. This reading of the provision is contrary to its ordinary meaning, as interpreted in accordance with Article 31 of the Vienna Convention on the Law of Treaties. The word “*any action*” in the first clause does not admit the additional restriction Israel asserts. This is in stark contrast with the *second* clause of Article 2 (5), which *specifically* prohibits “assistance to any state against which the United Nations is taking *preventive or enforcement* action”. The omission of the qualifier “preventive or enforcement” in the first clause cannot be an oversight, and is crucial to the proper interpretation of Article 2 (5). In other words, the obligation of Members to assist *the United Nations* applies as a default, on the other hand their freedom to assist *other States* is exceptionally *restricted*, in order to achieve the objectives of preventive or enforcement action under Chapter VII¹²⁵.

¹²² UN Charter, Arts. 55, 56.

¹²³ *Interpretation of the Agreement of 25 March 1951 between the WHO and Egypt, Advisory Opinion*, I.C.J. Reports 1980, p. 95, para. 48.

¹²⁴ Written statement of Israel, para. 75, citing Helmut Philipp Aust, “Article 2 (5)”, in Bruno Simma *et al.* (eds.), *The Charter of the United Nations: A Commentary* (4th edn., OUP 2024), pp. 369-371; Hans Kelsen, *Law of the United Nations: A Critical Analysis of Its Fundamental Problems: With Supplement* 97 (1950), pp. 91-92, 97.

¹²⁵ See *Certain Expenses of the United Nations (Article 17, paragraph 2, of the Charter)*, Advisory Opinion of 20 July 1962, I.C.J. Reports 1962, p. 168.

15. Moreover, as others have already demonstrated, Israel's interpretation finds no support in the practice of the Organization, or of its Members. In this regard, as the Court held in the 1996 *WHO Nuclear Weapons* Advisory Opinion, in interpreting a treaty that is the constituent instrument of an international organization, the organization's "own practice" "may deserve special attention"¹²⁶ This is especially so where the United Nations practice is *generally accepted* by States, as it is, here¹²⁷.

16. In sum, Israel is bound to provide "every assistance" to achieve the objectives of UNRWA as a subsidiary organ of the General Assembly and of the United Nations.

17. *Second*, Israel also argues that assistance under Article 2 (5) is not required, because the United Nations' action was not "in accordance with", but "manifestly contrary to the Charter" and "to the detriment of a Member's vital interests"¹²⁸. Israel also argues that the obligations under Articles 2 (2) and 56 do not apply in "exceptional"¹²⁹ and "extraordinary circumstances" such as these¹³⁰.

18. These arguments are misplaced. Israel wrongly assumes that it has the unilateral power to disregard its fundamental obligations under the Charter based on a subjective evaluation of vital interests. Moreover, if Israel had wished to challenge the mandate of UNRWA, it could have done so through the many avenues of dialogue in the UN system.

19. In sum, Namibia reiterates that Israel's actions, and particularly its anti-UNRWA laws and related conduct, violate its obligations under the Charter. The conduct entails a blatant refusal to co-operate with the United Nations, to facilitate UNRWA's work, and to respect its lawfully established mandate.

¹²⁶ *Legality of the Use by a State of Nuclear Weapons in Armed Conflict, Advisory Opinion, I.C.J. Reports 1996 (I)*, p. 75, para. 19; emphasis added. See also Vienna Convention on the Law of Treaties (adopted 22 May 1969, entered into force 27 January 1980) 1155 UNTS 331, Art. 5.

¹²⁷ See *Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970), Advisory Opinion, I.C.J. Reports 1971*, p. 22, para. 22. See also Institut de droit international, *Limits to Evolutive Interpretation of the Constituent Instruments of the Organizations within the United Nations System by their Internal Organs*, Resolution, adopted 4 September 2021, para. 7; Niels Blokker, *Legal Facets of the Practice of International Organizations*, in *Recueil des cours*, vol. 435, sect. 3.4.

¹²⁸ Written statement of Israel, para. 74.

¹²⁹ *Ibid.*, para. 81.

¹³⁰ *Ibid.*, para. 76.

B. Israel must respect the United Nations privileges and immunities

20. Mr President, this brings me to my second point, namely Israel's obligations to respect the United Nations immunities and inviolability under Article 105 (1) of the Charter and the 1946 General Convention.

