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The *UNRWA* Advisory Opinion:

An Examination of State Practice, Obligations
and Legal Consequences from Israel's Blocking
of Presence and Activities of the United Nations,
International Organizations and Third States in
the Occupied Palestinian Territory.





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Executive Summary

From Monday 28 April 2025 to Friday 2 May 2025 states and international organisations participated in a public hearing at the International Court of Justice (ICJ). Interventions were put to the Court concerning the request by the United Nations (UN) General Assembly for an advisory opinion 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* (UNRWA Advisory Opinion). The present analysis provides a summary of key issues identified by participating states and organisations in their written submissions to the Court. In December 2024, 137 countries voted in favour of a UN General Assembly resolution requesting advisory opinion from the ICJ, in response to Israel's physical and legislative attacks on the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA). Established on 8 December 1949, as a subsidiary organ of the United Nations General Assembly, UNRWA provides aid and institutional support for Palestinian refugees, operating as a quasi-State body providing education, healthcare and social services to Palestinian refugees and is the backbone of long-term and emergency humanitarian efforts.

State submissions to the Court most immediately address the impact of Israel's attacks on UNRWA in the context of the genocide against the Palestinians of Gaza, however they also include significant consideration and criticism of the root causes of the Israel's unlawful presence and apartheid, addressing Israel's denial since 1949 of the right of Palestinian refugees to return to their homes and ancestral lands, and the concomitant denial of the Palestinian right to self-determination.

Submissions also stress the ruptures which the ongoing failure to enforce Israel's international legal obligations has had on the viability of both the UN Charter and the framework of international law.

The ICJ's 2024 Advisory Opinion on the *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem* (Palestine Advisory Opinion) concluded that "Israel's legislation and measures impose and serve to maintain a near-complete separation in the West Bank and East Jerusalem between the settler and Palestinian communities", and as such constitute a breach of Article 3 of the Convention on the Elimination of

Racial Discrimination which prohibits racial segregation and apartheid.¹ Central to the crime of apartheid is that criminalised racist conduct occurs in the context of an “institutionalized regime of systematic oppression and domination”.² That Israel’s occupation meets this threshold is apparent from the Advisory Opinion’s assertion that the dependence of Palestinians “on Israel for the provision of basic goods and services impairs the enjoyment of fundamental human rights, in particular the right to self-determination”.³

Israel’s domination over Palestinians has manifested through decades of dehumanisation and racism, creating an environment for the destruction of the Palestinian group, including through acts of starvation, total siege and genocidal violence in Gaza.

Israel’s submission to the ICJ claimed that its legislative banning of UNRWA did not intend changing “the provision of humanitarian aid or any other assistance needed by the civilian population”, that “genuine organizations operating in this field, as opposed to those infiltrated by terrorist groups, could assist the population far more effectively than UNRWA has done until now”.⁴ Israel further claimed that it “has been working tirelessly with international partners so as to allow and facilitate the continued passage of humanitarian aid to civilians in Gaza, and to ensure the unhindered provision these of necessary basic services, in a way that does not undermine Israel’s security” and that “[t]he reality on the ground has proven that claims that UNRWA is irreplaceable are simply untrue.”⁵

The evidence, both prior and subsequent to Israel’s written observations on 28 February 2025, demonstrates that Israel’s intention in banning UNRWA is to facilitate, through starvation and military assault, the execution of its genocide of Palestinians in Gaza, and to dismantle and remove the quasi-State infrastructure that UNRWA has put in place in the Occupied Palestinian Territory (OPT), to create coercive environments to force the transfer of Palestinians, and to prolong the denial of the right of return of Palestinian refugees. The catalogued

1 International Court of Justice, *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem, Advisory Opinion* 19 July 2024, para 229.

2 Art 7(2)(h) Rome Statute of the International Criminal Court. <<https://www.icc-cpi.int/sites/default/files/2024-05/Rome-Statute-eng.pdf>>.

3 *Palestine* Advisory Opinion, para 241.

4 Written Statement of Israel, 28 February 2025, para 52. <<https://www.icj-cij.org/sites/default/files/case-related/196/196-20250228-wri-22-00-en.pdf>>.

5 Israel, para 54.

failures of Third States and international organisations to act to prevent the ever escalating genocide, is marked by Israel's flagrant daily massacres and breaches of international law, carried out with impunity. In June 2025 international civil society warned that the so-called "Gaza Humanitarian Foundation (GHF)", established to operate in collaboration with the Israeli government and United States (U.S.) private military and security companies, constitutes a "new model of privatized, militarized aid distribution [which] constitutes a radical and dangerous shift away from established international humanitarian relief operations".⁶

Israeli military strikes against the besieged and captive civilian population of Gaza have continued without pause.⁷ The UN's Office of the High Commissioner for Human Rights reported that "As of 13 July, we have recorded 875 people killed in Gaza while trying to get food; 674 of them were killed in the vicinity of GHF sites," with the remaining 201 Palestinians killed while seeking food "on the routes of aid convoys or near aid convoys" run by the UN or UN-partners still operating in Gaza.

This Advisory Opinion will be the third on Palestine since 2004, in addition to the ICJ's issuance of three sets of Provisional Measures Orders under the Convention for the Prevention of Genocide, and is being heard against the backdrop of arrest warrants issued against Israel's Prime Minister Benjamin Netanyahu, and former Minister of Defence Yoav Gallant at the International Criminal Court (ICC). While legal affirmation of Palestinian rights, and the endorsement of the law by so many states is welcome, without active enforcement, and in the face of escalating genocide and consolidation of Zionist settler-colonialism and apartheid, such legal initiatives will remain but a historical record of the failure of the international community of states.

6 Human Rights, Legal Organizations Warn Privatized "Humanitarian" Operators in Gaza of the Risk of Legal Liability for Complicity in Serious Violations of International Law, 23 June 2025. <https://www.alhaq.org/cached_uploads/download/2025/06/24/ghf-letter-sign-on-ww-1750786671.pdf>.

7 Al-Haq, Field Focus: Impunity Unbound – Israel's Attack on Humanitarian and Medical Workers 7 April 2025. <<https://www.alhaq.org/monitoring-documentation/26272.html>>. Al-Haq, Genocidal Massacre in Central Gaza: Israeli Forces Kill 274 Palestinians and Injure 698 in Attack Lasting 75 Minutes, 10 June 2025. <<https://www.alhaq.org/advocacy/23288.html>>.

It is imperative that states and international organisations cease their complicity in Israel's ongoing violations of international law, urgently enforce their legal obligations, and that the ICJ urgently deliver an Advisory Opinion:

1. Which comprehensively addresses Israel's obligations, as a UN member state and as an unlawful Occupying Power, by reference to all relevant legal sources, including the UN Charter, Provisional Measures Orders of the ICJ, the Convention on the Prevention and Punishment of the Crime of Genocide, customary international law prohibiting racial discrimination and apartheid, Article 3 of the Convention on the Elimination of Racial Discrimination (CERD), international humanitarian law, human rights law, the law of the sea, and the right of self-determination, encompassing the right of return of Palestinian refugees;
2. Which demands a full and immediate cessation of hostilities in Gaza and withdrawal of Israeli forces from all the OPT;
3. Which affirms that the attacks on UNRWA are part of the targeting, fragmentation and destruction of Palestinian refugees and the Palestinian group, denying the right of return and self-determination, and continued appropriation of Palestinian refugee properties, as acts of apartheid, persecution and genocide;
4. Which affirms that while Israel remains in violation of its legal obligations, and its continued presence in the Occupied Palestinian Territory is unlawful, the authority to determine, in accordance with international law, who or what, may enter, be present, and or leave the Occupied Palestinian Territory, vests exclusively in the Palestinian people and their chosen representatives.
5. Which affirms that the temporal scope of the Advisory Opinion ranges from no later than the date of Israel's membership of the United Nations.
6. Which calls on the UN Security Council to fulfil its mandate and uphold UN Security Council Resolution 2417. This includes: implementing a three-way arms embargo on Israel; mandating the free and unimpeded access of UNRWA, UN agencies generally and other organisations into Gaza, including criminal investigators;

7. Which requests the UN Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel, to specifically investigate Israel's settler colonial apartheid regime since 1948 and its continuing genocidal acts intended to destroy the Palestinian people;
8. Which affirms that the scale and severity of Israel's unlawful conduct constitutes the persistent violation of the principles of the UN Charter.
9. Which affirms the duty upon Third States and international organisations to cooperate to ensure immediate provision of all required aid and assistance for Palestinians, including through the enforcement of international humanitarian and human rights law, and in conformity with the Palestinian right to self-determination.
10. Which affirms that the legal obligations, for Israel, for Third States and for international organisations, flowing from the legal consequences arising from Israel's internationally wrongful conduct, including through its manufacture of genocidal famine, must at a minimum include the immediate expulsion of Israel from the UN General Assembly under Article 6 of the UN Charter.

Introduction

Less than six months after the issuance of the ICJ's Advisory Opinion on the *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem* (Palestine Advisory Opinion), and 12 months subsequent to South Africa's application for Provisional Measures Orders against Israel under the Convention on the Prevention and Punishment of the Crime of Genocide, in December 2024 the United Nations (UN) General Assembly requested an additional Palestine focused Advisory Opinion.

In the context of a decades long settler colonial apartheid regime, unlawful presence, escalating genocide, and Israel's defiance of legal authority, the primary motivation for the request was to challenge Israel's attacks on UNRWA, the core UN agency providing relief and support to Palestinian refugees and the backbone of the humanitarian response in Gaza. As the primary sponsoring state, Norway acknowledged the Court's decision to treat the Request with urgency and on a priority basis, emphasising that:

[T]he Request concerns an urgent matter. The urgency is related to the increasing gravity and magnitude of humanitarian and other basic needs of the civilian population in the Occupied Palestinian Territory and of impediments to the realization of the right of the Palestinian people to self-determination. These developments may also impact regional stability and the security of all States in the Middle East.⁸

Norway further noted that:

Though the previous opinions and orders of the Court provide crucial guidance and an overall legal framework applicable to any presence and activity in the Occupied Palestinian Territory, the Court has not considered the application of this framework to international actors in and in relation to the Occupied Palestinian Territory.

⁸ Written Statement by the Kingdom of Norway, 28 February 2025, para 4. <<https://www.icj-cij.org/sites/default/files/case-related/196/196-20250304-wri-04-00-en.pdf>>.

In light of the Court's earlier pronouncements, Norway considered that clarification by the Court of these legal questions is needed to ensure the continued ability of the international community to provide relief and support in the short term and continue the longer-term efforts toward comprehensive and lasting peace and stability in the region.⁹

The Request, as summarised by Norway, pertains to a common concern for the international community, and concerns a much broader frame of reference than a bilateral dispute:

[I]t concerns the conditions for the presence and activity of actors of the international community in the Occupied Palestinian Territory, and the furtherance of the international presence in that area that goes back to the origins of the conflict and which has as its ultimate end the resolution of that conflict through the realization of self determination for the two peoples concerned.¹⁰

The importance of the Court's function in the eyes of the international community is apparent, both in the volume and range of the written interventions the subject of this analysis, and from the support at the UN General Assembly for this latest Advisory Opinion Request, which was adopted with 137 votes in favour, 12 votes against, and 22 abstentions. This constitutes a significant increase in UN states favouring recourse to the ICJ in the face of continued Israeli intransigence and violence, the 2022 Resolution requesting the *Palestine* Advisory Opinion having been adopted with 87 votes in favour, 26 against, and 53 abstentions.

Israel's intention in targeting UNRWA aims at further rupturing the future existence of the Palestinian people through the practical denial of aid and services upon which communities rely for survival, the dismantling of quasi-State infrastructure on education and health, and by seeking to dismantle the very concept of the Palestinian refugee who retains the right of return to ancestral homes in historic Palestine. Inhibiting UNRWA's capacity to operate in the Occupied Palestinian Territory contributes to the acceleration and expansion of Israel's genocidal

⁹ Norway, paras 23-4.

¹⁰ Norway, para 36.

campaign, including by way of orchestrated famine and starvation in Gaza, and by ensuring unbearable conditions of life unfit for human survival, with particular pressure on refugees, so as to forcibly and permanently transfer the broader Palestinian population for Israel's annexationist settler colonial aims. Submissions to the Court are overwhelmingly clear in asserting that as an unlawful Occupying Power, Israel has the obligation to cease its presence in the Occupied Palestinian Territory, to make a full and rapid withdrawal from the Occupied Palestinian Territory, and to facilitate the provision of aid and essentials to the Palestinian people and end its attacks on UNRWA. Submissions overwhelmingly assert that entry into Palestine, and the presence in Palestine of external actors, including private individuals, consular representatives, UN agencies, and humanitarian organisations, is contingent on the consent of the Palestinian people and their representatives, and is in no way an Israeli prerogative.

The urgency of Palestinians realising their right to self-determination, of protecting the UN as an organisation and ensuring the viability of international law, and the profound necessity of protecting Palestinians from genocide has been keenly emphasised. As was summarised by Bangladesh:

Israeli leaders have never hidden their desire to do away with the Agency [UNRWA] for political reasons going to Israel's blanket refusal to respect the Palestinian refugee's right of return, the existence of which has repeatedly been affirmed by the General Assembly since 1948. [...] But Israel's desire to do away with UNRWA is motivated also by its desire to exacerbate the apocalyptic humanitarian situation in the OPT, especially Gaza.¹¹

Given the core functions of UNRWA, the primary focus of submissions to the ICJ have responded to Israel's enactment on 28 October 2024 of two laws concerning the Agency: the 'Law to Cease UNRWA Operations' and the 'Law to Cease UNRWA Operations in the Territory of the State of Israel'. Submissions further outlined how the Palestinian right to self-determination includes the right to full and free development, and notably the right to be liberated from economic or aid dependence on the unlawfully present Occupying Power, and the right of the Palestinian people and representatives to determine which external actors,

11 Written Statement of the People's Republic of Bangladesh, 28 February 2025, paras 16-17 <<https://www.icj-cij.org/sites/default/files/case-related/196/196-20250304-wri-02-00-en.pdf>>.

including individuals, third state representatives, and civil society organisations may enter and be present in Palestine.

The prolonged denial of Palestinian self-determination, and the structural violations of international law characteristic of Israel's policies and practices since its establishment as a state are routinely noted in submissions which addressed the historical evolution of Israeli settler-colonialism, violations which have continued to intensify in scope and violence as the proceedings were underway in The Hague. For example, as observed by Vanuatu:

This crisis is not an aberration but the culmination of decades of policies that defy international law and this Court's rulings. The prolonged occupation, settlement enterprise, blockade, and now direct attacks on UN operations have left Palestinians without essential services—healthcare, food, water, and shelter—while severing their path to self-determination. The environmental toll—polluted water and soil, razed farmland, and uninhabitable land—further erodes the Palestinian people's means of subsistence.¹²

12 Written Statement of the Republic of Vanuatu, 28 February 2025, para 31. <<https://www.icj-cij.org/sites/default/files/case-related/196/196-20250228-wri-18-00-en.pdf>>.

