

CR 2025/8

International Court
of Justice

THE HAGUE

Cour internationale
de Justice

LA HAYE

YEAR 2025

Public sitting

held on Wednesday 30 April 2025, at 3 p.m., at the Peace Palace,

President Iwasawa presiding,

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

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

VERBATIM RECORD

ANNÉE 2025

Audience publique

tenue le mercredi 30 avril 2025, à 15 heures, au Palais de la Paix,

sous la présidence de M. Iwasawa, président,

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

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

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

 Registrar Gautier

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

M. Gautier, greffier

The Government of the Republic of Türkiye is represented by:

HE Mr Nuh Yılmaz, Deputy Minister for Foreign Affairs,

HE Mr Selçuk Ünal, Ambassador of the Republic of Türkiye to the Kingdom of the Netherlands,

Mr Cüneyt Yüksel, Chairman of the Justice Commission of the Turkish Grand National Assembly,
Member of Parliament,

Mr Emirhan Yorulmazlar, Head of Department, Ministry of Foreign Affairs,

Mr İsmail Emrah Karayel, Co-Chair of the Türkiye and European Union Joint Parliamentary
Commission of the Grand National Assembly of Türkiye, Member of Parliament,

Mr Cahit Özkan, member of the Constitutional Commission of the Grand National Assembly of
Türkiye, Member of Parliament,

Ms Gül Etkin, Chief of Section, Ministry of Foreign Affairs,

Mr Abdullah Ömeroğlu, Justice Counsellor, Embassy of the Republic of Türkiye in the Kingdom of
the Netherlands,

Mr Sadık Can Perinçek, Third Secretary, Embassy of the Republic of Türkiye in the Kingdom of the
Netherlands,

Mr Mehmet Tuncer, Attaché, Embassy of the Republic of Türkiye in the Kingdom of the
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of Foreign Affairs,

HE Mr Hadi Farajvand, Ambassador of the Islamic Republic of Iran to the Kingdom of the
Netherlands,

Mr Abbas Bagherpour Ardakani, Director General for International Legal Affairs, Ministry of
Foreign Affairs,

Mr Hamid Ebrahimi, Counsellor, Embassy of the Islamic Republic of Iran in the Kingdom of the
Netherlands,

Mr Ali Garshasbi, Legal Expert, Department of International Legal Affairs, Ministry of Foreign
Affairs.

Le Gouvernement de la République de Türkiye est représenté par :

- S. Exc. M. Nuh Yılmaz, vice-ministre des affaires étrangères,
- S. Exc. M. Selçuk Ünal, ambassadeur de la République de Türkiye auprès du Royaume des Pays-Bas,
- M. Cüneyt Yüksel, président de la commission de la justice de la Grande Assemblée nationale turque, membre du Parlement,
- M. Emirhan Yorulmazlar, chef de département, ministère des affaires étrangères,
- M. İsmail Emrah Karayel, coprésident de la commission parlementaire mixte de la Türkiye et de l'Union européenne de la Grande Assemblée nationale turque, membre du Parlement,
- M. Cahit Özkan, membre de la commission constitutionnelle de la Grande Assemblée nationale turque, membre du Parlement,
- M^{me} Gül Etkin, cheffe de service, ministère des affaires étrangères,
- M. Abdullah Ömeroğlu, conseiller sur les questions de justice, ambassade de la République de Türkiye au Royaume des Pays-Bas,
- M. Sadık Can Perinçek, troisième secrétaire, ambassade de la République de Türkiye au Royaume des Pays-Bas,
- M. Mehmet Tuncer, attaché, ambassade de la République de Türkiye au Royaume des Pays-Bas.

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- S. Exc. M. Hadi Farajvand, ambassadeur de la République islamique d'Iran auprès du Royaume des Pays-Bas,
- M. Abbas Bagherpour Ardakani, directeur général des affaires juridiques internationales, ministère des affaires étrangères,
- M. Hamid Ebrahimi, conseiller, ambassade de la République islamique d'Iran au Royaume des Pays-Bas,
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Mr Marcelo Kohen, Emeritus Professor of International Law, Geneva Graduate Institute of International and Development Studies, titular member of the Institut de droit international,

Mr Eirik Bjorge, Professor of Law, University of Bristol,

Mr Alfredo Crosato Neumann, Assistant Professor of International Law, Kadir Has University, Istanbul, member of the Lima Bar.