21. Namibia highlights two aspects of Israel's obligations in this regard, that is: (i) their territorial scope and (ii) the absolute character of these obligations.

22. *First*, Namibia emphasizes that Israel is obligated to respect the United Nations inviolability and immunities in both Israel and — as an occupying Power exercising effective control — in the OPT, including East Jerusalem.

23. This is plainly “necessary for the fulfilment of [the Organization's] purposes” and coheres with the United Nations consistent practice, as other participants have highlighted. Indeed, Article II, sections 2 to 4, of the General Convention expressly refers to the immunity and inviolability of the United Nations “wherever located”.

24. *Second*, Israel has again invoked the “extraordinary circumstances” of its “security concerns” to seek to justify conduct. In fact, according to Israel, it was UNRWA's refusal to respect Israel's withdrawal of co-operation that “constitutes an abuse of the UN's privileges and immunities”¹³¹.

25. Namibia submits that Israel's obligations to respect United Nations immunities and inviolability are absolute. This means, *first*, that the obligations are unqualified — they are not subject to exception or limitation. This much is evident on the face of the text itself, as well as in the practice of States and of the United Nations. *Second*, and relatedly, the obligations apply in times of armed conflict, and do not allow for any derogation.

26. Namibia accepts the right of every State to take certain measures in the interest of its national security. But those measures must be lawful and exercised in a manner consistent with the recognized norms of international law. In short, a State's *subjective* assessment of its national security, considerations of military expediency or alleged wrongdoing by UNRWA cannot justify the infringement of United Nations privileges and immunities.

¹³¹ *Ibid*, para. 80.

27. Mr President, I thank you for your attention and respectfully ask that you invite Ms Pickering to address the Court.

The PRESIDENT: I thank Professor Okowa for her presentation. I now give the floor to Ms Gladice Pickering. You have the floor, Madam.

Ms PICKERING:

IV. ISRAEL’S OBLIGATIONS ARISING FROM THE PALESTINIAN PEOPLE’S RIGHT TO SELF-DETERMINATION

1. Mr President, Members of the Court, it is my distinct honour to appear before you on behalf of the Republic of Namibia.

2. I begin with the question: *who is international law for?*

3. Israel argues that these proceedings “turn international law on its head” in assuming that “Israel has only obligations and no rights”¹³². To Israel, international law serves to “safeguard the sovereignty and security of States”; it “prescribes the right and obligation of a State in acting to defend its existence, its territory, and its people”¹³³.

4. However, Namibia submits that Israel presents only a partial picture, and one that is inconsistent with this Court’s jurisprudence. International law protects the rights not only of States, but also of *peoples* — in particular, their right to self-determination.

5. Namibia’s submission focuses on two specific obligations flowing from the right to self-determination.

6. *First*, Israel has an obligation not to impede — in any way — the right of the Palestinian people to pursue their economic, social and cultural development. As the Court set out in the Advisory Opinion of July last year, this is one of the four key elements of the right to self-determination¹³⁴. It is supplemented by Israel’s obligations as an occupying Power under international humanitarian law, as well as under international human rights law.

¹³² *Ibid*, para. 3.

¹³³ *Ibid.*, para. 5; see also *ibid.*, para. 26.

¹³⁴ *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.

7. In this respect, UNRWA provides the Palestinian people with indispensable support to enable their development. As reported by the Secretary-General, UNRWA ordinarily provides education to over 350,000 students and conducts over 5 million health consultations annually¹³⁵. In Gaza, UNRWA has been providing essential humanitarian assistance to the civilian population since October 2023. Without UNRWA, the Palestinian people would be deprived of their means of subsistence and their ability to pursue economic, social and cultural development.

8. For this reason, Israel's expulsion of UNRWA and imposition of measures to frustrate its work in the provision of education, healthcare and emergency assistance violates the right to self-determination. Moreover, and particularly in the context of its *prolonged* occupation, Israel is required to facilitate, by positive measures, the realization of this right. This, Israel has repeatedly and systematically failed to do.

9. *Second*, the Palestinian people are entitled to pursue their development as a people independently as well as in conjunction with the United Nations, other international organizations and third States. Namibia emphasizes that Israel has no legal basis to prevent international actors from operating in the OPT in the realization of the right of the Palestinian people to self-determination. In this respect, it is up to the Palestinian people to decide what forms of assistance to accept, by whom it is provided and on what terms.