1. The General Assembly Request

The question submitted by the UN General Assembly for the Court to render an Advisory Opinion reads:

“considering the rules and principles of international law, as regards in particular the Charter of the United Nations, international humanitarian law, international human rights law, privileges and immunities applicable under international law for international organizations and States, relevant resolutions of the Security Council, the General Assembly and the Human Rights Council, the advisory opinion of the Court of 9 July 2004, and the advisory opinion of the Court of 19 July 2024, in which the Court reaffirmed the duty of an Occupying Power to administer occupied territory for the benefit of the local population and affirmed that Israel is not entitled to sovereignty over or to exercise sovereign powers in any part of the Occupied Palestinian Territory on account of its occupation:

What are the obligations of Israel, as an Occupying Power and as a member of the United Nations, in relation to the presence and activities of the United Nations, including its agencies and bodies, other international organizations and third States, in and in relation to the Occupied Palestinian Territory, including to ensure and facilitate the unhindered provision of urgently needed supplies essential to the survival of the Palestinian civilian population as well as of basic services and humanitarian and development assistance, for the benefit of the Palestinian civilian population, and in support of the Palestinian people’s right to self-determination?”¹³

At the core of the Request is the Palestinian people’s right to self-determination. In the first instance, the question asked of the Court seeks clarification as to who

¹³ Request for Advisory Opinion transmitted to the Court pursuant to General Assembly resolution 79/232 of 19 December 2024 *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*. <<https://www.icj-cij.org/sites/default/files/case-related/196/196-20241223-adv-01-00-en.pdf>>.

has the legal authority to grant access to external actors for their presence in Occupied Palestinian Territory. The ICJ in its 2024 *Palestine* Advisory Opinion has already affirmed that Israel's presence in the Occupied Palestinian Territory is unlawful. The only answer to the question can be that it is the Palestinian people, in whom the right of self-determination resides, which have such authority.

The Palestinian people in whom the right of self-determination resides encompass a national group scattered and fragmented across states and jurisdictions, including refugees and exiles. In requesting that the Court clarify Israel's obligations, both as an unlawful Occupying Power and as a UN member, both in, and in relation to, the Occupied Palestinian Territory, it is imperative, particularly given the centrality of Israel's attacks on UNRWA, that the Court affirm Israel's legal obligation to facilitate in full the right of return of Palestinian refugees since 1948, both as a right in itself and as a constituent element of the right of self-determination.

1.1 Temporal Scope of the Advisory Opinion

Concerning the temporal scope of the requested Advisory Opinion, relatively few submissions directly addressed what will be a crucial element of the Court's analysis. Egypt submitted that the Court should consider "the 'Occupation of Palestinian Territory' since 1967 up to the present, and not to preclude having regard to predating facts and international resolutions adopted prior to that date, such as the UNGA Resolution A/RES/181(II) on 29 November 1947".¹⁴ France noted that "Israel has been a Member State of the United Nations since 11 May 1949", and recalled the 2024 Palestine advisory opinion finding that "the Court is not precluded from having regard to facts predating the occupation, to the extent that this is necessary for the proper discharge of its judicial function".¹⁵ Namibia stressed that facts predating the occupation of 1967 are critical to the Request since "both the humanitarian situation in Palestine and the need for aid and assistance emerged in the aftermath of the 1948 Arab-Israeli war".¹⁶

The request for an Advisory Opinion concerns Israel's obligations "as an Occupying Power and as a member of the United Nations" which, given the centrality of the

¹⁴ Egypt, para 55.

¹⁵ France, para 17; *Palestine* Advisory Opinion, para 80.

¹⁶ Written Statement of the Republic of Namibia, 28 February 2025, para 9. <<https://www.icj-cij.org/sites/default/files/case-related/196/196-20250228-wri-08-00-en.pdf>>.

Palestinian refugee to the proceedings, and Israel's unlawful policies and practices of forcible transfer which remain central to Israel's ongoing violations, dictate that an advisory opinion must of necessity consider legal obligations arising at a minimum from the period of Israel's membership of the UN. As observed by Palestine:

As apparent from the terms of the question, the request for the Advisory Opinion pertains to the entirety of the Occupied Palestinian Territory – the State of Palestine – consisting of the Gaza Strip and the West Bank, including East Jerusalem, which, as this Court has determined, constitute a single territorial unit, in which Israel maintains an illegal presence, and the request is not bound by a given temporal scope. The question concerns Israel's obligations as military occupier on the one hand, and as a Member of the United Nations on the other, notwithstanding the fact that this Court has already determined its presence and occupation of the Occupied Palestinian Territory is in fact illegal and must end.¹⁷

In February 2025 Al-Haq was critical of the fact that the dossier providing “a collection of all documents that are likely to throw light upon this question”, prepared for the ICJ and for intervening States by the UN Secretariat, was inappropriately incomplete, as it was temporally limited to documents subsequent to the onset of the Israeli occupation of the West Bank and Gaza, including East Jerusalem in 1967.¹⁸ The UN Secretariat's rationale for limiting documents in the dossier submitted to the ICJ to post-1967 is premised on the claim that “the General Assembly's question concerns the Occupied Palestinian Territory [...] and of the time constraints associated with the General Assembly's request for an advisory opinion ‘on a priority basis and with the utmost urgency’”.¹⁹

In order for the ICJ to comprehensively understand the nature and function of UNRWA – particularly the nexus between the scope of the Palestinian right to self-determination, the right of return of Palestinian refugees, and the specific

17 Palestine, para 1.4

18 Al-Haq, Failure of the UN Secretariat to Release Documents since 1948 for States Written Observations in the ICJ Advisory Opinion on the Obligations of Israel, Prevents Full Examination of Palestinian Self-Determination and Return, Impeding ICJ's Mandate, 24 February 2025. <<https://www.alhaq.org/advocacy/25950.html>>.

19 Documents Compiled Pursuant to Article 65, Paragraph 2, of the Statute of the International Court of Justice (General Assembly's request for an advisory opinion of the International Court of Justice pursuant to its resolution 79/232) Introductory Note. <<https://www.icj-cij.org/sites/default/files/case-related/196/196-20250130-req-01-00-en.pdf>>.

question presented by the General Assembly — it is imperative that full and rigorous attention be accorded to the entire history of UNRWA, the need for its establishment, and Israel’s continued denial of the Palestinian right of return. The wording of the Request, which concerns Israeli obligations both in, and in relation to, the Occupied Palestinian Territory, clearly indicates a broader, more comprehensive analysis and approach is required than was taken in previous Advisory Opinions that focused on Israel’s obligations vis-à-vis the territory occupied since 1967. It necessarily concerns, at a minimum, UNRWA and the broader role of the UN in facilitating and ensuring the enforcement of the Palestinian right of return prior to 1967. For the UN Secretariat to have mistakenly prejudged that the ICJ would not require a review of all documentation, facts, and legal obligations arising since at least the establishment of UNRWA in 1949, insofar as they impact the human rights of Palestinians, including refugees and their descendants, as well as the scope of the Palestinian right to self-determination and Israel’s legal obligations, suggests a grave impediment upon the ability of the ICJ to effectively fulfil its mandate.

Furthermore, the written statement of the UN Secretary-General, while noting that “The General Assembly did not indicate the temporal scope of the question submitted to the Court” places a drastic limit on how it believes the Court should restrict its analysis:

Although Israel has been a Member of the United Nations since 1949, its obligations as a Member of the United Nations could only have arisen specifically with respect to the presence and activities of the United Nations in and in relation to the Occupied Palestinian Territory in and after 1967. Accordingly, the present written statement considers facts from 1967 and onwards, while also taking into account facts that predate the occupation as far as this is relevant to the question submitted to the Court.²⁰

²⁰ UN Secretary-General, para 6.

Such a view would serve to unjustifiably exclude many central legal obligations of Israel, and of the UN. For example, the conditionality attached to Israel's membership of the United Nations, dependant on its commitment to respect the UN's role and function concerning Palestinian rights was a subject of several submissions. The League of Arab States submitted that Israel, "as a result of its continued unlawful presence in the Occupied Palestinian Territory, and its failure to respect the right of return of Palestine refugees, has failed to fulfil the conditions of its admission to membership in the United Nations pursuant to General Assembly Resolution 273(III)."²¹ Palestine emphasised that:

To secure its membership in the United Nations, Israel had stressed that it "held no views and pursued no policies on any questions which were inconsistent with the Charter or with the resolutions of the General Assembly and the Security Council". It was based on that commitment, notably as it pertains to General Assembly resolutions 181 (II) and 194 (III), that Israel was eventually granted membership.²²

Norway, recalling that "the two-State solution formed the context of the vote on admission of Israel to United Nations membership" and that Norway had voted in favour of Israel's membership of the UN in resolution 273, notes that "This decisive resolution referred to resolution 181 of 1947, but also to 'the declarations and explanations made by the representatives of the Government of Israel before the Ad Hoc Political Committee in respect to the implementation of the said resolutions'".²³ Norway quotes certain of these Israeli assurances, which "became an integral part of assessments made by the relevant United Nations organs as regards membership" and which contributed to the legal framework, i.e., that of two States, which continues to be relevant and applicable today.²⁴

Tunisia, noting that Israel's accession to the UN was closely connected to compliance with General Assembly resolution 194 (III) of 11 December 1948, observed that:

²¹ League of Arab States, para 331.C.

²² Palestine, para 4.4.

²³ Norway, paras 147-8.

²⁴ Norway, paras 151-4.

‘Resolution 273 of 11 May 1949, by which the General Assembly admitted the occupying entity to membership in the United Nations, stipulates that the occupying entity “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”. The preamble thereto refers to the declarations made by the occupying entity in respect of the implementation of resolution 181 of 29 November 1947 on the partition plan for Palestine and resolution 194 on the right of return of refugees.’²⁵

²⁵ Tunisia, para 58.

2. Gravity of the Unfolding Situation

In the context of Israel's responsibility for perpetuating its unlawful occupation, and the escalation of genocidal violence across the Occupied Palestinian Territory, several states drew a nexus between Israel's attacks on UNRWA and the concept of the maintenance of regional and international peace and security, a core responsibility of the United Nations.

2.1 Permanent Responsibility of the United Nations and Forced Displacement

The United Nations has itself — as reaffirmed in the *Wall* Advisory Opinion²⁶ — recognized a particular and long-standing responsibility, originating in the League of Nations Mandate framework and the Partition Resolution (resolution 181 (II) 1947) concerning Palestine. As noted by Norway, the General Assembly, by Resolution 79/81 of 2024 on the peaceful settlement of the question of Palestine, has lately formulated this responsibility as “the permanent responsibility of the United Nations with regard to the question of Palestine until it is resolved in all its aspects in accordance with international law and relevant resolutions”.²⁷

Brazil was amongst states of the view that:

There is currently no realistic alternative to UNRWA that could adequately provide the services and assistance required by the Palestinian people. The Agency is a pillar of regional stability and a lifeline of hope and opportunity for the millions of Palestinians it serves. Any interruption or suspension of its vital role would have serious humanitarian, political and security risks.²⁸

26 International Court of Justice, *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Advisory Opinion, 9 July 2004, para 49.

27 Norway, para 9.

28 Written Statement of the Federative Republic of Brazil, 28 February 2025, para 43. <<https://www.icj-cij.org/sites/default/files/case-related/196/196-20250303-wri-04-00-en.pdf>>.

Colombia supported the position that UNRWA's significance:

[E]xtends further than its operational work, in that it also stands as a symbol of commitment to the exiled Palestinians since the first Arab-Israeli war in 1947-1948, specifically in regard to their right to return to their territories. The Agency's dismantling would also tear down this pledge, and the consequences could ripple across the region, especially in countries with large numbers of Palestinian refugees.²⁹

Jordan, noting that Israel's measures against UNRWA will have direct negative effects on the Agency's services in Jordan, warned that:

The forced displacement of the civilian population in the Occupied Palestinian Territory towards Jordan's borders, as a direct result of Israel's policies, restrictions and military operations, will be a severely destabilizing factor, not only on Jordan but on the whole Middle East region.³⁰

Bangladesh, in submitting that no compelling reasons exist for the Court to refuse to provide an advisory opinion, stressed that:

[T]his is not only because of the unique and historic role played by the United Nations in the question of Palestine, which has remained on the agenda of the Organization since 1947 without resolution. It is also because the operations of the United Nations in and in relation to the OPT are under an unprecedented threat by one of its member States – Israel – with implications that go well beyond the immediate confines of the question of Palestine and which touch upon the independence and viability of the Organization itself.³¹

These two points were reiterated, under various headings, in several written submissions. Malaysia noted for example that the Request is of direct concern to

29 Written Statement of the Republic of Colombia, 28 February 2025 para 3.17. <<https://www.icj-cij.org/sites/default/files/case-related/196/196-20250228-wri-26-00-en.pdf>>.

30 Written Statement of the Hashemite Kingdom of Jordan, 28 February 2025, para 1.80. <<https://www.icj-cij.org/sites/default/files/case-related/196/196-20250228-wri-12-00-en.pdf>>.

31 Bangladesh, para 8.

the UN “as it relates both to the issue of the presence and operation of its own organs in and in relation to the Occupied Palestinian Territory, and to issues of international peace and security.”³²

2.2 Israel’s Acts Contribute to the Dismantling of the International Legal Order

Colombia, recalling the ICJ’s 2024 *Palestine* Advisory Opinion’s unequivocal conclusion that Israel’s continued presence in the Occupied Palestinian Territory is unlawful, that Israel is under a duty to respect the Palestinian people’s right to self-determination, and that all States have an obligation to ensure that this right is not obstructed, urged the Court to provide an advisory opinion as a matter of priority, given the ongoing deterioration of the humanitarian situation in the Occupied Palestinian Territory:

Such an opinion is necessary not only to clarify the legal responsibilities of Israel in this context but also to reinforce the fundamental principles of international law, including the protection of civilian populations, the preservation of the legal order established by the United Nations, and the realization of the Palestinian people’s right to self-determination.³³

Belgium noted that:

By clarifying the legal framework of relevance to the specific question put to the Court and Israel’s obligations in that regard, the Court will not only be laying the foundations for strengthening the much needed protection of the civilian population of the Occupied Palestinian Territory and all United Nations and other humanitarian personnel, it will be reaffirming the importance of preserving the international legal order and keeping it intact as the basis for resolving all conflicts.³⁴

32 Written Statement of Malaysia, 25 February 2025, para 21. <<https://www.icj-cij.org/sites/default/files/case-related/196/196-20250226-wri-01-00-en.pdf>>.