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Mr Ibrahim Al-Dai, First Secretary, Chargé d'affaires, Embassy of the State of Kuwait in the Kingdom of the Netherlands,

Mr Jaber Al-Sabah, Third Secretary, Embassy of the State of Kuwait in the Kingdom of the Netherlands.

The Government of the Grand Duchy of Luxembourg is represented by:

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HE Mr Mike Hentges, Ambassador of the Grand Duchy of Luxembourg to the Kingdom of the Netherlands,

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M. Eirik Bjorge, professeur de droit à l'Université de Bristol,

M. Alfredo Crosato Neumann, professeur adjoint de droit international à l'Université Kadir Has d'Istanbul, membre du barreau de Lima.

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S. Exc. M. Mike Hentges, ambassadeur du Grand-Duché de Luxembourg auprès du Royaume des Pays-Bas,

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M^{me} Charlotte Touzeau-Menoni, conseil, conseillère juridique à l'ambassade du Grand-Duché de Luxembourg auprès du Royaume des Pays-Bas.

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

The Court meets this afternoon to hear Türkiye, the Islamic Republic of Iran, Jordan, Kuwait and Luxembourg on the question submitted by the General Assembly. Each of the delegations has been allocated 30 minutes for its presentation. The Court will observe a short coffee break after Jordan's presentation.

I shall now give the floor to the delegation of Türkiye. I call Dr Nuh Yılmaz to the podium. You have the floor, Sir.

Mr YILMAZ:

STATEMENT OF THE REPUBLIC OF TÜRKİYE

1. Mr President, before I proceed with my statement, I would like to extend my sincere congratulations to you on your election as the President of the Court.

2. Mr President, distinguished Members of the Court, we appear before you today to deliver our oral submission, a year after our testament on the legal consequences of Israel's occupation of Palestinian territories.

3. On 19 July 2024, this respected Court issued an Advisory Opinion, stating that Israel's continued presence in the Occupied Palestinian Territory, including East Jerusalem, was illegal and that Israel was under an obligation to bring this unlawful occupation to an end as rapidly as possible.

4. On 19 September 2024, UNGA adopted resolution ES-10/24, endorsing the Advisory Opinion of the ICJ. This resolution underlined that all States are under an obligation not to recognize as legal the situation arising from the unlawful presence of Israel in the OPT and not to render aid or assistance in maintaining the situation created by the continued presence of Israel in the OPT.

5. The Court's past orders, provisional measures and advisory opinions have consistently recorded the unlawful acts of the State of Israel and called on Israel to comply with international law.

6. The reason we appear once again before the Court is Israel's sustained breach of its international obligations, which have been further aggravated since October 2023. We have been confronted with a war of unprecedented scale against civilians in Gaza. The Israeli aggression is spilling over to the West Bank and also to neighbouring countries, above all Lebanon and Syria.

7. The international community has gravely failed to halt the Israeli aggression and the loss of tens of thousands of innocent lives in Gaza, mostly women and children.

8. Initially, the ceasefire agreement of 15 January brought much-awaited relief for both sides. The release of Israeli hostages and more than 1,700 Palestinian detainees, the entry of humanitarian aid, and the reopening of return routes to northern Gaza for the displaced revived Palestinian hopes for an end to this unprecedented suffering.

9. Yet, the agreement was later nullified by Israeli non-compliance. Israel once again opted for hostility instead of peace.

10. In its current form, the Israeli aggression continues unabated, with grand schemes for the depopulation of Gaza, the annexation of the West Bank, the enlargement of illegal settlements and the deportation of 2.4 million Palestinian refugees in Gaza to third countries.

11. The people in Gaza are again under a blockade, this time with zero entry of humanitarian aid. Collective punishment is enforced in the name of forcing Hamas to return the hostages. Israel uses hunger as a weapon. Israel sweeps hundreds of thousands of displaced people from one place to another within minutes of evacuation orders. Israel targets houses, hospitals, schools, shelters, camps, safe zones and all remaining civilian infrastructure. Most recently, Israel blew up the Turkish-Palestinian Friendship Hospital, Gaza's only specialized cancer treatment hospital, as well as an adjacent medical school on 21 March.