10. In the Advisory Opinion of July last year, the Court determined that Israel's practices constitute a systematic and prolonged violation of the Palestinian people's right to self-determination¹³⁶. The present proceedings concern significant further violations of that right. Israel's obstruction of the activities of the United Nations, particularly UNRWA, other international organizations and third States, is part of a strategy to entrench its unlawful occupation and to further annex the Palestinian territory. It is part of a strategy to fragment the Palestinian people and to frustrate their right of return to their homeland. It is — in short — a strategy to perpetually deny their right to self-determination.

¹³⁵ See, e.g., Letter from the Secretary-General to the President of the General Assembly, 28 October 2024, UN doc. A/79/558.

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. 243.

V. ISRAEL'S OTHER OBLIGATIONS AS THE OCCUPYING POWER

11. Mr President, Members of the Court, Namibia's final substantive submission concerns Israel's obligations under international humanitarian law and the law of occupation in relation to the provision of aid and assistance.

12. At the outset, Namibia emphasizes that these obligations — as well as any right of Israel as an occupying Power — must be interpreted in line with the right to self-determination as a peremptory norm. These obligations also complement Israel's obligations, as a UN Member, to assist and co-operate with UNRWA.

13. International humanitarian law and the law of occupation impose on Israel extensive obligations in relation to the provision of supplies and services to the population under occupation. These arguments are set out in full in our written statements¹³⁷. Here, Namibia wishes to emphasize the categorical and demanding terms of Article 59 of the Fourth Geneva Convention: if the population “is inadequately supplied, the Occupying Power *shall agree* to relief schemes . . . and facilitate them *by all means at its disposal*”.

14. In relation to the OPT, the situation of inadequate supply is catastrophic — the population is in critical need of supplies encompassing extremely wide-ranging forms of assistance, including “food, water, electricity, fuel, shelter, clothing, hygiene and sanitation requirements, as well as medical supplies”¹³⁸. Therefore, the demands of Article 59 are triggered.

15. Israel is required to permit, facilitate and protect the provision of aid and assistance by the United Nations, and particularly by UNRWA. By targeting UNRWA through anti-UNRWA laws, military operations and related conduct, Israel is in breach of its obligations under the Geneva Conventions.

16. In this regard, it appears that Israel's strategy is to acknowledge the existence of Article 59, but to hollow out its demands and effects in practice. Israel has done this (i) by arguing that replacing

¹³⁷ See written statement of Namibia, paras. 64-70.

¹³⁸ See, e.g., *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip* (South Africa v. Israel), *Request for the modification of the Order of 26 January 2024 indicating provisional measures*, *Order of 28 March 2024*, para. 51 (2) (a).

UNRWA with other relief schemes “is not at all impossible”¹³⁹ and (ii) by seeking to justify *blanket* measures against UNRWA on the ground of its alleged lack of neutrality.

17. Namibia urges the Court to reject this strategy. The first claim that UNRWA’s essential services can simply be replaced is false. UNRWA is the “backbone” of the international community’s humanitarian response in Gaza and remains responsible for the ongoing provision of critical humanitarian aid across the OPT¹⁴⁰. In reality, prohibiting UNRWA’s operations with a speculative notion of possible replacement is simply a violation of Israel’s obligations under humanitarian law. In this respect, Namibia urges the Court to adopt an interpretation and application of the law of occupation that is sensitive to the realities on the ground.

18. With regard to Israel’s second claim and allegations challenging UNRWA’s neutrality, the United Nations has credibly and promptly responded to the allegations. In any event, these allegations cannot possibly justify such an unreasonable and disproportionate response.

19. Namibia reiterates that the obstruction of UNRWA’s operations has directly exacerbated the humanitarian crisis in the OPT. As the primary provider of humanitarian aid in Gaza, UNRWA’s absence has created a critical vacuum in the provision of aid and essential services. The current situation on the ground is the inevitable disastrous outcome of a people denied access to aid and essential services, in violation of international humanitarian law and the UN Charter.

20. In sum, it follows from UNRWA’s ongoing, indispensable role that the law of occupation requires Israel to permit, facilitate and protect the delivery of humanitarian assistance by UNRWA.