33 Colombia, p iv.

34 Written Statement of the Kingdom of Belgium, 26 February 2025, para 75. <<https://www.icj-cij.org/sites/default/files/case-related/196/196-20250228-wri-17-00-en.pdf>>.

Saudi Arabia recalled that far from complying with the 2024 *Palestine* Advisory Opinion and the demands of the UN General Assembly, “Israel has intensified its occupation, including by taking significant steps to obstruct and impede organizations and States from providing humanitarian and development assistance to the Palestinian population in the Occupied Palestinian Territory”, Israel having even declared “the U.N. Secretary-General as *persona non grata*, and barring him from entering Israel”.³⁵ Noting also that Israel had unlawfully denied entry to the Commissioner-General of UNRWA, Philippe Lazzarini, Qatar describes the treatment of the Secretary-General as “an egregious violation of Article 105 of the UN Charter and Sections 18 and 19 of the General Convention”, incompatible with Article 100(2) of the Charter, and that:

The doctrine of *persona non grata*, which derives from the law of diplomatic immunities, is thus inapplicable to UN officials, especially the Secretary-General, because they do not represent a government and must remain independent.³⁶

Iran noted that “Shredding the United Nations Charter by the Israeli regime in an official recorded United Nations meeting in broad daylight before the cameras speaks the truth about its ill intent with respect to the purposes and principles of the UN Charter as well as the obligations enshrined therein.”³⁷ Saudi Arabia further argued that:

By attacking UNRWA, killing several hundred of its staff and dismantling its operations, Israel has engaged in a frontal attack on the United Nations and on the multilateral system itself, with catastrophic humanitarian consequences. Israel’s actions [...] further destabilizes the situation in the [OPT] and in the region as a whole.³⁸

The Philippine’s statement noted that the broader institutional and legal implications of the General Assembly request for the advisory opinion are underscored by its having been presented under Agenda Item 123 of the

35 Written Statement of the Kingdom of Saudi Arabia, 28 February 2025, para 12. <<https://www.icj-cij.org/sites/default/files/case-related/196/196-20250228-wri-11-00-en.pdf>>.

36 Qatar, para 67.

37 Written Statement of the Islamic Republic of Iran, 27 February 2025, para 10. <<https://www.icj-cij.org/sites/default/files/case-related/196/196-20250304-wri-01-00-en.pdf>>.

38 Saudi Arabia, para 26.

Assembly's 79th session on 'Strengthening the United Nations System'. As such the Philippines considered that the Request:

[R]eflects the imperative to uphold the integrity of the UN system, safeguard the effective functioning of its agencies, and reaffirm the foundational principles of international law that govern State conduct, particularly in situations of armed conflict and humanitarian crises.³⁹

Kuwait submitted that:

The significance of this opinion extends far beyond the present legal questions—it is fundamental to the integrity of the international legal order. By affirming the binding obligations established under international law, the Court's findings will strengthen the stability, consistency, and enforceability of the global legal system.⁴⁰

Türkiye expressed deep concern about Israel's persistent non-compliance with its obligations under international law: "The obstruction of humanitarian aid, the targeting of UN facilities, and the harassment of UN personnel not only exacerbate the suffering of the Palestinian people but also undermine the credibility of the international legal order."⁴¹ As observed by Comoros:

Allowing the impunity from which Israel is benefiting to continue would call into question the whole system of international law and the values it is meant to uphold. Failing to tackle these breaches would not only set a dangerous precedent under international law, but also compromise any prospect of peace and justice for the Palestinian people. Hence, the responsibility of the international community goes beyond condemnation in words: it calls for practical action to hold Israel responsible and put an end to these repeated breaches.⁴²

39 Written Statement Philippines, 28 February 2025, para 5. <<https://www.icj-cij.org/sites/default/files/case-related/196/196-20250228-wri-05-00-en.pdf>>.

40 Written Statement of the State of Kuwait, 28 February 2025 para 57. <<https://www.icj-cij.org/sites/default/files/case-related/196/196-20250228-wri-04-00-en.pdf>>.

41 Türkiye, p 21.

42 Comoros, para 159.

Vanuatu's submission, whose stated aim "is to identify legal norms that can illuminate a path to peace, grounded in law and equity, where no people's story is silenced by ecological ruin or military attacks", called on the Court "to deliver a landmark opinion that inspires justice, resilience, and renewal for the Palestinian people and all humanity",⁴³ observing that:

[T]he Court's pronouncement could directly protect UN operations critical to millions of Palestinians— and, in doing so, safeguard our international legal system and its institutions.⁴⁴

43 Written Statement of the Republic of Vanuatu, 28 February 2025, para 5-6. <<https://www.icj-cij.org/sites/default/files/case-related/196/196-20250228-wri-18-00-en.pdf>>.

44 Vanuatu, para 18.

3. Applicable Law

The chapeau of the question in the operative paragraph of General Assembly Resolution 79/232 requesting the advisory opinion outlines the applicable law which should be considered by the ICJ in rendering its legal analysis:

[T]he rules and principles of international law, as regards in particular the Charter of the United Nations, international humanitarian law, international human rights law, privileges and immunities applicable under international law for international organizations and States, relevant resolutions of the Security Council, the General Assembly and the Human Rights Council, the advisory opinion of the Court of 9 July 2004, and the advisory opinion of the Court of 19 July 2024, in which the Court reaffirmed the duty of an Occupying Power to administer occupied territory for the benefit of the local population and affirmed that Israel is not entitled to sovereignty over or to exercise sovereign powers in any part of the Occupied Palestinian Territory on account of its occupation.

Central to many submissions, and reflective of the core functions of UNRWA, are analyses demonstrating Israel's breaches of United Nations law. Beyond submissions from States supportive of Israel such as the United States and Hungary (Germany refrained from submitting any intervention, and the UK limited itself to an oral intervention), there is a marked consensus on Israel's breaches of UN law.

3.1 The Obligation to Cooperate with the United Nations

The submission of the State of Palestine identifies the key applicable provisions of international law:

It is indisputable that Israel – as a Member of the United Nations – is obligated to cooperate in good faith with the United Nations, its organs, entities and experts, and to ensure the fulfilment, without

interference, of their mandates and the protection and safety of United Nations premises, property and personnel, in and in relation to the Occupied Palestinian Territory. This Chapter considers the nature and scope of those obligations under the United Nations Charter, the Convention on the Privileges and Immunities of the United Nations of 1946 (the “1946 [General] Convention”), the Convention on the Prevention and Punishment of Crimes against Internationally Protected Personnel, including Diplomatic Agents of 1973 (the “1973 Convention”), the binding rulings of the International Court of Justice, and applicable principles and rules of general international law, as reflected inter alia in the Convention on the Safety of United Nations and Associated Personnel of 1994 (the “1994 Convention”) and relevant United Nations resolutions. The analysis demonstrates that not only has Israel manifestly failed to comply with those obligations, it has actively maligned, undermined and obstructed the work of the United Nations, its organs, entities, officials and experts, and has engaged in violent, lethal attacks on United Nations premises, property and personnel.⁴⁵

France noted that Israel’s obligations deriving from United Nations law “apply in combination and in keeping with those arising from other bodies of law, in particular international humanitarian law and international human rights law” and that “none of the obligations of Israel flowing from its status as a Member State of the United Nations conflict with those arising from its status as an Occupying Power in the Occupied Palestinian Territory. On the contrary, these obligations apply concurrently and are mutually reinforcing”.⁴⁶

France was among the many States emphasising that as a member of the United Nations, and as an Occupying Power, “Israel’s margin of discretion to prohibit UNRWA’s activities is limited by its obligation to co-operate in good faith with the Agency”. France noted that in light of Article 2(5) of the UN Charter, which provides that “All Members shall give the United Nations every assistance in any action it takes in accordance with the present Charter”, Israel has a general obligation to co-operate with the United Nations. France further stressed that

45 Written Statement of the State of Palestine, 28 February 2025, para 5.1. <<https://www.icj-cij.org/sites/default/files/case-related/196/196-20250228-wri-25-00-en.pdf>>.

46 France, para 25.

Israel's obligation to co-operate for the purpose of enabling UNRWA to carry out its activities in the Occupied Palestinian Territory is reinforced by the ICJ's Order indicating provisional measures of 28 March 2024 in *South Africa v Israel* which required that Israel must:

Take 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.⁴⁷

France's opinion is that the Court's emphasis on "full co-operation" with the United Nations significantly reinforces Israel's obligation to co-operate with UNRWA. France also stressed the core IHL principle that "[t]he situation of military occupation imposes a number of positive obligations, the chief one being to protect the population subject to that occupation".⁴⁸

The Philippines statement argues that the obligation to render assistance to the UN under Article 2(5) of the Charter "is not limited to non-interference but imposes an affirmative requirement of States to actively support the UN's functions, particularly in situations of armed conflict, humanitarian crises, and peacekeeping engagements. States must ensure that their actions do not obstruct UN-mandated initiatives".⁴⁹

Mexico noted that Articles 55 and 56 of the Charter establish the duty of international cooperation requiring all UN Member States, including Israel, "to work collectively and individually to promote higher standards of living, economic development, and respect for human rights and the principle of self-determination". Mexico identified General Assembly resolution 79/141 (2024)⁵⁰ as particularly relevant in reinforcing principles consistent with Articles 55 and 56 since "The resolution explicitly calls upon UN agencies, intergovernmental and non-governmental organizations, and regional and interregional organizations to extend economic and social assistance to the Palestinian people".⁵¹

47 *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v Israel)*, Provisional Measures, Order of 24 May 2024, para 45.

48 France, para 36-42.

49 Philippines, para 31.a. South Africa, para 106.

50 UN General Assembly Resolution 79/141, Assistance to the Palestinian people, 12 December 2024.

51 Written Statement of Mexico, February 2025, para 91. <<https://www.icj-cij.org/sites/default/files/case-related/196/196-20250304-wri-05-00-en.pdf>>.

3.2 The Entire System of International Law is Applicable

While certain submissions, such as Ireland, limit their analysis only to UN law and to particular elements of international humanitarian law alongside the right to self-determination, the majority of submissions identified a broad range of applicable law upon which the Court should draw in drafting its Advisory Opinion. Egypt for example submitted that “the entire corpus of international law relevant to the question should be considered by the Court”:⁵²

The use of the term “in particular” before enumerating a non-exhaustive list of international law sources, suggests that the Court in answering the question should not be confined to the list of treaties and principles enumerated in the chapeau but rather consider all relevant rules and principles under international law. This further assert[s] that the intention of the General Assembly was to request the Court to consider the question considering the whole corpus of international law.⁵³

Belgium emphasised that the use of the words “in particular” suggests the list of applicable law is not exhaustive, and that “if Israel’s obligations for the purposes of the present request for an advisory opinion are to be correctly identified, it is also important to take into account:

- the Palestinian people’s right to self-determination; and
- Israel’s obligations pursuant to the Orders indicating provisional measures rendered by the Court in the case concerning the *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)*.⁵⁴

Namibia insisted that Israel’s obligations as a UN member to ensure and facilitate aid and assistance in the Occupied Palestinian Territory also arises from the [ICJs] Provisional Measures Orders’ which “not only ‘reflect’ or confirm Israel’s existing

⁵² Egypt, para 56.

⁵³ Egypt, para 59.

⁵⁴ Belgium, para 19.

obligations under the Genocide Convention, but also constitute an independent basis of obligations binding upon Israel, as a UN Member”.⁵⁵

Algeria concluded, on the basis of the obligations incumbent on Israel as an Occupying Power and as a UN member:

[T]hat by adopting the two laws aimed at ending the presence and activities of UNRWA, and by systematically imposing restrictions on the humanitarian assistance provided by non-governmental organizations and third States, Israel is in breach of its obligations under international law, including those arising from the Charter, international humanitarian law, international human rights law, and the privileges and immunities of the United Nations and its agencies.⁵⁶

Iceland, stressing how the UN Charter holds a singular legal status as the constitutive treaty for the entire system of international law, notes that while international humanitarian law is the comprehensive legal regime applicable in any armed conflict:

[I]n answering the Question of the General Assembly about the obligations of Israel, as the occupying Power in the Occupied Palestinian Territory, regard must be had to the role which is played by the United Nations in relation to the Israeli-Palestinian conflict at large.⁵⁷

Noting that “International law governs occupation in recognition of it being a temporary and incidental aberration arising in the context of an international armed conflict”,⁵⁸ Iceland identifies Israel’s primary source of obligations as the law of occupation, together with other provisions of international humanitarian law more broadly, which applies for as long as the unlawful occupation persists. While the:

[S]pecific performance required by those obligations is informed by their interplay with other rules of international law, including the right to self-determination, the full application of which is impinged

55 Namibia, para 84.

56 Algeria, p 34.

57 Iceland, paras 12-5.

58 Iceland, para 31.

by the existence of the occupation. Additional obligations are derived from further rules of international law, such as under international human rights law, which bind Israel in any action it takes in a territory where it exercises effective control.⁵⁹

3.3 Israel's Obligations under International Human Rights Law

The significance of human rights law to the Request was identified in many submissions, and is particularly important given Israel's apartheid regime extends in application beyond the Occupied Palestinian Territory. France was of the view that in addition to its obligation to ensure humanitarian access pursuant to international humanitarian law, Israel has various obligations deriving from international human rights law:

The ICCPR, the ICESCR and the UNCRC indeed contain several provisions that are relevant in the context of the humanitarian and development assistance provided by the United Nations, including its agencies and bodies, other international organizations and third States, in and in relation to the Occupied Palestinian Territory.⁶⁰

Mexico advocated for the importance of the Court applying an intersectional approach to the Request, having regard to a range of human rights treaties including the Convention on the Rights of the Child and the Convention on the Elimination of Discrimination Against Women. Mexico's analysis identified that a humanitarian blockade:

[R]esulting in starvation, malnutrition, and suffering may meet the threshold of "severe pain and suffering" under [the Convention Against Torture], potentially constituting torture when carried out with the knowledge and acquiescence of State officials. Article 2 of CAT unequivocally prohibits such acts, even during armed conflict.⁶¹

⁵⁹ Iceland, para 31.

⁶⁰ France, para 82.

⁶¹ Mexico, para 76.

The Netherlands stressed the Court's observation in the *Wall* Advisory Opinion, that "the importance of the right of self-determination stems from the fact that 'its realization is an essential condition for the effective guarantee and observance of individual human rights and for the promotion and strengthening of those rights'".⁶²

3.4 Israel's Obligations under the Law of the Sea

Noting the importance of communication and transit for economic development as an element of the Palestinian right to self-determination, Norway noted the relevance and applicability for example, of Article V(2) of the General Agreement on Tariffs and Trade 1994 on rules on freedom of transit and trade in goods, and Part X of the United Nations Convention on the Law of the Sea which is dedicated to "Right of Access of Land-locked States to and From the Sea and Freedom of Transit".⁶³

Given the ICJ, in the 2024 *Palestine* Advisory Opinion, held that "[i]n depriving the Palestinian people of its enjoyment of the natural resources in the Occupied Palestinian Territory for decades, Israel has impeded the exercise of its right to self-determination",⁶⁴ and in light of the vital importance of Palestine's maritime area to its culture, economy, and development, it is necessary that the Court addresses the Palestinian right to self-determination also under the law of the sea, including the UN Convention on the Law of the Sea..