12. Where there is no law enforced to stop Israel, there is chaos, anarchy and mass killings amounting to genocide in Gaza, which appears imminent to be replicated in the West Bank without immediate international intervention.

13. According to the United Nations, in the West Bank, more than 50,000 people have been displaced following Israeli military operations against the Jenin camp, which expanded to the Tulkarm, Nur Shams and El Far'a camps. Israeli Minister of Defense Israel Katz has declared that the military will remain in these camps throughout the coming year and that the residents will not be allowed to return.

14. Mr President, esteemed Members of the Court, UNGA adopted resolution 79/232 on 19 December 2024, requesting the ICJ to render an advisory opinion, based on Article 96 of the UN Charter and Article 65 of the Statute of the Court.

15. This resolution sought an advisory opinion from the ICJ to clarify Israel's obligations as an occupying Power and as a UN Member, 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 OPT.

16. Türkiye submitted a written statement pursuant to the Court's Order of 27 February 2025, in accordance with Article 66, paragraph 2, of the Statute of the ICJ.

17. Türkiye's support for this request underscores its commitment to ensuring that Israel adheres to its international obligations. Among these obligations is the responsibility to allow unimpeded access to humanitarian aid, essential supplies and basic services for the Palestinian civilian population in the OPT. Additionally, Israel is required to facilitate the work of international organizations. As a UN Member, Israel must act in good faith to fulfil its obligations under the Security Council and UNGA resolutions, which include compliance with the UN Charter and the requirement to implement UN Security Council resolutions.

18. Türkiye's position is anchored in key international legal instruments, including the UN Charter, international humanitarian law and international human rights law.

19. Several principles are particularly relevant in evaluating Israel's obligations in the OPT. Under Articles 2 (3) and 2 (4) of the UN Charter, all Member States, including Israel, are obliged to resolve disputes peacefully and refrain from the threat or use of force. These obligations extend to co-operating with the United Nations in maintaining global peace and security, ensuring that international norms are upheld.

20. The privileges and immunities granted to the United Nations, its agencies and personnel are essential for ensuring their independent and impartial functioning. They stem from the 1946 Convention on the Privileges and Immunities of the United Nations. Türkiye underlines their importance, particularly in the context of humanitarian operations in the OPT. The inviolability of UN organizations is crucial for their ability to assist the Palestinian refugees effectively.

21. Israel, as the occupying Power in the OPT, is bound by the Fourth Geneva Convention of 1949, which stipulates the protection and welfare of civilians under occupation. These obligations include ensuring that humanitarian aid reaches the Palestinian population without obstruction, respecting the presence and work of the United Nations, international organizations and third States

providing aid, and upholding the rights of Palestinians under international humanitarian and human rights law. Türkiye maintains that Israel's compliance with these obligations is necessary for achieving peace and stability in the region.

22. The basis for responding to the questions brought before the Court for an advisory opinion is the State of Israel's UN membership, which is yet to be accorded to the State of Palestine as per foundational UN resolutions.

23. During the 207th plenary meeting of the United Nations in 1948, Moshe Sharett, the Israeli Foreign Minister of the time, reaffirmed Israel's commitment to the United Nations principles, emphasizing peace, co-operation with neighbouring Arab States and adherence to international obligations. Israel assured that its policies aligned with the UN Charter and relevant resolutions, leading to its recognition as a peace-loving State willing and able to uphold its obligations.

24. However, despite its commitments, Israel has not implemented UNGA resolutions, obstructed the establishment of a Palestinian State as outlined in UNGA resolution 181 and denied refugees their rights under resolution 194. These violations continue to challenge Israel's adherence to its UN obligations, particularly as more countries recognize Palestine as a State.

25. Article 4 (1) of the UN Charter sets five conditions for membership: being a State, being peace-loving, accepting the Charter's obligations, having the ability to carry them out and demonstrating willingness to do so. The ICJ affirmed these criteria in an advisory opinion, underscoring that UN membership requires continuous compliance with the Charter's principles. Failure to uphold these obligations may lead to accountability under international law.