VI. CONCLUSION

21. In conclusion, Mr President, Namibia reiterates that Israel is bound under international law to permit, facilitate and protect humanitarian assistance in the Occupied Palestinian Territory. Israel’s measures targeting UNRWA, including anti-UNRWA laws and operational restrictions, are incompatible with these obligations.

¹³⁹ Dossier No. N67, Identical letters dated 18 December 2024 from the Permanent Representative of Israel to the United Nations addressed to the President of the General Assembly and the President of the Security Council, UN doc. A/79/710-S/2024/940, p. 1.

¹⁴⁰ Written statement of Namibia, para. 91.

22. Namibia regrets that the recent ceasefire did not lead to meaningful relief or protection for civilians and reiterates its opposition to any proposals suggesting further violation of the right to self-determination of the Palestinian people in their own territory.

23. Namibia calls upon the international community to uphold international law and to support the people of Palestine in rebuilding the Gaza Strip and restoring access to essential humanitarian aid.

24. Namibia reiterates the necessity of accountability for violations of international law and the paramount importance of the protection of civilians.

25. Finally, Namibia emphasizes the wider importance of the Court's answer for situations of occupation in general.

26. Mr President, Members of the Court, I thank you for your kind attention. This concludes Namibia's oral submissions. Thank you.

The PRESIDENT: I thank the representatives of Namibia for their presentation. I now invite the next participating delegation, Norway, to address the Court and I call upon His Excellency Mr Rolf Einar Fife to take the floor.

Mr FIFE:

I. INTRODUCTION

1. Mr President, distinguished Members of the Court, it is an honour for me to appear before this Court in this case on behalf of the Kingdom of Norway.

2. Our oral intervention will consist of three parts. I will address certain elements of the specific legal framework applicable to the Occupied Palestinian Territory. In combination, these give rise, with binding force, to obligations of Israel in the precise subject-matter under current consideration. Director General Kristian Jervell will thereafter highlight essential obligations. Finally, State Secretary Andreas Motzfeldt Kravik will set out Norway's submissions as to the suggested conclusions to be drawn, in a context that fully justifies the Court's decision to treat the request of the General Assembly with urgency and on a priority basis.

II. THE SPECIFIC LEGAL FRAMEWORK

3. Mr President, distinguished Members of the Court, seldom has an international presence in a territory and, I should add, rarely have the related obligations of key protagonists, been more formally and structurally embedded in a multilateral legal framework than in the Occupied Palestinian Territory.

4. Three salient facts may both illustrate this and help us structure our understanding of this specific legal framework.

5. Firstly, when the military occupation started in June 1967 after the Six-Day War, there was an already legally established and significant international presence to support the vital needs of the displaced local population, and a recognized need for a major international effort to protect and assist vulnerable Palestine refugees.

6. Secondly, the United Nations has a particular and long-standing responsibility originating in the Mandate and the 1947 Partition Resolution concerning Palestine. The indisputable right of self-determination of the Palestinian people and the need to devote key efforts to achieve a two-State solution were early ascertained.

7. Thirdly, since 1948, the realization of key objectives enshrined in a series of mandates and decisions adopted by the main organs of the United Nations has required international assistance consisting of a composite of assisting actors. These include competent international organizations, States and relevant non-governmental organizations and entities, with the United Nations playing not only a central but also an essential role. It provides necessary relief, support and basic services to the civilian population. It also serves as a facilitator, organizer and catalyst for contributions by other third parties. Heads of UN agencies and key relief providers have issued statements as to the indispensability, even the “backbone” role, of UNRWA in this context¹⁴¹.

8. All of this is amply documented. Nevertheless, we would be remiss if I did not mention here the appeal made already in 1948 by the UN Mediator on Palestine, Count Folke Bernadotte. Referring to “the desperate urgency”¹⁴² of the situation, he called for a broad mobilization of relief efforts by

¹⁴¹ See, *inter alia*, Statement by Secretary-General of the Norwegian Refugee Council Mr Jan Egeland to the Security Council, 28 January 2025, UN Doc. S/PV.9852 and Statement by Principals of the Inter-Agency Standing Committee, Stop the assault on Palestinians in Gaza and on those trying to help them, 1 November 2025 <https://interagencystandingcommittee.org/inter-agency-standing-committee/statement-principals-inter-agency-standing-committee-stop-assault-palestinians-gaza-and-those-trying> [accessed 28 April 2025].