While occasional reference to the existence of the Oslo Accords is made in several of the written submissions, this is framed on the recognition, as noted by the UN Secretary-General, that:

As far as the relevance of the 1993 and 1995 Oslo Accords signed by Israel and the Palestine Liberation Organization is concerned, the Court, in its Advisory Opinion of 19 July 2024, stated that "the Oslo Accords cannot be understood to detract from Israel's obligations

⁶² Written Statement of the Kingdom of the Netherlands, 28 February 2025, para 3.3. <<https://www.icj-cij.org/sites/default/files/case-related/196/196-20250303-wri-03-00-en.pdf>>; *Wall*, Advisory Opinion, (2004) para. 233.

⁶³ Norway, paras 207-14.

⁶⁴ *Palestine* Advisory Opinion, (19 July 2024) para 240.

under the pertinent rules of international law applicable in the Occupied Palestinian Territory”.⁶⁵

3.5 Israel’s Obligations under the Provisional Measures Orders of the ICJ

As previously noted, many submissions emphasised that — in addition to the applicable international humanitarian and human rights law, and specific rights and responsibilities in relation to UN membership — Israel’s obligations to facilitate the provision of humanitarian assistance to Palestinians “is also an issue of compliance”⁶⁶ with the mandatory provisional measures ordered by the ICJ in the *South Africa v Israel* proceedings under the Convention Against Genocide. Brazil noted that according to Article 94 of the UN Charter ‘such measures are binding upon the parties to the dispute and must be complied with by Israel, “in full co-operation with the United Nations”’.⁶⁷

Noting that Israel has brought about an “apocalyptic reality for the Palestinian people by pursuing policies and practices in direct violation of the three different provisional measures Orders ordered by the Court”,⁶⁸ Palestine submitted that:

By continuing to obstruct humanitarian assistance and basic services by the United Nations, its agencies and bodies, other international organizations and third States, Israel has worsened the catastrophic humanitarian situation in the Gaza Strip and throughout the occupied territory and thus confirmed its genocidal intent against the Palestinian people.⁶⁹

Many interventions identified Israel’s attacks on UNRWA as constituting genocidal conduct. South Africa’s submission affirmed that it views Israel’s attacks on UNRWA, including banning the organisation, as forming part and parcel of Israel’s overall measures seeking to deprive the Palestinian population in

⁶⁵ Written Statement Submitted on Behalf of the Secretary-General of the United Nations, para 13. <<https://www.icj-cij.org/sites/default/files/case-related/196/196-20250227-wri-04-00-en.pdf>>.

⁶⁶ Brazil, para 61.

⁶⁷ Brazil, para 64. Indonesia, para 38. Jordan, para 3.151. Norway, para 129.

⁶⁸ Palestine, para 4.88.

⁶⁹ Palestine, 4.80.

Gaza of conditions of life essential for their survival, and that such attacks are “accompanied by genocidal intent vis-à-vis the Palestinian group, and especially vis-à-vis Palestinians in Gaza, whilst Israel’s conduct in the West Bank is becoming equally concerning.”⁷⁰

Noting that “[i]n all three Orders, the Court states that Israel must take immediate and effective measures to enable the provision of humanitarian assistance; however, none of these Orders has been respected by Israel”,⁷¹ Belgium submitted that the three sets of provisional measures:

[H]ave binding effect and constitute some of Israel’s obligations concerning the provision of basic services and humanitarian assistance to the Gaza Strip in particular. Belgium has repeatedly recalled the importance of implementing the provisional measures ordered by the Court in accordance with Israel’s obligations under the Convention on the Prevention and Punishment of the Crime of Genocide.⁷²

Bolivia noted that Israel’s obligation to comply with the Orders “extends to the acceptance of aid and services provided by UNRWA, as well as those provided by third states and impartial organisations.”⁷³ The Organisation of Islamic Cooperation (OIC) submitted that:

It will doubtless be apparent to the Court that by ignoring measures ordered by the Court in proceedings intended to put an end to the risk of genocide, and in taking the measures against UNWRA, Israel is openly putting itself in a position to increase the risk of genocide against the Palestinian population.⁷⁴

Namibia notes that since the Provisional Measures Orders, the humanitarian situation “has not only worsened in Gaza but spread out into the West Bank,

70 Written Statement Submitted by the Government of the Republic of South Africa, 28 February 2025, para 176. <<https://www.icj-cij.org/sites/default/files/case-related/196/196-20250228-wri-07-00-en.pdf>>.

71 Belgium, para 45.

72 Belgium, para 22.

73 Written Statement of the Plurinational State of Bolivia, 28 February 2025, para 55. <<https://www.icj-cij.org/sites/default/files/case-related/196/196-20250228-wri-14-00-en.pdf>>.

74 Written Statement of the Organisation of Islamic Cooperation, February 2025, para 150 <<https://www.icj-cij.org/sites/default/files/case-related/196/196-20250227-wri-02-00-en.pdf>>.

including East Jerusalem.”⁷⁵ Tunisia submitted to the Court that since the laws adopted against UNRWA:

[W]hich, according to the United Nations Secretary-General, are based on unsubstantiated allegations without any supporting evidence, are being used, in Tunisia’s view, to conceal a political will to do away with the question of Palestinian refugees. Given the scale of the activities carried out by UNRWA, this decision constitutes further proof of the occupying entity’s genocidal intent.⁷⁶

Comoros submitted the view that Israel’s conduct in ending those UNRWA activities still under way “will aggravate the population’s subsistence conditions, cause it to suffer starvation, render unusable certain objects essential for its survival, reduce the medical services that are vital to it, deprive it of housing and clothing, and deny it access to education, employment and hygiene. Material evidence of the crime of genocide could thus be provided”. Further, and recalling that all States have the duty to prevent genocide, Comoros draws the Court’s attention to the fact that the termination of UNRWA’s activities is likely to signify an intention to destroy, in whole or in part, Palestinians as a group and constitute the element of intent, or *mens rea*, of the crime of genocide.⁷⁷

In August 2024, Israel’s Minister of Finance declared that it was “justified and moral” to starve the whole population of Gaza, even if it caused two million civilians to die of hunger. The measures adopted by Israel with a view to depriving the population of the services provided by UNRWA, whether in relation to food, housing, cultural, medical, or educational services, when considered together form a pattern of conduct indicative of genocidal intent.⁷⁸

⁷⁵ Namibia, para 20.

⁷⁶ Written Statement of the Republic of Tunisia, 20 February 2025, para 65. <<https://www.icj-cij.org/sites/default/files/case-related/196/196-20250228-wri-19-00-en.pdf>>.

⁷⁷ Written Statement of the Comoros, 4 March 2025, paras 112-5.

⁷⁸ Comoros, paras 112-5.

4.

**Requirement for Presence of External Actors
in Occupied Palestinian Territory**

Independence and self-determination are inherently reliant on collective and transnational cooperation, notably through UN membership, but no less on the ability of individuals and communities to work, travel, trade, and develop on the local, regional, and global plane. Iceland, observing that the realisation of the Palestinian right to self-determination “has been subject to an extensive and as of yet uncompleted process which predates the occupation of the Occupied Palestinian Territory”,⁷⁹ recalled the ICJ’s finding that “Israel, as the occupying Power, has the obligation not to impede the Palestinian people from exercising its right to self-determination”⁸⁰ and that “international co-operation in solving international problems of an economic, social, cultural, or humanitarian character” is one of the purposes of the United Nations as enshrined in the Charter.⁸¹ Iceland submitted that Israel’s obligation not to impede the Palestinian right to self-determination:

[F]inds application in relation to the presence and activities of external actors in the Occupied Palestinian Territory. Innate in its right to self-determination is the right of the Palestinian people to freely pursue their economic, social and cultural development. This entails not only an internal dimension of self- governance, but further a freedom to establish external relations and to engage with the outside world in that pursuit.’⁸²

79 Iceland, para 50.

80 *Palestine* Advisory Opinion, para 237.

81 Article 1(3) of the Charter of the United Nations.

82 Iceland, para 51.

4.1 The Scope of External Presence in the Occupied Palestinian Territory

The League of Arab States stress the range, scale, and function of the international presence in the OPT:

In addition to UNRWA, there are twenty-three other UN entities, and numerous non-governmental organizations that provide humanitarian relief and development assistance to the State of Palestine and the Palestinian people. Numerous third States also contribute humanitarian and economic aid to the State of Palestine and the Palestinian people. These international efforts collectively serve to strengthen the Palestinian economy, reduce poverty, advance social conditions, preserve culture, and build the institutional capacities of both the Government of the State of Palestine and the Palestinian people.⁸³

As noted by Palestine, in addition to Israeli attacks on UNRWA and the UN:

Israel has also targeted civil society presence and activities seeking to document Israel's continuing violations of international law. Notably, Israel criminalizes domestic and international organizations, including international charities and leading Palestinian Non-Governmental Organizations that have been designated as "terrorist" organizations by Israel with the aim of defunding civil society and shrinking space for any assistance to the Palestinian people.⁸⁴

Affirming that UNRWA required special attention, Egypt proposed to the Court that the parties referred to in the question posed by the General Assembly:

'are the United Nations, including specialized agencies, subsidiary bodies, and independent experts within the UN system operating in the Occupied Palestinian Territory; other international organizations, which includes inter-governmental and non-governmental

⁸³ League of Arab States, para 86.

⁸⁴ Palestine, para 2.63.

organizations operating in the Occupied Palestinian Territory; and third States, which foreign diplomatic and consular representation, and agencies or entities providing humanitarian relief, development assistance, or basic services to the civilian population in the Occupied Palestinian Territory’.⁸⁵

Egypt considered that the phrase “presence and activities” in the General Assembly’s Request indicates that this element of the question is broad, and that it covers all relief operations or developmental assistance programs provided to the civilian population in the Occupied Palestinian Territory, in addition to the diplomatic and consular representation of third States in and in relation to the Occupied Palestinian Territory:

Numerous third parties, including States, international financial institutions, and non-governmental organizations are active in the provision of supplies essential to the survival of the Palestinian civilian population, as well as basic services and humanitarian and development assistance for the benefit of the Palestinian civilian population.⁸⁶

International Organizations and humanitarian organizations, such as the World Food Programme, FAO (Food and Agriculture Organization), IRC (International Rescue Committee), Save the Children, MSF (Doctors Without Borders) and the ICRC (International Committee of the Red Cross): “especially the Palestinian ones, face severe barriers in Gaza caused by Israel’s actions in terms of restricting aid delivery. The policies developed and implemented by the Israeli government have forced neutral humanitarian organizations, either to suspend their work in the Occupied Palestinian Territory or endure dangerous conditions for their personnel to provide relief to the Palestinian population”.⁸⁷

Noting that “[t]he right of access by Palestinians to an organisation such as UNRWA is contained in Article 30 of the Fourth Geneva Convention”, by which protected persons shall have every facility for making application to the International

85 Written Statement of the Arab Republic of Egypt, 28 February 2025, para 47, <<https://www.icj-cij.org/sites/default/files/case-related/196/196-20250228-wri-20-00-en.pdf>>.

86 Egypt, para 173.

87 Colombia, para 4.86.

Committee of the Red Cross, as well as to any organization that might assist them, South Africa observed that:

Israel's closure of the UNRWA's East Jerusalem office would deprive Palestinians of this access. So too does Israel's continued unlawful control over all of Palestine's points of entry – where it denies access to UN Special Rapporteurs, UN Commissions of Inquiry, the staffers of the UN OHCHR, journalists, and human rights defenders, amongst others.⁸⁸

Recalling the ICJ's 1989 advisory opinion *Applicability of Article VI, Section 22, of the Convention on the Privileges and Immunities of the United Nations*, Qatar noted that Special Rapporteurs who “carry out [...] research independently for the United Nations” and/or “monitor human rights violations and report on them” fall within the category of experts on missions, and are thus to be accorded the requisite privileges and immunities. Noting that “Israel has denied entry to the current Special Rapporteur on the situation of human rights in the OPT, Francesca Albanese, and to all her predecessors”, Qatar concludes that since the mandate includes investigating violations, undertaking regular visits or missions, and reporting on findings in the Occupied Palestinian Territory:

She, and her predecessors, are thus “experts on missions” entitled to freedom of movement in Israel and the OPT as necessary to perform their functions.⁸⁹

The Philippines statement also notes that “States have a binding legal obligation to cooperate with UN-mandated investigations into alleged violations of international law. This duty includes granting access to investigators, preserving evidence, and ensuring that individuals suspected of serious crimes are either prosecuted under national systems or extradited to appropriate international judicial bodies”.⁹⁰

⁸⁸ South Africa, para 160-1. Türkiye, para 13.

⁸⁹ Written Statement of the State of Qatar, 28 February 2025, para 66. <<https://www.icj-cij.org/sites/default/files/case-related/196/196-20250228-wri-01-00-en.pdf>>. Ireland, para 39.

⁹⁰ Philippines, para 31.i.

4.2 Inclusion of Non-Governmental Organisations

Algeria considers that the question referred to the Court in the General Assembly's Request "not only demonstrates the global and holistic nature of the obligations that Israel owes to all constituent parts of the United Nations system; it also refers to non-governmental organizations carrying out humanitarian activities in the Occupied Palestinian Territory".⁹¹ Having particular regard to the role of the ICRC, Algeria observes that "Non-governmental organizations providing humanitarian assistance to the Palestinian civilian population in the Occupied Palestinian Territory form part of the 'other' organizations referred to in the request for an advisory opinion" and that:

As a Member of the United Nations, Israel has an obligation not to impede the humanitarian assistance provided by non-governmental organizations on the basis of Article 71 of the Charter, which allows the Economic and Social Council to make arrangements for consultation with such organizations.

As an occupying Power, Israel is also under an obligation to respect the presence and activities of these organizations in the Occupied Palestinian Territory by not obstructing their operations [and by lifting] all restrictions on the issuance of visas to enable the humanitarian staff of such organizations to return to their premises and provide essential assistance to the Palestinian civilian population.⁹²

Bangladesh observed that:

Likewise, a number of other international organizations, including intergovernmental and non-governmental organizations, such as the Organization of Islamic Cooperation, as well as many third States, operate in and in respect of the OPT in support of the Palestinian people's right to self-determination. These actors engage

91 Written Statement of the Government of the People's Democratic Republic of Algeria, 28 February 2025, p 26. <<https://www.icj-cij.org/sites/default/files/case-related/196/196-20250228-wri-15-00-en.pdf>>.