26. UNGA and UNSC resolutions stress the need for States to protect UN personnel and facilities, particularly in conflict zones. UNGA resolution 57/337 (2003) reaffirmed the safety of UN personnel, while UNSC resolution 1502 (2003) condemned attacks against them as violations of international law. Additionally, UNSC resolution 2286 (2016) specifically condemned attacks on medical personnel and facilities during armed conflicts, urging Member States to safeguard humanitarian actors. Furthermore, the 1946 Convention on the Privileges and Immunities of the United Nations explicitly guarantees the inviolability of UN premises, archives and assets, ensuring the Organization's ability to operate independently and fulfil its mandate.

27. Under the Geneva Conventions (1949), which both Israel and Palestine are parties to, civilians and humanitarian personnel must be protected during conflicts. Common Article 3 stipulates humane treatment for those not actively engaged in hostilities, including UN staff. The ICJ has ruled that the Geneva Conventions apply to all occupied territories, rejecting Israel's claim that they do not apply *de jure* to the OPT.

28. Articles 104 and 105 of the UN Charter further reinforce the legal protections afforded to the United Nations, granting it legal personality and ensuring its ability to function without State interference. Israel, as a party to the 1946 Convention, is obliged to respect these provisions. Moreover, Article 2 (5) of the Charter requires Israel to assist the United Nations in its activities, rather than to obstruct them.

29. Israel, having ratified these provisions without reservations, is legally bound to respect UN premises, personnel and missions. These privileges are granted to ensure that the United Nations can effectively carry out its mandate.

30. Despite these obligations, Israel has restricted access of UN personnel in the OPT, including East Jerusalem. The Independent International Commission of Inquiry on the OPT has reported Israeli non-cooperation in UN investigations, blocking entry of officials and medical professionals. The Special Rapporteur on the situation of human rights in the OPT noted that Israel's refusal to grant access to UN investigators may constitute obstruction of justice. The Office of the High Commissioner for Human Rights (OHCHR) has also reported that Israel denies visas to international staff working in the OPT.

31. The ICJ has emphasized the importance of UN immunity and the obligation of States to respect and protect UN personnel. The 1949 Advisory Opinion on the *Reparation for Injuries Suffered in the Service of the United Nations* affirmed that attacks on UN agents hinder the Organization's mission and constitute violations of international law. The ICJ recognized the United Nations' right to claim reparations for injuries suffered by its personnel and upheld the "principle of implied powers", which allows the United Nations to take necessary actions to fulfil its duties, even if not explicitly stated in the Charter.

32. As of 17 September 2024, it was reported that Israeli authorities stopped issuing visas to heads and staff of the international NGO community. As the UNRWA Commissioner-General has underlined,

“The Government of Israel has been phasing out representation from humanitarian organizations or those engaged in reporting on the atrocities of this war and the impact on civilians. As humanitarian needs continue to increase, we need more humanitarian workers, not less. The opposite is now happening.”

33. In fact, this came on top of the ongoing entry ban of international media to report freely from inside Gaza, at a time when also a number of senior UN officials are not given permission to visit Gaza and/or are prevented to travel to the West Bank, including East Jerusalem. Among these senior UN officials is UN Secretary-General António Guterres, who was declared *persona non grata* by Israel on 2 October 2024 and banned from entering the country and effectively the OPT.

34. The unilateral decision of the Israeli Government to completely stop the transfer of humanitarian aid to Gaza as of 2 March 2025, constitutes a form of collective punishment against all civilians in Gaza. This action goes against Israel’s obligations as the occupying Power in Gaza, as outlined in the Fourth Geneva Convention, to ensure access to humanitarian assistance.

35. This policy of collective punishment has been reconfirmed in a written statement issued on 16 April 2025 by the Minister of Defence of Israel, stating that the blockade on aid to Gaza will be maintained in order to exert pressure on Hamas to release the remaining hostages. Additionally, several Israeli ministers have reiterated their harsh rhetoric calling for the policy of no aid in Gaza until the release of hostages.