¹⁴² *Progress report of the United Nations Mediator on Palestine*, A/648, p. 52.

the United Nations and the international community at large. UN organs, specialized agencies, States and non-governmental actors rose to this appeal. Their swift response, and the subsequent creation of UN co-ordinating bodies and executive agencies, confirm the scale and magnitude of the humanitarian, relief and reintegration challenges. They also confirm, which is of relevance here, the breadth of necessary assisting actors and voluntary contributions by third parties.

9. Returning now to the first point, the duty to respect the described pre-existing international presence and activities appears to have been recognized by Israel in June 1967. Fundamental rules of laws of occupation, notably enshrined in Article 43 of the Hague Regulation of 1907, require (i) respect for the law in force in the occupied territory unless absolutely prevented from doing so and (ii) a duty to administer the territory for the benefit of the local population. Within four days of the ceasefire, the so-called Comay-Micheltore Exchange of Letters thus confirmed that UNRWA would “continue” its assistance to eligible refugees, with “the full cooperation” of Israeli authorities¹⁴³.

10. This ensured practical and operational continuity, including respect for pre-existing arrangements and relevant immunities of the United Nations. Moreover, the juridical status and privileges and immunities of subsidiary bodies of the United Nations do not draw their original strength or legal basis from such an exchange of letters. Israel’s obligations in this regard follow, with respect to UN Member States, from Article 105, paragraph 1, of the Charter, and they are further detailed in the 1946 Convention on the privileges and immunities of the United Nations. These obligations apply as much in Israel’s sovereign territory as in the territory of Palestine.

11. Turning now to the second point, the context and the legal framework applicable to the Occupied Palestinian Territory entail a particular and long-standing responsibility of the United Nations. This has already been noted by the Court in its Advisory Opinion on the *Wall* and in its Advisory Opinion of July last year¹⁴⁴. This was already reflected in “commitments” made to

¹⁴³ *Exchange of Letters Between Israel and UNRWA*, 14 June 1967, Jerusalem, United Nations, *Treaty Series*, Vol. 620, p. 183, Dossier No. N283.

¹⁴⁴ *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Advisory Opinion, I.C.J. Reports 2004 (I); *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. 35.

co-operate with the United Nations in Israel's Declaration of Independence of 14 May 1948¹⁴⁵. Israel's application for membership in the United Nations specifically stated that independence had been proclaimed "in pursuance of" the 1947 Partition Resolution. It added that Israel "unreservedly accepts the obligations of the United Nations Charter and undertakes to honour them from the day when it becomes a Member of the United Nations"¹⁴⁶. In May 1949, General Assembly resolution 273 (III) on admission to membership explicitly referred to Israel's assurances made "in respect of the implementation of the said resolutions"¹⁴⁷.

12. After the vote, the Israeli Foreign Minister stated that the aftermath of the 1948 war had "changed some elements" in the pattern envisaged in the 1947 Partition Resolution, and that "modifications" were therefore called for. However, these did not vacate the continued relevance of the framework. He noted that "Israel's organic connection with the United Nations had combined with its own compelling interest in dictating its course of action in international affairs — a course of undivided loyalty to the Charter of the United Nations and of consecration of the cause of peace"¹⁴⁸.

13. In our written statement, we have detailed how the specific legal framework applicable to the territory sets out clear obligations for Israel not only under international humanitarian law, including as regards humanitarian relief schemes under Article 59 of the Fourth Geneva Convention, but also under human rights law, refugee law and United Nations law. They combine in requiring duties of co-operation, facilitation, assistance and protection for the international presence to continue the activities mentioned. My brief overview here serves as an invitation to consider more in detail the analysis made in our written statement.

14. As to the third point, the mandates of UN agencies and specialized agencies have indeed not been static. As documented in an overwhelming number of reports, resolutions and agreements provided by the UN Secretariat, the relevant mandates have regularly been not only adopted but also adapted to evolving demands and circumstances. Their international legality is unequivocal.