92 Algeria, p 28.

in humanitarian and development action in and in relation to the OPT at the invitation of the legitimate governmental representatives of the Palestinian people, as well as in accordance with their solemn *erga omnes* obligation to help the Palestinian people realize their inalienable right to self-determination. For decades, Israel has engaged in arbitrary destruction of essential civilian infrastructure erected with the assistance of other international organizations and/or third States, including donor-funded roads, schools, shelters, and water, sanitation, and hygiene facilities. As noted by the Court in [the *Palestine* Advisory Opinion], these policies are illegal, expose Palestinians to risk of eviction and displacement, and are rooted in discrimination which ultimately violates their right to self-determination. Therefore, to the extent that Israel's is blocking and frustrating other international organizations and/or third States in their work in and in relation to the OPT, Israel is in violation of its obligation not to impede the right of the Palestinian people to self-determination.⁹³

France submitted that "Since the text of the question does not specify the meaning of the term 'international organization', and in view of the essential role of non-governmental organizations in the Occupied Palestinian Territory, France considers that the activities of such organizations must also be covered by the present proceedings".⁹⁴

Israel's continuous efforts at attacking not only UNRWA, and Israel's recent and increased measures attacking and restricting civil society actors present in and in relation to Palestine, was emphasised by Jordan:

Israel has imposed a series of measures that significantly obstruct the work of non-governmental organizations ("NGO") operating in the Occupied Palestinian Territory and Israel. Central to these measures is a new registration and visa process, which shifts responsibility for NGOs registration and foreign worker endorsements to an interministerial committee this committee, composed of ministries known for restricting humanitarian activities, has broad discretion to

93 Bangladesh, para 20.

94 France, para 15.

reject or annul registrations based on ambiguous and open-ended criteria. These allegations include supporting boycotts, delegitimizing Israel, or having ties to terrorism. Notably, the criteria by the Israeli authorities can be applied retroactively, targeting statements or actions by NGOs associates up to seven years prior to October 2023. Under the new policy, NGOs registrations are subject to review every three years, introducing major uncertainty and administrative challenges for such organizations. Also, restrictions on visas and permits for foreign and Palestinian workers further hinder NGOs' capability to deliver aid in an effective fashion. These measures are part of a broader pattern of policies aimed at restricting humanitarian assistance, including legislation targeting organizations like UNRWA, which undermine the independence, impartiality, and neutrality of humanitarian work, ultimately hindering the delivery of essential aid to Palestinian populations in need.⁹⁵

⁹⁵ Jordan, para 1.45.

4.3 Why the Narrow View of Who Constitutes an External Actor is Problematic

Norway proposed an extremely narrow view as to the scope of actors to whom the Request is applicable: “The reference to ‘other international organizations’ should, in the opinion of Norway, be understood as referring to organizations that enjoy legal personality under international law, in conformity with the definition of international organizations in Article 2, litra (a), of the 2011 ILC Draft Articles on the Responsibility of International Organizations”.⁹⁶ Norway further stated re the presence or actions of external actors, that the category of assistance explicitly referred has not been intended as an exhaustive identification of relevant activities:

[R]ead in conjunction, the qualifiers signify inclusion not only of presence and activities directly benefitting the Palestinian civilian population, such as humanitarian assistance and relief operations. Also included in the Question are activities aimed at more long-term governance, economic or societal support and resilience, as well as support to institution-building to enable the realization of the right to self-determination.⁹⁷

An unduly narrow framing of the Request would be unfortunate, since it would further disassociate individuals and communities from the institutions and organisations – both State and non-State – which proclaim to represent them and from whom their authority is ultimately identified. Israel’s unlawful exercise of control over who, or what, may enter Palestine, and who may be present in Palestine, manifests as a critical component of its unlawful occupation and cuts to the heart of how Israel suppresses Palestinian self-determination. Israel has been intensifying its restrictions on who may enter Palestine, barring entry to politicians and diplomats, declaring the UN Secretary General *persona non-grata*, banning media organisations and journalists, and placing impossible conditions on humanitarian and advocacy organisations. Hence, while the denial of the right of return of refugees and the attacks on UNRWA are of primary concern, it is no less important to emphasise that Israel’s broad entry bans are designed to entrench

⁹⁶ Norway, para 46.

⁹⁷ Norway, para 48.

Israeli domination and to consolidate the denial of Palestinian self-determination by way of isolating Palestine from the world.

Even were the Court to omit explicit consideration of individuals and of civil society organisations from the Advisory Opinion, and restrict its analysis to States and to international organisations such as the UN, this must be approached in such a manner that would in no way undermine the principle inherent in the right of self-determination of the people's right, in accordance with international law, to regulate entry and exit from their territory.

Various submissions noted that international humanitarian law, and in particular the Hague Regulations and the Fourth Geneva Convention, and international human rights law also apply to Israel, the Occupying Power with regard to the diplomatic and consular functions of Third States in benefit of the civilian population in the Occupied Palestinian Territory.

4.4 The International Duty to Cooperate and External Actors

Colombia requested the ICJ to give due attention to the duty that States have to cooperate, one of the principles of the UN Charter being:

To achieve international cooperation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion.

Colombia posited that the duty to cooperate vests an obligation on Third States to carry out work for the benefit of the civilian population in the Occupied Palestinian Territory, having regard also to Article 2 of the International Covenant on Economic Social and Cultural Rights (ICESCR), and the Declaration on Principles of International Law concerning friendly relations and cooperation among States in accordance with the Charter, concluding:

[I]t is clear that impeding or impairing the work of third States in benefit of the civilian population in the Occupied Palestinian

Territory would entail depriving the civilian population of basic and essential services. Therefore, Colombia advances that by restricting or hindering such assistance Israel is violating international law, including in particular the UN Charter, the ICCPR, human rights law and international humanitarian law.⁹⁸

Egypt posited that formal recognition of the State of Palestine “is an act that contributes to fulfilment by third States of their duty to ensure that impediments to the exercise of the Palestinian people of its right to self-determination are brought to an end” and “an instrument through which third States could fulfil their ‘obligation not to recognize as legal the situation arising from the unlawful presence of Israel in the Occupied Palestinian Territory’” and that:

Israel is under an obligation to facilitate and not to prevent, impede, or otherwise restrict the provision, by third States, other international organizations, or non-governmental organizations, of supplies essential to the survival of the Palestinian civilian population, as well as basic services and humanitarian and development assistance for the benefit of the Palestinian civilian population and in support of the Palestinian people’s right to self-determination.⁹⁹

Jordan recalled that Israel has severely limited the activities and presence of Third States in the Occupied Palestinian Territory:

Shortly after Spain’s recognition of the State of Palestine, Israel stopped the Spanish Consulate General in East Jerusalem from providing services to the Palestinian civilian population in the Occupied Palestinian Territory. Similarly, shortly after Norway’s recognition of the State of Palestine, Israel decided no longer to facilitate Norway’s representation to the Palestinian Authority, which meant that Norway’s Representative Office in Al Ram, northeast of Jerusalem, was closed in August 2024, eight Norwegian diplomats having had their diplomatic status purportedly revoked by Israel.¹⁰⁰

98 Colombia, para 4.129.

99 Egypt, para 184, 323.

100 Jordan, para 1.46.

Norway notes that:

Israel has no legal basis for impeding the establishment and conduct of foreign relations successively by the Palestine Liberation Organization as the recognized representative of the Palestinian people, the representative authorities of the Palestinian Authority or of the State of Palestine. Such foreign relations may include communication with and representation to international organizations or Third States, as well as conclusion of agreements and other forms of regular international relations.¹⁰¹

Norway further submitted that the establishment and maintenance of both temporary and permanent diplomatic and consular in the Occupied Palestinian Territory is based on the consent by the representative authorities of the Palestinian Authority or of the State of Palestine in support of the Palestinian people, including the realization of their right to self-determination:

It is the considered view of Norway, that Israel, in order to realize the conduct of foreign relations between the recognized representatives of the Palestinian people and third States, must actively facilitate the presence and activity of third states' representation.¹⁰²

The Organisation of Islamic Cooperation observed that: "Israel, as the illegal military occupier of the Occupied Palestinian Territory, has taken advantage of a situation of its own making and substituted itself for the Palestinian institutions in relations with international organizations."¹⁰³

As noted by Vanuatu, having reference to UN General Assembly Resolution 79/232, and noting Israel's conduct impeding the "presence, activities and immunities" of Third States, including by way of visa denials and restrictions on diplomatic representations: "Israel's international obligations extend to Third States and other organizations operating in the OPT. Customary law and the Vienna Convention on Diplomatic Relations (1961) reinforce Israel's obligation to

101 Norway, para 111.

102 Norway, para 200.

103 Written Statement of the Organisation of Islamic Cooperation, February 2025, para 79. <<https://www.icj-cij.org/sites/default/files/case-related/196/196-20250227-wri-02-00-en.pdf>>.

facilitate, not hinder, these actors' humanitarian and development roles, which support Palestinian survival and self-determination."¹⁰⁴

Tunisia, similarly noting Article 2 of the Vienna Convention on Diplomatic Relations, concludes that: "The State of Palestine is entitled to receive on its territory diplomatic representations of States and international organizations. The occupying authority has an obligation to respect that right."¹⁰⁵

¹⁰⁴ Vanuatu, para 48.

¹⁰⁵ Tunisia, para 23.

5. UNRWA: Status and Capacity

UNRWA as a subsidiary organisation, integral to the UN, was established by the UN General Assembly in resolution 302(IV) 8 December 1949. As such, and as stated by Brazil, its mandate “can only be revised or revoked by the General Assembly and its implementation may not be unilaterally thwarted by domestic legislation”.¹⁰⁶ Norway recalled that Israel had voted in favour of resolution 302(IV),¹⁰⁷ while Iceland observed that:

[U]nilateral action undertaken by a Member of the United Nations to impede the execution of the mandate vested in one of its subsidiary bodies entails an obstruction of the United Nations itself. As such, it undermines the competences of the General Assembly, which is the political organ in which decisions in relation to the operation of UNRWA are to be taken. Further, the implementation by Israel of legislation which prohibits its State entities from communicating or cooperating with a subsidiary organ of the United Nations, which is specifically mandated to operate on the basis of such cooperation, is manifestly inconsistent with Charter principles of good faith and giving assistance.’¹⁰⁸

UNRWA’s role goes beyond the provision of emergency aid and supplies, Brazil for example, noting its “crucial role in enabling the Palestinian people to exercise their self-determination” including as custodian of Palestinian history and identity, and keeper of documentation and files, observes that UNRWA “is indispensable for safeguarding the rights of the Palestinian people, including their right of return, as affirmed in paragraph 11 of General Assembly Resolution 194 (III)”.¹⁰⁹ As was noted by Egypt: “From a legal perspective, UNRWA has a unique mandate that relates to core aspects of the question of Palestine, including the right of return of Palestine refugees and the inalienable right of the Palestinian people to self-determination”,¹¹⁰ and that UNRWA’s presence and activities in the Occupied

¹⁰⁶ Brazil, para 32.

¹⁰⁷ Norway, para 74.

¹⁰⁸ Iceland, para 28.

¹⁰⁹ Brazil, paras 37-9.

¹¹⁰ Egypt, para 66.

Palestinian Territory, including East Jerusalem, is “intricately tied to the Palestinian people’s right to self-determination and the right of return”.¹¹¹

In evidencing Israel’s legislative and physical attacks on UNRWA and its personnel, South Africa described “an unconscionable assault on the United Nations for its protection of the inalienable rights of the Palestinian people. The most recent phase of Israel’s long-standing campaign to dismantle UNRWA is to legislate its demise”.¹¹²

UNRWA’s banning would extend the precarious situation of Gazans to the rest of the OPT, increasing risk of starvation, malnourishment and the spread of disease if the Agency is unable to service vulnerable Palestinians.¹¹³

Submissions recall that Israel’s attacks on UNRWA long predate October 2023, since when, in unprecedented action: “Israel has attacked and destroyed UNRWA premises, property, and facilities, and has targeted, killed, and detained UNRWA personnel”.¹¹⁴ Saudi Arabia notes that in combination with violent attacks on UNRWA staff and premises, there have been:

[V]arious “disinformation campaigns” and “vilification” of the organization from Israeli officials, in particular designating the entire organization as a “terrorist organization.” These campaigns incite violence against UNRWA and its personnel, further exacerbating the already perilous conditions under which they strive to provide aid to civilians amidst the ongoing conflict.¹¹⁵

Many of the submissions refer to the UN Secretary-General’s characterisation of UNRWA as the “backbone” of the United Nations presence in the Occupied Palestinian Territory.¹¹⁶ Others acknowledged the speed with which the ICJ had responded to the UNGA Request — Iceland for example noting: “The Question that the General Assembly has requested the Court to render its Advisory Opinion on,

¹¹¹ Egypt, para 101.

¹¹² South Africa, para 44.

¹¹³ South Africa, para 204.

¹¹⁴ Egypt, para 87.

¹¹⁵ Saudi Arabia, para 17.

¹¹⁶ Letter dated 28 October 2024 from the Secretary-General addressed to the President of the General Assembly, UN Doc. A/79/558. Eg Bangladesh, para 3.

pertains to a situation of acute and imminent urgency because of the presently unfolding humanitarian crisis in the Occupied Palestinian Territory”.¹¹⁷ Similarly, Luxembourg noted “The evolution of the situation over recent months demands that the Court examine on a priority basis and with the utmost urgency the additional questions raised by the United Nations General Assembly, in order to clarify Israel’s obligations”.¹¹⁸ As described by the Organization of Islamic Cooperation, Israel’s escalation of violence in Gaza since 7 October 2023 constitutes:

[T]he deliberate scaling up of the plan to annihilate the Palestinian people, set in motion through previous wars and the blockade imposed on that people. The attacks on the Palestinian towns in the West Bank, which have taken on tragic proportions in recent months, bear witness to Israel’s determination to do away with the “Palestinian question”. The measures taken recently against UNRWA, which are the subject of this request for an advisory opinion from the Court, are the culmination of Israel’s policy. Seizing all land belonging to the Palestinians, attacking or forcibly expelling them, depriving them of relief these are the savage means employed for a criminal purpose: to deprive the Palestinians of their political project, i.e. the right to exist as a political community accepted among nations on an equal footing with other recognized political communities.’¹¹⁹

Colombia noted that alternatives for replacing UNRWA as signalled by Israel are “flawed and insufficient” since no other UN agency has the requisite capacity and experience, while independent charities and commercial suppliers using private security lack:

[T]he extensive infrastructure and experience needed to provide large-scale aid, especially in the current circumstances. Also, critically, delegating security to private entities means less accountability and control over the operations, a far from desirable situation not subject to clear international rules and oversight.¹²⁰

117 Written Statement of Iceland, 28 February 2025, para 3. <<https://www.icj-cij.org/sites/default/files/case-related/196/196-20250228-wri-21-00-en.pdf>>.