36. The Israeli Knesset voted on 19 February 2025 to approve in a preliminary reading the amendments to the Associations Bill. The said amendment stipulates that organizations receiving any funding from foreign entities and are not budgeted by the State of Israel, will be subject to an 80 per cent tax on every donation received from such a foreign source. The draft bill essentially aims to cut international donations destined for Palestinians in the OPT.

37. The Israeli failure to implement its international obligations has been most flagrant in its long-time targeting of UNRWA and its public services to Palestinian refugees.

38. The Agency was established through UNGA resolution 302 (IV) in 1949 as a subsidiary UN body tasked with providing essential services and humanitarian assistance to Palestinian refugees

across its operational territories, including the OPT, encompassing East Jerusalem. Following the 1967 conflict, Israeli authorities formally requested UNRWA's continued presence in these territories through the Comay-Micheltmore Agreement.

39. Despite its critical humanitarian role, UNRWA has faced significant challenges due to Israeli policies and actions that have hindered its operations. These include movement restrictions on UNRWA personnel, arbitrary arrests, military operations targeting UN facilities, and the blockade on Gaza. UNRWA has documented incidents where Israeli forces have violated the Agency's neutrality and inviolability, including attacks on its facilities and personnel. For example, in 2009, Israel bombed UNRWA's compound in Gaza, destroying humanitarian supplies. In 2013, an UNRWA staff member was killed by Israeli forces in the West Bank.

40. According to OCHA, as of 15 April 2025, at least 417 aid workers, including 294 UN staff, have been killed.

41. These, combined with Israel's approach toward UNRWA since the events of 7 October 2023, represent an unprecedented attack to the immunity and privileges of the United Nations and severely restrict humanitarian aid to Gaza and the West Bank.

42. Furthermore, these actions violate multiple international legal instruments, including the Fourth Geneva Convention, which obliges an occupying Power to ensure humanitarian assistance and basic services to the civilian population. The International Court of Justice has also issued provisional measures requiring Israel to allow humanitarian aid into Gaza, which Israel's actions directly undermine.

43. Regarding the situation in Gaza, Israel's legislative actions further violate the three sets of provisional measures ordered by the International Court of Justice in the case of *South Africa v. Israel* (26 January, 28 March and 24 May 2024).

44. The said Orders specifically required Israel to desist from actions creating conditions calculated to bring about the physical destruction of the protected Palestinian population and to facilitate unfettered humanitarian assistance to Gaza.

45. The prohibition of UNRWA operations in Gaza, given the Agency's status as the primary provider of humanitarian assistance to the civilian population, is a violation of the provisional measures and a conduct potentially constituting the destruction of Palestinians as a protected group.

46. UNGA resolution 76/78 (2021) and previous resolutions have condemned attacks on UNRWA facilities and reaffirmed the inviolability of UN premises. The Security Council has also passed resolutions urging Israel to respect international law and ensure humanitarian access. Furthermore, the United Nations Secretary-General has reiterated Israel's obligations under the 1946 General Convention on Privileges and Immunities, emphasizing that UNRWA's operations must be protected.

47. While barring UNRWA operations, Israel has failed to provide any alternative humanitarian mechanism for the 2.4 million Palestinian refugees in the OPT. Under Article 55 of the Fourth Geneva Convention, Israel is legally bound to ensure access to food, water and medical care. However, reports from international bodies, including the United Nations Human Rights Council and the Independent International Commission of Inquiry, document systematic Israeli violations of these obligations.

48. The killing of a Turkish-American national, Ayşenur Ezgi Eygi, in the occupied West Bank during peaceful protests, further highlighted the grave risks faced by humanitarian aid volunteers in the OPT.

49. Mr President, distinguished Members of the Court, today we appear before the International Court of Justice to make a plea for justice, which in this case means peace and security for both Palestinians and Israelis. We seek to remain within the boundaries of the questions posed to the Court by UNGA.

50. It is of grave concern that since the submission of our written statement in late February, Israeli aggression has once again flared up.

51. According to UNRWA, since the collapse of the ceasefire in Gaza following the Israeli aerial strikes in Gaza on the night of 17-18 March 2025, intense military activities and assaults have continued, killing and injuring hundreds of people and further damaging and destroying what remains of civilian infrastructure, including hospitals.