¹⁴⁵ Declaration of Independence, Provisional Government of Israel, Official Gazette: Number 1; Tel Aviv, 5 Iyar 5708, 14.5.1948 p. 1. English translation available at <https://main.knesset.gov.il/en/about/pages/declaration.aspx> [accessed 28 April 2025].

¹⁴⁶ United Nations, Security Council, doc. S/1093.

¹⁴⁷ United Nations, General Assembly, resolution 273 (III), 11 May 1949, preamble.

¹⁴⁸ United Nations, General Assembly, doc. PV 207th plenary meeting, 11 May 1949, p. 332.

15. In a broader sense, we are reminded that international law took a series of decisive legal turns with the creation of the United Nations, the emergence of new functions of international organizations, and the protection of human dignity and fundamental rights. Moreover, in the context just described, a legal framework was established.

16. Nevertheless, the underpinning, or one might perhaps more accurately say a lynchpin, of our international legal order rests on legal obligations incurred by States in this regard. Built brick by brick over decades, it depends on their compliance, whether the obligation derives from the UN Charter, other international legal instruments or rules determined on the basis of other valid sources of international law.

17. In the formulation of the requested legal guidance, Norway would suggest also taking into account work carried out by the International Law Commission as regards the protection of persons in the event of disasters¹⁴⁹. Its state-of-the-art definition in 2016 of possible “assisting actors” may reflect the breadth of scope of relevant categories of institutions already engaged in relief and support. The Commission’s references to the importance of transit are relevant also in this context. It is moreover suggested to take fully into account the legal obligations related to self-determination. Further detail will now be provided by Director General Jervell.

18. I would respectfully request the President to now give him the floor. I thank you for your attention.

The PRESIDENT: I thank Mr Fife. I now give the floor to Mr Kristian Jervell. You have the floor, sir.

Mr JERVELL:

III. OBLIGATIONS RELATIVE TO THE RIGHT OF THE PALESTINIAN PEOPLE TO SELF-DETERMINATION

1. Mr President, distinguished Members of the Court, it is an honour for me to appear before you on behalf of the Kingdom of Norway.

¹⁴⁹ *Yearbook of the International Law Commission*, 2016, Vol. II, Part Two, p. 25, Draft articles on the protection of persons in the event of disasters.

2. The request put to the Court makes specific reference to the Palestinian people's right to self-determination. As was observed by the Court in the July 2024 Advisory Opinion, Israel, as the occupying Power of the Occupied Palestinian Territory, has an obligation not to impede the Palestinian people from exercising its right to self-determination, including its right to an independent and sovereign State¹⁵⁰. The Court specifically referred to the obligation to preserve the territorial integrity of the Occupied Palestinian Territory; to refrain from measures aimed at dispersing the population and undermining its integrity as a people; to respect the right to exercise permanent sovereignty over natural resources; and the right of the Palestinian people to freely determine its political status and to pursue its economic, social and cultural development¹⁵¹.

3. Norway supports the Court's interpretation on these issues as applied to the specific factual context. In the context of the present case, it is pertinent to build on those observations and assess what implications flow from them with regard to the question of obligations concerning international presence in and in relation to the occupied territories. I will make two points:

4. First, there is an interlinkage between the obligations referred to by Ambassador Fife and the obligation not to impede the right of the Palestinian people to self-determination.

(a) Hindering the presence and activities of the United Nations, international organizations and third States, and thereby the provision of development assistance and humanitarian relief to the local population, constitutes a significant impediment to the Palestinian people's exercise of its right to self-determination. This is so, in the perspective of Norway, because such acts and measures undermine the integrity of the population as a people and because they obstruct the right of the Palestinian people to freely determine its political status and to pursue its economic, social and cultural development.

(b) For similar reasons, acts and measures that obstruct the provision of development assistance and humanitarian relief to the Palestinian people by the United Nations and its subsidiary organs constitute separate violations of obligations owed by Israel to the United Nations, and also

¹⁵⁰ *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.

¹⁵¹ *Ibid.*, paras. 238-241.

constitute a significant impediment to the Palestinian people's exercise of its right to self-determination.

5. Second, the obligation incumbent on Israel not to impede the right of the Palestinian people to self-determination also entails negative obligations. Israel must refrain from impairing the ability of the representative authorities of the Palestinian Authority or of the State of Palestine to establish, conduct and maintain foreign relations with other international actors, including the United Nations and its specialized agencies, other international organizations and third States, and their representation to Palestine and the Palestinian people in and in relation to the Occupied Palestinian Territory.