118 Written Statement of the Government of the Grand Duchy of Luxembourg, 26 February 2025, para 11. <<https://www.icj-cij.org/sites/default/files/case-related/196/196-20250228-wri-13-00-en.pdf>>.

119 Organisation of Islamic Cooperation, para 127.

120 Colombia, para 3.35.

Algeria notes that “[i]n the absence of a permanent solution to the Palestinian question through the creation of a Palestinian State and the fate of Palestinian refugees which necessarily takes account of their inalienable right of return, UNRWA plays a unique role in providing essential services, similar to those furnished by a government, to a population of almost 6 million across five areas of operation”:

By attacking UNRWA, Israel believes that it is attacking the problem of refugees, erasing inalienable rights, including the right to return.

By attacking UNRWA, Israel believes that its assaults on the Agency which improves the lives of Palestinians will impoverish them and encourage them to leave their lands. However, it should be recalled once again that UNRWA was established in the first instance to provide emergency assistance and to contribute to human development, to bring renewed hope where once there was despair, to help people to rebuild their lives, to rebuild communities, and to protect and provide support in a period of crisis and upheaval pending a just solution, in accordance with United Nations resolutions, including General Assembly resolution 194 (III). None other than the General Assembly can unilaterally modify that mandate, which is essential for the well-being of millions, for regional stability and for the establishment of the right of the Palestinian people to self-determination.¹²¹

As observed by Comoros, noting the ICJ’s view in the *South Africa v Israel* proceedings that there exists “a real and imminent risk that irreparable prejudice will be caused to the rights found by the Court to be plausible”, namely the right of the Palestinians in Gaza to be protected from acts of genocide and the related prohibited acts identified in Article III of the Genocide Convention:

[I]t is quite clear that the presence and activities of the United Nations, its agencies and bodies, other international organizations and third States of goodwill are crucial for the survival of the Palestinian people.¹²²

121 Algeria, p 37.

122 Written Statement of the Union of the Comoros, 28 February 202[5], para 19.

5.1 Palestinian Right of Return

Central to Israel's prolonged campaign to dismantle UNRWA lies the fundamental issue of the Palestinian right to return, set out in UN General Assembly Resolution 194 of 1948. Since 1950 UNRWA has served as a vital support system for millions of Palestinian refugees forced for generations to live in refugee camps across the West Bank, including occupied Jerusalem, and Gaza, as well as in Lebanon, Syria, and Jordan, refugees to whom Israel has consistently denied their inalienable right of return to their ancestral homes and lands, an ongoing denial which is integral to its Zionist settler-colonial project.

In the *Palestine* Advisory Opinion of July 2024 the ICJ affirmed Israel's obligation to provide restitution for its internationally wrongful acts, including Israel's obligation to allow "all Palestinians displaced during the occupation to return to their original place of residence".¹²³

The present Request requires that the Court extend its consideration of Israel's obligations towards Palestinian refugees beyond the temporal and territorial scope of the occupation persisting since 1967, and to affirm Israel's obligations, and those of the international community, to facilitate the return of all Palestinian refugees.

Iceland's submission recalled that the 1948 war resulted in the mass displacement of Palestinian refugees into what is today the Occupied Palestinian Territory, and into neighbouring States, emphasising that by Resolution 194 (III), adopted on 11 December 1948, the UN General Assembly resolved that Palestinian refugees should be permitted to "return to their homes and live at peace with their neighbours" and that compensation should be paid for the homes of those choosing not to return and "for the loss of or damage to property" sustained by them.¹²⁴

Noting that Israeli policies of forcibly transferring Palestinians from their homeland was the origin of Palestinian refugee status, Egypt observes that resolution 194 (III) was part of the effort to find a "political solution to the question of Palestine and the tragedy of the Palestine refugees" and that paragraph 11 of resolution 194 (III) is especially pertinent to the present proceedings:

¹²³ *Palestine*, Advisory Opinion (19 July 2024), para 270.

¹²⁴ Iceland, para 18.

Resolves that the refugees wishing to return to their homes and live at peace with their neighbours should be permitted to do so at the earliest practicable date, and that compensation should be paid for the property of those choosing not to return and for loss of or damage to property which, under principles of international law or in equity, should be made good by the Governments or authorities responsible;

Instructs the Conciliation Commission to facilitate the repatriation, resettlement and economic and social rehabilitation of the refugees and the payment of compensation, and to maintain close relations with the Director of the United Nations Relief for Palestine Refugees and, through him, with the appropriate organs and agencies of the United Nations.¹²⁵

Noting that resolution 194 (III) did not establish the rights of return and compensation of Palestine refugees *de novo*, but rather reaffirmed a principle that was already established in general international law in 1948, and that has been reaffirmed repeatedly by the United Nations, Egypt states that “the exercise of the right of return by Palestine refugees was never viewed as being contingent on the achievement of a peaceful settlement to the question of Palestine”.¹²⁶

Citing the annual Report of the Commissioner-General of UNRWA to the twentieth session of the General Assembly in 1965, that “the plight of the refugees was likely to continue and to demand the sympathy and support of the international community for a period to which a time limit could not be fixed at present” Iceland submitted “that these words hold as true in 2025 as they did at the time of writing, in 1965”, and that:

75 years after it began operations, UNRWA continues to administer relief necessary to respond to an urgency that is perpetuated by an unresolved conflict and multiple, generational displacement. In that vein, the continued renewals by the General Assembly of UNRWA’s mandate are an articulation of the “permanent responsibility of the United Nations with regard to the question of Palestine until it is

125 General Assembly Resolution 194 (III), 11 December 1948, A/RES/194 (III), para 11.

126 Egypt, para 73.

resolved in all aspects in accordance with international law and the relevant United Nations resolutions”.¹²⁷

With respect the legal status of Palestinian refugees, Brazil stressed that actions to hinder or impede UNRWA’s ability to fulfil its mandate:

[S]hould not alter the established legal protections afforded to Palestinian refugees under relevant UN General Assembly resolutions. If or when considering the conditions under which Palestinian refugees may become eligible for protection under the 1951 Refugee Convention, particularly through Article 1D(2), any legal or practical barriers erected for political gain to the detriment of the rights of Palestinian refugees, cannot be condoned.¹²⁸

5.2 Palestinians Refugee Status Remains Protected

Algeria notes that “Despite what Israel claims, the destruction of UNRWA will not put an end to the status of the Palestinian refugee; Palestinian refugees will fall under the scope of the 1951 Refugee Convention and the mandate of the United Nations Refugee Agency, which, technically speaking, will reinforce their rights as refugees”.¹²⁹

Namibia warns however that “subsuming the entire class of Palestinian refugees in the OPT within the general regime of protection contradicts the transitional nature of the Palestinian refugee question, undermines the integrity of the Palestinian people in requiring them to leave their country to seek protection, and is inconsistent with the fundamental premises of the UN’s approach to Palestinian self-determination and the establishment of a two-state solution”.¹³⁰

Colombia observed that: “Even though UNRWA was conceived as temporary, the General Assembly has recognized that repatriation or compensation of

¹²⁷ Iceland, para 19.

¹²⁸ Brazil, para 70.

¹²⁹ Algeria, p 34.

¹³⁰ Namibia, para 106.

the refugees has not yet been effected, that the United Nations Conciliation Commission for Palestine has been unable to find a means of achieving progress in the implementation of paragraph 11 of General Assembly resolution 194 (III), and that the Palestinian refugees continue to require assistance to meet basic health, education and living needs”.¹³¹

As further noted by Egypt, “the international community recognized that as long as the right of return was not achieved, UNRWA would continue to discharge its mandate. By implication, UNRWA’s continued existence, and the General Assembly’s regular renewal of its mandate without prejudice to paragraph 11 of Resolution 194, became synonymous with preservation of the right to return for Palestinian refugees”.¹³²

5.3 Self-Determination is the Only Alternative to UNRWA

Noting the UN Secretary-General’s statement on 29 October 2024 that “There is no alternative to UNRWA”, South Africa submitted to the ICJ:

[T]hat there is only one alternative to UNRWA: the fulfilment of Palestinians’ right of return, their right to self-determination, and the establishment of an independent Palestinian state, free from Israeli occupation and apartheid. This is the only way in which Palestinian refugees can live securely with their basic rights, humanitarian and human development needs being met.¹³³

Evidencing the urgency of realising the Palestinian right to self-determination, submissions to the Court illustrate the continued centrality of the trauma of forcible displacement of Palestinians, from the Nakba, through the denial of the right of return, and the present moment of genocidal starvation and expulsion. Noting that “the right of return of Palestine refugees is intrinsically related to the inalienable right to self-determination of the Palestinian people”,¹³⁴ Egypt affirmed that:

¹³¹ Colombia, para 4.99.

¹³² Egypt, para 78.

¹³³ South Africa para 36.

¹³⁴ Egypt, para 105.

[A]ttempts by Israel to dismantle UNRWA or to impede its activities in the Occupied Palestinian Territory, including East Jerusalem, or to prevent it from executing its mandate constitute a violation of the right of return of Palestine refugees and the inalienable right of the Palestinian people to self-determination. Such conduct by Israel must be viewed as integral to its attempts to displace, transfer or deport the Palestinian people from the Occupied Palestinian Territory, including East Jerusalem, thereby preventing the Palestinian people from exercising their right to self-determination.¹³⁵

Having regard to the 2024 *Palestine* Advisory Opinion, the Netherlands emphasised that conduct constituting the denial of required humanitarian assistance in a situation of extreme dependence:

[W]ould likely contribute to the departure of parts of the population from the occupied territory and would thus risk alterations to the demographic composition of the occupied territory, which would severely impede the exercise of the right to self-determination by the people concerned.¹³⁶

The African Union contends that Israel's measures and practices which obstruct access to humanitarian and development assistance, as well as those intended to impede or that have the effect of impeding relief action by Third States and international organizations:

[A]re creating a climate of terror and intimidation among the Palestinian population, which is driving the latter out of the Occupied Palestinian Territory by rendering the conditions of life there unbearable.¹³⁷

¹³⁵ Egypt, para 108.

¹³⁶ Netherlands, para 3.5.

¹³⁷ Written Statement of the African Union, 10 March 2025, para 195. <<https://www.icj-cij.org/sites/default/files/case-related/196/196-20250310-wri-01-00-en.pdf>>.

6.

International Humanitarian Law: The Obligation to Facilitate External Relief

Given the scale of human suffering arising from Israel's continued siege of Gaza and denial of international assistance to the Palestinians of Gaza, Israel's obligations in this regard were the immediate focus of the majority of submissions.

A failure to agree to and facilitate relief operations by the Occupying Power in situations where the population is inadequately supplied is unlawful under international humanitarian law. The failure of the Occupying Power to fully take over relief operations previously conducted by an international organisation or third party and to ensure the adequate provision of supplies, constitutes a breach of Article 59 of the Fourth Geneva Convention and Article 69 of Additional Protocol I. The failure of the Occupying Power to ensure essential supplies to the fullest extent of the means available to it would also constitute a breach of the customary international law obligations contained in Articles 50 and 55 of the Fourth Geneva Convention, obligations which apply both vis-à-vis the population of the occupied territory, and vis-à-vis the international community as a whole, i.e., such obligations would be obligations *erga omnes*.¹³⁸

The Netherlands submitted that:

Relief operations may be undertaken by neutral States or impartial humanitarian organisations, such as the ICRC. The occupying Power must not only “agree” to relief operations on behalf of the population but, in accordance with Article 59 of the Fourth Geneva Convention, it must also “facilitate” these by all means at its disposal. This means that the occupying Power is obliged to take active steps to cooperate with the impartial humanitarian organisation or third neutral State undertaking relief operations, to grant access to the occupied territory, subject to the right of search, and facilitate the distribution of relief through any means.¹³⁹

¹³⁸ Netherlands, paras 2.26-7.

¹³⁹ Netherlands, para 2.22.

The Philippines locate the duty to ensure unimpeded humanitarian access in Security Council Resolutions, in the jurisprudence of the ICJ, including in the ICJ's Orders in the *South Africa* proceedings.¹⁴⁰ Iceland notes that "in the case of an occupation, the Occupying Power does not have discretion to withhold its consent to external collective relief in accordance with Article 59 of the Fourth Geneva Convention – the Occupying Power "shall agree" to those schemes and "shall facilitate them by all means at its disposal".¹⁴¹

As long as the civilian population of the Occupied Palestinian Territory remains inadequately supplied, Israel has the obligation to permit external relief and is prohibited from imposing selective criteria as to which actors it wishes to engage with. That obligation extends not only to permitting their presence and activities in and relation to the Occupied Palestinian Territory, but further to undertake positive action to facilitate that presence and those activities. In this regard, Iceland considers it important to specifically highlight that a disengagement from communication with such external actors, as the Israeli legislation against UNRWA foresees in relation to the Agency, is incompatible with the obligations of the occupying Power.¹⁴²

France, stating that "the concepts of impartiality and neutrality are not perfectly equivalent in international humanitarian law", affirmed "that UNRWA is in fact an 'impartial' organization within the meaning of Article 59".¹⁴³ Malaysia submitted that impartiality under Article 11(4) of GCIV "is understood as independence from any government and from any political party, but not as meaning 'mathematical equality'.¹⁴⁴

Poland recalled the ICJ's 1986 judgment in the case concerning *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America)*, noting that the Court had emphasised that:

An essential feature of truly humanitarian aid is that it is given "without discrimination" of any kind [...] not only must it be limited to the purposes hallowed in the practice of the Red Cross, namely

140 Philippines, para 31.d.

141 Iceland, para 44. Saudi Arabia, para 42. France, para 66. Luxembourg, para 42.

142 Iceland, para 47.

143 France, para 69.

144 Malaysia, para 57.

“to prevent and alleviate human suffering” and “to protect life and health and to ensure respect for the human being”; it must also, and above all, be given without discrimination to all in need in Nicaragua, not merely to the contras and their dependents. Poland further submitted that while neither the provisions of the Fourth Geneva Convention, nor the provisions of Additional Protocol I require that assistance be neutral or independent, the Security Council (e.g., in its resolution 2175 of 2014) does require “all parties to armed conflict to respect the humanitarian principles of humanity, neutrality, impartiality and independence in order to ensure the provision of humanitarian assistance, the safety of civilians receiving assistance and the security of humanitarian personnel and United Nations and its associated personnel”.