52. Over 180 children were reported killed on 18 March, marking "one of the highest single-day child death toll over the last year" according to UNICEF.

53. On 19 March, two UN guesthouses were hit in Deir al-Balah (in the Gaza middle areas), killing one team member of the UNOPS and injuring six more UN staff, some of whom sustained life-altering injuries.

54. Humanitarian aid and supplies have not entered the Gaza Strip since 2 March, when the Israeli authorities reimposed a siege. This siege has now lasted over eight weeks, surpassing the duration of the total siege imposed in October 2023 when hostilities first started. As a result, critical humanitarian supplies, including food and medical aid, have been rapidly depleting.

55. Israel's imposed restrictions on aid delivery to Gaza, which have proven particularly deadly for children, could have been prevented had UNRWA maintained its full operations throughout Gaza and the occupied Palestinian territories.

56. In the West Bank, the large-scale operation of the Israeli forces that started in the Jenin camp and other areas in the north on 21 January 2025 is ongoing, making it by far the single longest operation of the Israeli forces in the West Bank since the second intifada and causing the largest population displacement since the 1967 war.

57. Against this backdrop, two developments are particularly concerning for the International Court of Justice's mandate to provide an advisory opinion.

58. First, due to the unbearable Israeli attacks on Gaza, which also target UN humanitarian workers, the United Nations Secretary-General "has taken the difficult decision to reduce the Organization's footprint in Gaza". This is a blow to international efforts to restore Israel's international obligations in the OPT.

59. Second, on 23 March 2025, eight Palestinian medics along with six Civil Defense first responders and a UN staff member were killed by Israeli forces in southern Gaza. Five ambulances, a fire truck and a UN vehicle were struck "one by one" in the al-Hashashin area and their bodies were recovered from a mass grave. Even worse, the preliminary investigations point to deliberate executions at point blank. This was yet another instance of Israel's deliberate attack on humanitarian aid workers and UN personnel. Humanitarian organizations demanded accountability, calling the attack a war crime. The United Nations and aid groups have urged an investigation, emphasizing the protection of medics in conflict zones.

60. Türkiye is deeply concerned about Israel's persistent non-compliance with its obligations under international law. On top of its incessant crimes against the Palestinian people, Israel's obstruction of humanitarian aid, targeting of UN facilities and harassment of UN personnel not only exacerbate the suffering of the Palestinian people, but also compromise the rules-based multilateral system, undermine the credibility of the international legal order and seriously weaken the effectiveness of international bodies such as the United Nations and legal instruments such as the Fourth Geneva Convention. Such actions must be addressed by the international community urgently to ensure accountability and justice.

61. Therefore, Türkiye respectfully requests the ICJ to issue an advisory opinion that reaffirms Israel's obligations under international law, paves the way for taking measures to prevent further violations of these obligations and underscores the importance of respecting the presence and activities of the United Nations, other international organizations and third States in the OPT.

62. This Court bears a legal, historical and moral responsibility to reaffirm Israel's obligations under international law and the illegality of actions taken against the United Nations and its agencies including UNRWA and other international organizations.

63. Türkiye shall remain fully committed to supporting a just and lasting solution to the Israeli-Palestinian conflict. Thank you.

The PRESIDENT: I thank the representative of Türkiye for his presentation. I now invite the next participating delegation, the Islamic Republic of Iran, to address the Court and I call upon His Excellency Mr Kazem Gharibabadi to take the floor.

Mr GHARIBABADI:

INTRODUCTION

1. Mr President, Members of the Court, it is indeed an honour to appear before you on behalf of the Islamic Republic of Iran. The Holy Quran says:

“That is why We decreed for the Children of Israel that whoever kills a soul, without [its being guilty of] manslaughter or corruption on the earth, is as though he had killed all mankind, and whoever saves a life is as though he had saved all mankind.”
(Holy Quran, Surah 5: Ayah 32.)