- (a) In this regard, the Court observed, in its July 2024 Advisory Opinion, that the right of the Palestinian people to self-determination includes the right to an independent and sovereign State, over the entirety of the Occupied Palestinian Territory, as well as the right of the Palestinian people to freely determine its political status and to pursue its economic, social and cultural development.
- (b) It follows from these observations that the Palestinian people have a right to establish and conduct foreign relations, which is part and parcel of the Palestinians' exercise of their right to freely determine their political future. Israel has a corresponding obligation to respect this right. The conduct of foreign relations constitutes a key element to promote peace and security and develop the welfare of the people concerned. It is a precondition for a successful institution and State building process and integration into the international community. Regard may be had in this respect to the fact that the attributes normally attached to statehood in international law are generally perceived to include not only a population, a territory and a government, but also the capacity to enter into relations with the international community on an independent basis.
- (c) Where international relations are established, or sought to be established, based on and in accordance with the free will of the recognized representatives of the Palestinian people, intentional impairment of such relations would, in the view of Norway, constitute a policy and practice that obstruct the right of the Palestinian people freely to determine its political status and to pursue its economic, social and cultural development. As such, those measures would constitute a violation of the obligation to respect the right of the Palestinian people to

self-determination. The same applies to intentional impairment of the possibility for diplomatic representatives to be present in the Occupied Palestinian Territory for the purpose of establishing and maintaining such relations.

- (d) Mr President, honourable Members of the Court, Norway is among the 146 of the 193 Member States of the United Nations that have recognized the State of Palestine as an independent State and subject of international law. What is said here concerning the conduct of foreign relations is, however, valid regardless of whether the relations in question are based on a recognition of statehood or whether formal diplomatic relations have been established. This is so because the right to communicate and carry out foreign relations with the international community forms an integral part of the right of the Palestinian people freely to determine its political status and to pursue its economic, social and cultural development.
- (e) As regards foreign relations with international organizations, there is a long pedigree of practical evidence to that effect. There is also ample evidence of agreements having been concluded in this regard between the representatives of the Palestinian people and international organizations. As regards the United Nations, reference by way of illustration is here made to the Exchange of Letters concluded in 1994 between UNRWA and the Chairman of the Palestine Liberation Organization for the purpose of facilitating UNRWA to continue to provide assistance to the Palestinian population in the Gaza Strip and the Jericho Area and in the remainder of the West Bank¹⁵².

6. Mr President, honourable Members of the Court, I thank you for your attention and now ask you to give the floor to Mr Andreas Kravik, State Secretary of the Norwegian Ministry of Foreign Affairs, to present the final observations on behalf of Norway.

The PRESIDENT: I thank Mr Jervell. I now give the floor to Mr Andreas Motzfeldt Kravik. You have the floor.

¹⁵² Exchange of Letters between the Commissioner-General of the United Nations Relief and Works Agency in the Near East (UNRWA) and the Chairman of the Palestine Liberation Organization for the purpose of facilitating UNRWA to continue to provide assistance to the Palestinian population in the Gaza Strip and the Jericho Area and in the remainder of the West Bank, 24 June 1994, Dossier No. N286.

Mr KRAVIK:

IV. SUBMISSIONS

1. Mr President, honourable Members of the Court, it is an honour to stand before you as a representative of Norway.

2. We meet at a time when the humanitarian situation in the Occupied Palestinian Territory has descended further into a living nightmare. In Gaza, a blockade of humanitarian aid and commercial supplies has been in place now for 60 days. Despite repeated calls on Israel to lift these measures and to facilitate relief, Israel has instead further tightened, rather than eased, these measures. This is both unconscionable and illegal.

3. It is in this context, Norway asks the Court to recognize the *indispensable* nature of UNRWA in running infrastructure, healthcare, education, primary assistance and in providing relief to Palestinian refugees.

4. Mr President, honourable Members of the Court, Norway has consistently condemned the heinous attacks directed at Israel on 7 October 2023; we have called for an immediate ceasefire and we have called also for the immediate and unconditional release of all hostages. With the same consistency, however, Norway has also held that Israel, like any other UN Member State, must abide by its legal obligations.