According to Poland: “there are two crucial features of humanitarian assistance: firstly, its aim to alleviate suffering; and secondly, its provision in an impartial manner”.¹⁴⁵

Belgium noted Israel’s refusal to respect the ICJ Orders indicating provisional measures under the Convention on the Prevention and Punishment of the Crime of Genocide, and recalled that the ICJ’s 2024 *Palestine* Advisory Opinion established that Israel demolishes structures providing humanitarian aid in violation of international law. Belgium further emphasised the fact that the conduct constituting the crimes for which the Prime Minister of Israel, Benjamin Netanyahu has been charged by the ICC relate to restrictions on humanitarian assistance imposed by Israel during the hostilities in the Gaza Strip, and expressed its conviction:

[T]hat the safest and most effective way for the civilian population in the Occupied Palestinian Territory to receive adequate humanitarian assistance is through humanitarian assistance operations undertaken by third party actors, namely international organizations including the United Nations, third States or impartial humanitarian organizations such as the International Committee of the Red Cross. Israel has an obligation to agree to these humanitarian assistance operations on behalf of the civilian population of the Occupied Palestinian Territory.¹⁴⁶

¹⁴⁵ Written Statement of the Republic of Poland, February 2025, paras 35-6. <<https://www.icj-cij.org/sites/default/files/case-related/196/196-20250228-wri-24-00-en.pdf>>.

¹⁴⁶ Belgium, para 46.

Indonesia noted that UN Security Council Resolution 2720 specifically obliges all parties to the conflict, including Israel, to protect civilians and enable humanitarian assistance to the Palestinians in Gaza. The resolution further “demands that they allow, facilitate, and enable the immediate, safe and unhindered delivery of humanitarian assistance at scale directly to the Palestinian civilian population”. In order to achieve such an aim, the resolution “stresses the importance of respecting and protecting” infrastructure used for the delivery of humanitarian assistance.¹⁴⁷

Mexico emphasised “that the deliberate obstruction of humanitarian assistance can generate life-threatening conditions with important gender-differentiated effects”, stressing “the specific vulnerabilities of women and girls during humanitarian crises, such as the one that the Court will analyse in the course of this advisory proceeding, as restricted access to essential resources exacerbates health risks and social inequalities”.¹⁴⁸

6.1 International Humanitarian Law and Preservation of the *Status Quo Ante Bellum*

Several submissions note the conservationist principle of international humanitarian law and the law of occupation, i.e. the legal obligation upon the Occupying Power to administer the occupied territory for the benefit of the local population for the entire duration of the occupation, and the Occupying Power’s primary obligation to re-establish and to ensure, as far as possible, public order and civilian life, while respecting, unless absolutely prevented, the laws already in force.¹⁴⁹ This principle provides an additional legal basis in identifying Israel’s obligations concerning UNRWA.

Norway observed that “The international legal basis, presence and activities of the United Nations and of other assisting actors of the international community in the Gaza Strip, the West Bank and East Jerusalem predate Israel’s military occupation

¹⁴⁷ Written Statement Submitted by the Government of the Republic of Indonesia, February 2025, para 33. <<https://www.icj-cij.org/sites/default/files/case-related/196/196-20250303-wri-01-00-en.pdf>>.

¹⁴⁸ Mexico, para 62.

¹⁴⁹ Article 43 of the Regulations annexed to the Hague Convention (IV) respecting the Laws and Customs of War on Land (1907 Hague Regulations). Article 64 of the Fourth Geneva Convention.

of these territories in June 1967”.¹⁵⁰ Iceland noted that “By the time the occupation began in 1967, the relief assistance which had been provided by UNRWA to Palestine refugees since 1950 encompassed a range of the basic services that a State typically administers for its population, and which an Occupying Power is obliged to ensure and to maintain during an occupation”,¹⁵¹ and hence:

[U]pon assuming effective control over the Occupied Palestinian Territory, the obligation of Israel in relation to the restoration of the status quo ante encompassed, *inter alia*, an obligation to ensure the resumption of the services of UNRWA. This obligation is additional to the existing obligations which were owed by Israel in respect of UNRWA under the Charter.¹⁵²

Colombia similarly argued that it is “clear that through its actions including the enactment of the Law to cease UNRWA operations, Israel has failed to comply with its obligation to maintain the *status quo* and to refrain from altering the laws in force in the Occupied Palestinian Territories”.¹⁵³ South Africa submits that the 1967 occupation “did not alter UNRWA’s mandate or require it to receive permission from Israel to continue operating in the OPT. The 1967 occupation of Palestinian territory reinforced the need for UNRWA to broaden its access and relief works across the territory, as the occupation triggered IHL obligations which Israel did not care to fulfil”.¹⁵⁴

150 Norway, para 68.

151 Iceland, para 39.

152 Iceland, para 40.

153 Colombia, para 4.29.

154 South Africa, para 132.

7. The Palestinian Right to Self-Determination

In resolution 79/232 requesting the Advisory Opinion, the General Assembly had “Call[ed] upon Israel to uphold and comply with its obligations not to impede the Palestinian people from exercising its right to self-determination, including by rescinding any measures that obstruct the provision of basic services and humanitarian and development assistance to the Palestinian people”.¹⁵⁵

A recurring submission to the ICJ was that Israel is under a positive obligation to respect the right of the Palestinian people to self-determination, including by withdrawing unconditionally and as “rapidly as possible” from the whole of the Occupied Palestinian Territory.¹⁵⁶ As demanded by the General Assembly, this obligation must be given effect no later than 18 September 2025.¹⁵⁷ Submissions also stress Israel’s negative duty “not to impede the Palestinian people from exercising its right to self-determination, including its right to an independent and sovereign State, over the entirety of the Occupied Palestinian Territory”.¹⁵⁸

Israel’s presence in the Occupied Palestinian Territory having been determined as being unlawful in the ICJ’s July 2024 *Palestine* advisory opinion, Bolivia emphasised that “Israel lacks any legal entitlement to do anything in the OPT”,¹⁵⁹ and that in order to determine Israel’s obligations for the purposes of the present advisory opinion, “the Court must first address the gateway question of who possesses the legal authority to control entry into and activities within” the Occupied Palestinian Territory.¹⁶⁰

¹⁵⁵ A/RES/77/232, para. 7; Brazil, para 67.

¹⁵⁶ *Palestine* Advisory Opinion, (19 July 2024) para. 285

¹⁵⁷ A/RES/ES-10/24, para. 2

¹⁵⁸ *Palestine* Advisory Opinion, (19 July 2024) para 237 [emphasis added]. See also A/RES/ES-10/24, para. 3(g). E.g., Bangladesh paras 11-12.

¹⁵⁹ Bolivia, para 30.

¹⁶⁰ Bolivia, para 41.

7.1 Decision Making on Entry into Palestine Vests in the Palestinian People

Bolivia submits that only “the representatives of the Palestinian people, including the State of Palestine, have the legal right to give permission for external actors to enter, be present, and conduct activities there”. Bolivia further notes in light of Israel’s *de facto* control, that the entry, presence and activities of states and international organisations in the OPT:

[I]n the absence of permission of (and with no objection to) the representatives of the Palestinian people, including the State of Palestine may not amount to a violation of the sovereignty and rights vested in the Palestinian people and the State of Palestine, provided the presence exists on the basis of, and the activities are compatible with, the applicable international legal framework, including the human rights of the Palestinian people.¹⁶¹

Concerning the latter element, many submissions emphasised that: “This duty not to impede engages the ability of all third parties relevant to these proceedings – the United Nations, other international organizations and third States – to discharge their own independent legal obligations to support and assist the Palestinian people in the realization of its right to self-determination given the *erga omnes* character of this right”.¹⁶²

Egypt proposed that the Court should consider Israel’s obligations in relation to the activities and presence of third parties in and in relation to the Occupied Palestinian Territory in light of its obligation to respect the right to self-determination of the Palestinian people, and not to impede joint and separate action by the international community to promote the exercise of the right to self-determination by the Palestinian people.¹⁶³

¹⁶¹ Bolivia, para 38.

¹⁶² Bangladesh para 12.

¹⁶³ Egypt, para 47C.

7.2 Unilateral Termination of Humanitarian Agreements Breaches Right of Self-Determination

The Netherlands notes that should an Occupying Power fail to provide, either directly or through third parties, for the required humanitarian assistance in a situation of extreme dependence on relief operations, where the Occupying Power's unilateral decision to terminate its agreement and cooperation with a third party responsible for the bulk of the humanitarian assistance, directly and severely affects a people as a whole, frustrating its economic, social and cultural development, its conduct would appear to violate the right to self-determination as a peremptory norm of international law.¹⁶⁴

Also having regard to the 2024 Advisory Opinion, South Africa warned that Israel's ban on UNRWA:

[W]ould *inter alia* further harm the availability of key humanitarian aid and basic services, as well as any quasi-State functions exercised by UNRWA, and would in so doing not only further forced displacement, attack the Palestinian social fabric, and alter the demographic composition of the territory, but could also further facilitate appropriations and expropriations of property of the newly displaced persons. In sum, as a measure further enabling and facilitating such "sustained abuse by Israel of its position as an Occupying Power", Israel's ban on UNRWA would have the effect of rendering the Palestinian population in the OPT significantly less resilient to Israel's continued efforts to the acquisition of the OPT by force.¹⁶⁵

Brazil also emphasised the ICJ's finding that Israel is obliged not to impede Palestinian self-determination, recalling that the State of Palestine is recognised by "an important majority of more than 140" of the UN Member States, and noting UNGA Resolution ES-10/23 which determined that the State of Palestine 'is qualified for membership in the United Nations in accordance with Article 4 of the Charter of the United Nations and should therefore be admitted to membership in the United Nations'.¹⁶⁶ Recalling also that establishing diplomatic relations

¹⁶⁴ Netherlands, para 3.5.

¹⁶⁵ South Africa, para 96.

¹⁶⁶ Brazil, para 25.

is a prerogative right of independent states, Brazil suggested that the Court consider “whether measures taken by Israel to undermine, impede or retaliate the establishment of diplomatic relations between Third States and the State of Palestine, as well as the establishment of permanent diplomatic missions, in attempts to deny the Palestinian people’s right to an independent State, constitute a violation of the right to self-determination”.¹⁶⁷

7.3 Creating Dependence on Israel Breaches Right of Self-Determination

Colombia stressed that by impeding humanitarian actors, including UNRWA, from fulfilling their mandate “Israel is creating a situation where Palestinians are entirely dependent on Israel for their subsistence and thereby preventing the enjoyment of their right to self-determination”.¹⁶⁸ Belgium had also identified as crucial the ICJ advisory opinion conclusion that: “The dependence of the West Bank, East Jerusalem, and especially of the Gaza Strip, on Israel for the provision of basic goods and services impairs the enjoyment of fundamental human rights, in particular the right to self-determination”.¹⁶⁹ Bolivia similarly notes that Israel’s denial of aid and essential services to Palestinians “not only exacerbates humanitarian suffering, but also entrenches conditions of subjugation that violate the principle of self-determination under international law.”¹⁷⁰

Jordan noted that Israel has engaged in systematic concerted policies to create realities on the ground that would end the prospects for the realization of the Palestinian people’s right to self-determination and for the creation of a Palestinian State, including “by measures and restrictions against the civilian Palestinian population that are tantamount to racial segregation and apartheid. The ‘Great Israel’ became the policy of the Israeli government, as demonstrated by the statements of Israeli leaders and officials”.¹⁷¹

The Organisation of Islamic Cooperation, noting that the violation of the right of peoples to self-determination constitutes an international crime, as recognized in

¹⁶⁷ Brazil, para 29.

¹⁶⁸ Colombia, para 4.16

¹⁶⁹ 2024 Israeli Policies and Practices Advisory Opinion, para 241. Belgium, para 20.

¹⁷⁰ Bolivia, para 99.

¹⁷¹ Jordan, para 1.68.

United Nations General Assembly resolution 2621 in 1970,¹⁷² stressed that:

Such is the importance of the right to self-determination that the United Nations General Assembly has reaffirmed the legitimacy of national liberation struggles conducted by all means necessary. This emerges from resolution 3070 of 30 November 1973, which affirms “the legitimacy of the peoples’ struggle for liberation from colonial and foreign domination and alien subjugation by all available means, including armed struggle”.¹⁷³

Recognising that effective national independence is inherently bound up with collective relationships, the League of Arab States note that:

As a matter of course, Israel hinders Palestinians’ ability to travel internationally to pursue their professional, cultural, academic, and other aspirations’ while ‘Within the West Bank, including East Jerusalem, Palestinians are subject to a labyrinth of physical and bureaucratic barriers restricting their freedom of movement’, ‘residents of the Gaza Strip are cut off entirely from the rest of the Occupied Palestinian Territory and neighboring States due to Israel’s imposition of a comprehensive air, sea, and land blockade’, and Israel ‘has also “long made it difficult for foreigners to teach, study, volunteer, work, or live in the West Bank,” through a combination of restrictions that have only increased in the past few years.’¹⁷⁴

Vanuatu emphasised the critical nexus between self-determination and environmental integrity:

A people cannot freely determine its destiny if its material basis—water, fertile land, biodiversity—is destroyed or expropriated by an occupier. The Stockholm Declaration tied human rights to “an environment of a quality that permits a life of dignity and well-being,” acknowledging that this requires the elimination of “apartheid, racial

¹⁷² Organisation of Islamic Cooperation, para 121.

¹⁷³ Organisation of Islamic Cooperation, para 120.

¹⁷⁴ League of Arab States, paras 54-8.

segregation, discrimination, colonial and other forms of oppression and foreign domination.” The right to a healthy environment consolidated these linkages. Israel’s obligation thus extends to ceasing ecological harm and enabling Palestinian stewardship of their resources, including through ensuring and facilitating the unhindered provision of various forms of assistance.¹⁷⁵

¹⁷⁵ Vanuatu, para 54.

8. Obligations and Consequences

The written statement of France notes that “the formulation of the question posed has a certain originality compared with the previous requests for opinions: the Court is asked to pronounce on the obligations of a single State and not on those of all States in a particular area or on the legal consequences of a situation for the entire international community”,¹⁷⁶ and indicates that since:

The question put to the Court concerns only “the obligations” of Israel in relation to the presence and activities of certain entities in the Occupied Palestinian Territory. This written statement thus identifies those obligations without prejudice to any legal consequences that may arise, if applicable, as a result of the breach thereof.¹⁷⁷

The significance of the Court reviewing legal obligations without also reviewing legal consequences, was a concern of submissions. South Africa noted that Israel has kept denying Palestinian refugees their right of return under Resolution 194(III), and that “It is thus evident that Israel has violated the Charter and its Resolutions since gaining UN Membership in 1949, despite having committed to its obligations under the Charter”.¹⁷⁸

In its oral submission to the Court, Palestine directly challenged the French proposition, opposing the suggestion that the Request could be interpreted as limiting the Court’s analysis to a study of primary obligations, but not of secondary obligations, i.e., the consequence of violations:

The obligations are inseparable from one another and form what the dominant doctrine today considers to be the “system of international responsibility”; both create obligations for legal subjects. It is completely artificial to disassociate them. The wording of the question put to the Court not only does not impose such a division, but excludes it. Violations of primary obligations create new secondary obligations.¹⁷⁹

¹⁷⁶ France, para 13.

¹⁷⁷ France, para 14.