2. As the principal judicial organ of the United Nations, this honourable Court is, once again, called upon to address fundamental yet persistently overlooked rights of the Palestinian people. These include the right to urgently needed supplies essential to their survival as well as of basic services and humanitarian and development assistance, the right to humanitarian access and basic necessities of life as referred to in the question put to the Court as per General Assembly resolution of 19 December 2024. However, as *we do not deem the Israeli occupying régime a legitimate Member of the United Nations due to the illegality of its formation*, we focus on violations of the Israeli régime in light of its prolonged occupation of Palestine and ongoing genocide particularly in Gaza.

3. As a preliminary remark, given Article 96 of the UN Charter, Article 65 (1) of the Statute of the Court and the Court's jurisprudence, we submit that the jurisdiction of the Court is evident and that there are no compelling reasons for the Court not to exercise its jurisdiction.

THE HUMANITARIAN CRISIS IN GAZA AND THE URGENCY TO PREVENT GENOCIDE

4. Mr President, it is too late! All the evidence points unequivocally to genocide. The window, if any, to stop the ongoing genocide in Gaza is rapidly closing. The question before the Court does not concern an ordinary armed conflict. It deals with a genocidal situation and as such it requires a response to address its specific circumstances. The Court has already decided in its Orders on provisional measures more than one year ago that the Israeli occupying régime must, among others, "take all measures within its power to prevent the commission of all acts within the scope of Article II of [the] Convention"¹, and to 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, including food, water, electricity, fuel, shelter, clothing, hygiene and sanitation requirements, as well as medical supplies"².

One year past, the prolonged recalcitrance of the genocider and inaction of the international community, at this juncture, constitutes an absolute moral and legal failure.

¹ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel), Provisional Measures, Order of 26 January 2024, I.C.J. Reports 2024*, p. 30, para. 86 (1).

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

5. According to latest reports, around 52,000 Palestinians have been killed as martyrs and over 123,000 wounded since October 2023³ — a toll that rises daily — and a direct result of pursuing the declared policy of dehumanization by the Israeli occupying régime. These are not mere numbers; they represent innocent children, women, the elderly and families — an entire nation under siege, being systematically decimated.

6. As these proceedings unfold, OCHA reports that *no aid* has entered Gaza since 2 March⁴, medical supplies are rapidly depleting, including critical stocks for maternal and child health, as the number of aid workers killed since October 2023 has reached 412⁵. Meanwhile, UNRWA and other humanitarian actors face systemic obstruction in delivering aid.

7. The disaster is currently so frustrating that on 7 April, the heads of OCHA, UNICEF, the UN Office for Project Services (UNOPS), UNRWA, the World Food Programme (WFP), the World Health Organization (WHO) and the International Organization for Migration (IOM) issued an urgent appeal to world leaders to act firmly and urgently to save Palestinians in Gaza, with a high-level United Nations official saying that “we are being deliberately blocked from saving lives in Gaza, and so civilians are dying”⁶. How much more must the world witness before recognizing the genocidal intent behind these atrocities, including the infliction of severe bodily and mental harm, the deliberate imposition of conditions calculated to bring about Palestinians’ physical destruction?

8. All the aforementioned is just a fraction of the decades-long Israeli régime’s crimes in Palestine. Dozens of United Nations resolutions, reports and decisions — alongside the dicta of this Court in numerous advisory and contentious proceedings — have affirmed the illegality of occupation and the imperative of unimpeded humanitarian access. Yet these rulings and appeals have gone unheeded, as inhumane acts persist with devastating consequences; this totality of actions has, in our view, created a *sui generis* situation, demanding an equally *sui generis* response specifically

³ OIC Condemns Continued Genocide; Urges International Community to Assume Its Responsibility to Stop Israeli Occupation’s Crimes, <https://new.oic-oci.org/SitePages/NewsDetail.aspx?Item=2743>, last visited on 22 April 2024.

⁴ United Nations Office for the Coordination of Humanitarian Affairs (OCHA), “Humanitarian Situation Update #278 | Gaza Strip”, 8 April 2025; available at: <https://www.ochaopt.org/content/humanitarian-situation-update-278-gaza-strip>; last visited on 14 April 2025.

⁵ *Ibid.*

⁶ *Ibid.*

tailored to end the prolonged occupation, stop the genocide, save lives, secure the right to self-determination of Palestinians and bring criminals to justice.