5. Against this backdrop, I will make three points: *first*, Israel's obligations to co-operate with the United Nations and with other States; *second*, the Palestinian people's right, under the principle of self-determination, to decide freely as to its external relations; and, *third*, and finally, Israel's obligation to permit and facilitate assistance, including to facilitate the unimpeded transit of UNRWA and other UN personnel.

6. Turning now to my *first* point, Israel has an obligation to co-operate *with the United Nations*, as set forth in Article 2, paragraph 5, of the Charter. This is a general obligation, not limited to enforcement action by the Security Council. In the present context, this means, as the Secretary-General rightly has observed, that Israel is obliged "to give UNRWA every assistance in any action

it takes in accordance with the relevant decisions of competent organs adopted pursuant to the provisions of the Charter”¹⁵³.

7. Israel’s duty to co-operate *with other States* in solving international problems of a humanitarian character in the Occupied Palestinian Territory is laid down in Article 1, paragraph 3, of the Charter. That provision is, as evident from Article 14 of the Charter, legally binding on States. The obligation in Article 1, paragraph 3 is further developed in the Friendly Relations Declaration¹⁵⁴. It is possible, as Professor Vaughan Lowe has observed, “to establish a legal duty to co-operate in specific legal contexts and to measure a State’s compliance with it”. Norway submits that Israel has, in the specific context of the humanitarian disaster it has created in the Occupied Palestinian Territory, an obligation to co-operate with other States in facilitating the provision of humanitarian and development assistance where such is offered.

8. To conclude on this first point: Israel has obligations under the Charter to take all necessary and effective measures to ensure, without delay, in full collaboration with the United Nations and third States, the unhindered provision at scale of urgently needed basic services and humanitarian assistance. This can be achieved only by lifting the blockade, dramatically increasing the number and capacity of land crossing points and keeping them open.

9. *Secondly*, Israel has an obligation to respect the establishment and conduct of foreign relations by the representatives of the Palestinian people with international organizations and third States. This includes the obligation not to impede the right of Palestine — and its people — to decide freely as to its external relations and, relatedly, the obligation for Israel not to impede Palestine’s conduct of its foreign relations, notably Palestine’s relations with the United Nations, including UNRWA, other international organizations and third States, and their representation to Palestine and its people in and in relation to the Occupied Palestinian Territory.

10. *Third, and finally*, Israel has an obligation to permit and facilitate assistance, including free passage in transit through Israel, of necessary civilian supplies, personnel and equipment, from the United Nations, other international organizations and third States.

¹⁵³ 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 (A/79/684–S/2024/892); see also written statement of the Secretary-General of the United Nations, para. 186.

¹⁵⁴ Fourth principle, General Assembly resolution 2625 (XXV), 24 October 1970.

11. Notable in this regard is the codification of customary international law represented especially by Articles 7, 8, and 9 of the Convention on the Safety of United Nations and Associated Personnel¹⁵⁵, which was adopted by consensus by the General Assembly¹⁵⁶. The rules of customary international law codified in the Safety Convention oblige Israel to facilitate the unimpeded transit of UNRWA and other UN personnel across its territory and from one part of the Occupied Palestinian Territory to another.

12. Mr President, honourable Members of the Court, Norway trusts that the Court, in its advisory opinion, will assist the United Nations in the furtherance of its permanent responsibility for the former mandated territory of Palestine, and that it will also assist the United Nations, other international organizations and third States in their efforts to realize the right to self-determination for the peoples affected by the conflict, based on the vision of two States living in peace within secure and recognized borders.

13. Mr President, Members of the Court, I have come to the end of Norway's oral statement. I thank you for your attention.

The PRESIDENT: I thank the representatives of Norway for their presentation. This concludes this morning's sitting. The oral proceedings will resume this afternoon at 3 p.m., in order for Pakistan, Panama, Poland, Qatar and the United Kingdom to be heard on the question submitted to the Court. The sitting is closed.

The Court rose at 12.20 p.m.

¹⁵⁵ Convention on the Safety of United Nations and Associated Personnel, 9 December 1994, 2051 *UNTS* 363.

¹⁵⁶ General Assembly resolution 49/59 of 9 December 1994.