¹⁷⁸ South Africa, para 103.

¹⁷⁹ Palestine, Oral Proceedings, pp 10-1. <<https://www.icj-cij.org/sites/default/files/case-related/196/196-20250428-ora-02-00-bi.pdf>>.

Also at the oral proceedings, Vanuata, hoping the Court's clarification should guide the General Assembly, Security Council and States in adopting measures proportionate to the gravity of the breach,¹⁸⁰ emphasised that "The inseparability of primary and secondary norms has seldom been so clearly illustrated as in the present case":

Here, imposing a firm separation between the two categories would create a type of "alternative law", completely detached not just from the real world and the facts before us, but from the normative reality of international law. For even an undergraduate student of international law will know that a breach of international obligations entails legal consequences, which arise "automatically" and as a matter of hard, indisputably binding law. They do not evaporate following a Court's pronouncement on their existence; they remain real and binding for as long as the breach continues, shaping the legal relationships referenced in the question and demanding integration into the answer.¹⁸¹

Egypt was among those States of the view that the term "obligation," as it is used in the question referred from the General Assembly to the Court:

[S]hould be read broadly to include obligations arising from secondary rules of international law. Accordingly, Egypt submits that the Court should consider and opine on Israel's obligations flowing from the legal consequences arising from its internationally wrongful conduct in relation to the subject-matter of the present advisory proceedings.¹⁸²

180 Vanuatu, Oral Proceedings, para 18, p 31. <<https://www.icj-cij.org/sites/default/files/case-related/196/196-20250502-ora-02-00-bi.pdf>>.

181 Vanuatu, Oral Proceedings, para 4, p 26.

182 Egypt, para 333.

8.1 Proposed Consequences for Failure to Comply with International Law

The legal consequences identified by Egypt, and shared to a large degree among submissions, include: The continued duty of Israel to perform the obligations that it has breached; the obligation on Israel to cease its internationally wrongful acts immediately, and to offer appropriate assurances and guarantees of non-repetition; the obligation to make reparation for the damage caused to all the natural or legal persons concerned; and possibly, that Israel move to provide satisfaction “consist[ing] in an acknowledgement of the breach, an expression of regret, a formal apology or another appropriate modality”.¹⁸³

The African Union, deploring Israel’s failure to comply with its established legal obligations, emphasised the requirement for Israel to provide assurances that it will comply with its international obligations “in order to dissipate the terror that is being instilled in the Palestinian population as a result of these measures and practices and in light of its overall conduct”.¹⁸⁴

Malaysia observed that the legal consequences for Israel’s breaches of its international obligations, including the breach of the guarantee of the right to self-determination “are the ones set out in the Court’s advisory opinion of 19 July 2024 [...] Israel would be under obligations of cessation and reparation also with respect to the United Nations, in particular with respect to damage caused to UNRWA personnel, property, and premises”.¹⁸⁵

Tunisia, acknowledging that recommending recourse to Article 6 of the UN Charter, falls within the prerogatives of the Security Council:

[B]elieves that the conditions for its implementation are met in this case. That article provides that “[a] Member of the United Nations which has persistently violated the Principles contained in the present Charter may be expelled from the Organization by the General Assembly upon the recommendation of the Security Council”. In this respect, Tunisia urges all Member States to use all means at their disposal to restore the spirit of the Charter.¹⁸⁶

¹⁸³ Egypt, paras 333-56.

¹⁸⁴ African Union, para 198.

¹⁸⁵ Malaysia, para 106.

¹⁸⁶ Tunisia, para 74.

Pakistan proposed that the UN, and particularly the General Assembly and Security Council, should consider what further action is required to establish the extent to which Israel is in breach of its obligations under international law, what further action may be required to bring Israel into compliance, and what mechanism should be established in order to facilitate full reparation for injury caused by Israel for its internationally wrongful acts.¹⁸⁷

Slovenia, stating its support of the principle of Responsibility to Protect (R2P), which calls on States to safeguard their populations from genocide, war crimes, ethnic cleansing, and crimes against humanity, as endorsed by the 2005 World Summit Outcome Document, noted that: “when a State is manifestly failing to protect the population under its control, the international community can take collective action, including humanitarian assistance to ensure and facilitate the unhindered provision of urgently needed supplies essential to the survival of the population”.¹⁸⁸

8.2 South Africa’s Detailed Proposal of Consequences

South Africa provided a detailed overview of legal consequences arising from Israel’s violations of international law. These include that Israel must immediately comply with its international obligations under the UN Charter, in particular, with the principles of the United Nations elaborated on in Articles 2(2), 2(5), 4(1), 104 and 105, and that “Israel must uphold the privileges and immunities of the UN, its agencies, and other international organisations operating in the OPT, as guaranteed under international law and reverse its decision to expel or restrict UNRWA or other UN bodies from carrying out their mandated activities”.¹⁸⁹

Israel must allow and facilitate the unhindered provision of essential supplies, including food, water, medical aid, and other humanitarian assistance, for the survival of the Palestinian civilian population,¹⁹⁰ and “cease and desist from denying Palestinians their rights under international humanitarian law and international human rights law; return property that has been seized from them, as well as facilitate the return of Palestinians who have been evicted from their homes,

187 Written Statement of the Islamic Republic of Pakistan, para 304.6. <<https://www.icj-cij.org/sites/default/files/case-related/196/196-20250227-wri-03-00-en.pdf>>.

188 Slovenia, para 29.

189 South Africa, para 294.

190 South Africa, para 296.

lands, cities, and villages, including their descendants”,¹⁹¹ immediately rescind its legislation and measures which constitute a breach of Article 3 of CERD,¹⁹² and:

Israel must immediately comply with the Court’s provisional measures Orders in *South Africa v Israel*, and various Resolutions of the General Assembly and Security Council in relation to its actions in Gaza and in the West bank. Israel must halt its commission of genocide, and act to fully prevent and punish genocide.¹⁹³

South Africa’s view is that the UN is under a duty not to recognise Israel’s internationally wrongful acts, such as its unlawful eviction of UNRWA from East Jerusalem, its unlawful occupation, annexation, system of racial discrimination and apartheid, and, operating within the framework of international humanitarian law, human rights law, and relevant General Assembly and Security Council Resolutions, that the UN “and its agencies, including UNRWA, must continue to provide aid, essential services, and development assistance to Palestinians in the OPT, despite Israeli restrictions”.¹⁹⁴ Noting the obligation on the UN and all its member states “to use all means available to them to prevent and punish genocide” South Africa emphasised the obligation to “ensure accountability for the most serious crimes under international law through appropriate, fair and independent investigations and prosecutions at the national or international level, and ensure justice for all victims and the prevention of future crimes”.¹⁹⁵

South Africa laid particular emphasis on Third States obligations, citing obligations “to take measures to end violations of the Geneva Conventions both domestically and internationally but also to prevent the occurrence of these violations”,¹⁹⁶ the obligation, on a basis of means to ensure continued funding for UNRWA so as to enable the Agency to carry out the mandate it is entrusted with by the UN General Assembly,¹⁹⁷ and “to act to fully implement, without delay, General Assembly Resolutions 194 (1948) and 302 (1949) and Security Council Resolution

191 South Africa, para 298.

192 South Africa, para 302.

193 South Africa, para 303.

194 South Africa, para 305.

195 South Africa, para 307.

196 South Africa, para 310.

197 South Africa, para 311.

73 (1949) which affirm the right of Palestinian to return to their homes and live at peace with their neighbours, at the earliest practicable date”.¹⁹⁸

South Africa further observes that Third States must take all necessary steps to ensure that their nationals, companies and entities under their jurisdiction, as well as their authorities, do not act in any way that entails recognition or provides aid or assistance in maintaining the situation created by Israel’s illegal presence in the Occupied Palestinian Territory, or in recognising as lawful or aiding and assisting in Israel’s other wrongful acts in the Occupied Palestinian Territory,¹⁹⁹ and that they are further obliged:

[T]o prevent provision or transfer of arms, munitions and related equipment to Israel, in all cases where there is a clear risk that such arms and related items might be used to commit or facilitate violations of humanitarian law, international human rights law, or the prohibition on genocide in compliance with their international obligations and consistent with the Court’s advisory opinion of 19 July 2024 and the UN General Assembly Resolution A/RES/ES-10/24.’²⁰⁰

The South African submission clarifies that:

In light of its continued unlawful occupation, and extensive range of associated wrongful practices and policies, all such equipment used by Israel in its activities in the OPT carries such risk.²⁰¹

198 South Africa, para 312.

199 South Africa, para 314.

200 South Africa, para 315.

201 South Africa, para 316.

Conclusion

This Advisory Opinion will be the third on Palestine in twenty years, in addition to the ICJ's issuance of three sets of provisional measures Orders under the Convention for the Prevention and Punishment of the Crime of Genocide, and against the backdrop of arrest warrants issued against Israeli government officials at the International Criminal Court. While legal affirmation of Palestinian rights, and the endorsement of the law by so many States is welcome, without active enforcement, such legal initiatives will remain but a historical record of the failure of the international community of States.

It is imperative that States and international organisations cease their complicity in Israel's ongoing violations of international law, urgently enforce their legal obligations, and that the ICJ urgently deliver the Advisory Opinion:

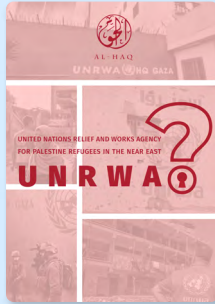
1. Which comprehensively addresses Israel's obligations, as a UN member state and as an unlawful Occupying Power, by reference to all relevant legal sources, including the UN Charter, Provisional Measures Orders of the ICJ, the Convention on the Prevention and Punishment of the Crime of Genocide, customary international law prohibiting racial discrimination and apartheid, Article 3 of the Convention on the Elimination of Racial Discrimination (CERD), international humanitarian law, human rights law, the law of the sea, and the right of self-determination, encompassing the right of return of Palestinian refugees;
2. Which demands a full and immediate cessation of hostilities in Gaza and withdrawal of Israeli forces from all the OPT;
3. Which affirms that the attacks on UNRWA are part of the targeting, fragmentation and destruction of Palestinian refugees and the Palestinian group, denying the right of return and self-determination, and continued appropriation of Palestinian refugee properties, as acts of apartheid, persecution and genocide;
4. Which affirms that while Israel remains in violation of its legal obligations, and its continued presence in the Occupied Palestinian Territory is unlawful, the authority to determine, in accordance with international law, who or what,

may enter, be present, and or leave the Occupied Palestinian Territory, vests exclusively in the Palestinian people and their chosen representatives.

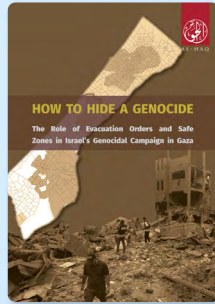
5. Which affirms that the temporal scope of the Advisory Opinion ranges from no later than the date of Israel's membership of the United Nations.
6. Which calls on the UN Security Council to fulfil its mandate and uphold UN Security Council Resolution 2417. This includes: implementing a three-way arms embargo on Israel; mandating the free and unimpeded access of UNRWA, UN agencies generally and other organisations into Gaza, including criminal investigators;
7. Which requests the UN Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel, to specifically investigate Israel's settler colonial apartheid regime since 1948 and its continuing genocidal acts intended to destroy the Palestinian people;
8. Which affirms that the scale and severity of Israel's unlawful conduct constitutes the persistent violation of the principles of the UN Charter.
9. Which affirms the duty upon Third States and international organisations to cooperate to ensure immediate provision of all required aid and assistance for Palestinians, including through the enforcement of international humanitarian and human rights law, and in conformity with the Palestinian right to self-determination.
10. Which affirms that the legal obligations, for Israel, for Third States and for international organisations, flowing from the legal consequences arising from Israel's internationally wrongful conduct, including through its manufacture of genocidal famine, must at a minimum include the immediate expulsion of Israel from the UN General Assembly under Article 6 of the UN Charter.

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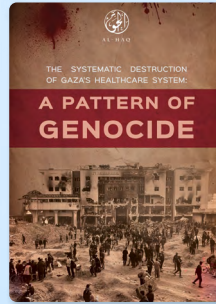
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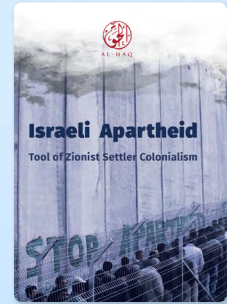
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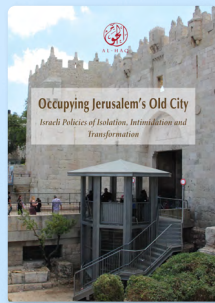
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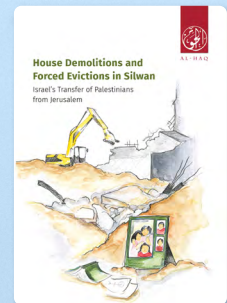
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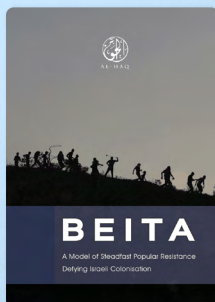
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About Al-Haq

Al-Haq is an independent Palestinian non-governmental human rights organisation based in Ramallah in the Occupied Palestinian Territory (OPT). Established in 1979 to protect and promote human rights and the rule of law in the OPT, the organisation has special consultative status with the United Nations Economic and Social Council.

Al-Haq documents violations of the individual and collective rights of Palestinians in the OPT, irrespective of the identity of the perpetrator, and seeks to end such breaches by way of advocacy before national and international mechanisms and by holding the violators accountable. Al-Haq conducts research; prepares reports, studies and interventions on the breaches of international human rights and humanitarian law in the OPT; and undertakes advocacy before local, regional and international bodies. Al-Haq also cooperates with Palestinian civil society organisations and governmental institutions in order to ensure that international human rights standards are reflected in Palestinian law and policies. Al-Haq has a specialised international law library for the use of its staff and the local community.

Al-Haq is the West Bank affiliate of the International Commission of Jurists - Geneva, and is a member of the Euro-Mediterranean Human Rights Network (EMHRN), the World Organisation Against Torture (OMCT), the International Federation for Human Rights (FIDH), Habitat International Coalition (HIC), ESCR-Net - The International Network for Economic, Social and Cultural Rights, the Palestinian Human Rights Organizations Council (PHROC), and the Palestinian NGO Network (PNGO). In 2018, Al-Haq was a co-recipient of the French Republic Human Rights Award, whereas in 2019, Al-Haq was the recipient of the Human Rights and Business Award. In 2020, Al-Haq received the Gwynne Skinner Human Rights Award presented by the International Corporate Accountability Roundtable (ICAR) for its outstanding work in the field of corporate accountability. Al-Haq was awarded the prestigious Bruno Kreisky Prize and the MESA Academic Freedom Award in 2022.