9. Mr President, Members of the Court, in our oral statement today, we submit that:

- (1) obstruction of humanitarian aid constitutes a violation of international humanitarian law;
- (2) it further violates Palestinians' fundamental rights;
- (3) commission of international crimes both contribute to and result from obstruction of humanitarian access; and we finally submit that
- (4) the United Nations, other international organizations and third States are under an obligation to ensure Palestinians' access to humanitarian aid.

10. Meanwhile, given the unprecedented gravity of the ongoing genocide, our arguments will demonstrate a clear nexus between obstruction of humanitarian aid and its human consequences and the international community's obligation to prevent genocide.

I. Blocking humanitarian access is a violation of international humanitarian law

11. Mr President, Members of the Court, as an occupying Power, the Israeli occupying régime has systematically and repeatedly obstructed access to civilian populations in flagrant violation of international humanitarian law, including provisions of the Hague Regulations (1907) as well as the Fourth Geneva Convention of 1949. Article 43 of the Hague Regulations, as well as Articles 23, 33, 47, 50, 53, 55 and 56 of the Fourth Geneva Convention, unequivocally account for the obligations of the Israeli occupying régime, including to co-operate with the United Nations, its agencies and bodies, other international organizations and third States, to ensure Palestinians' access to urgently needed supplies essential to their survival.

12. Among these provisions, Article 43 of the Hague Regulations is particularly pertinent, expressly requiring the occupying power to "take all the measures in [its] power to restore, and ensure, as far as possible, public order and safety [of the occupied territory]". Moreover, Article 55 of the Fourth Geneva Convention is explicit in obliging the occupying power to ensure the food and medical supplies of the civilian population.

II. Violation of the Palestinians' fundamental rights by the Israeli occupying régime as a result of blockade of humanitarian access

13. Mr President, Members of the Court, the Palestinian people in Gaza and the West Bank, in particular, have been deprived of the basic necessities essential to their survival, leading to violation of their fundamental human rights to life, water, food and health, among others.

(i) Violation of Palestinians' right to life

14. First and foremost, right to life, especially in Gaza, has become a mirage; killing is occurring on a daily basis. The threshold under Article 2 of the Genocide Convention was crossed a long time ago. With deliberate targeting of civilians all belonging to a group, as well as the deliberate obstruction of humanitarian aid vital for their survival, genocidal intent is beyond evident.

15. Apart from direct deaths, what has been underreported is *indirect deaths* that add significantly to the gravity of the situation in particular in Gaza; according to a recent study, deaths due to traumatic injury in the Gaza Strip between 7 October 2023 and 30 June 2024 reflect an exceptionally high mortality rate, underscoring the urgent need for interventions to prevent further loss of life⁷.

(ii) Violation of Palestinians' right to water

16. Concerning violation of Palestinians' right to water as a result of blocking humanitarian access — apart from scarcity of clean freshwater in Gaza for more than a decade due to destruction of water and sanitation infrastructure — in October 2023, the Israeli occupying régime closed the water pipelines into Gaza and cut off the electricity needed to run the desalination plants that process the brackish water that flows from the coastal aquifer⁸.

17. According to the WHO, poor access to freshwater has resulted in water-related diseases such as hepatitis A, which is typically acquired by consuming contaminated food or water⁹.

⁷ Zeina Jamaluddine, Hanan Abukmail, Sarah Aly, Oona M R Campbell, Francesco Checchi, Traumatic injury mortality in the Gaza Strip from Oct 7, 2023, to June 30, 2024: a capture–recapture analysis, 9 January 2025, [https://doi.org/10.1016/S0140-6736\(24\)02678-3](https://doi.org/10.1016/S0140-6736(24)02678-3), pp. 469-477.

⁸ Hall N, Kirschenbaum A, Michel D. The siege of Gaza's water. Center for Strategic & International Studies, 12 January 2024.

⁹ Abdulrahim R. Sanitation crisis in Gaza spreads disease. *The New York Times*; 24 February 2024. Available from: <https://www.nytimes.com/2024/02/24/world/middleeast/gaza-sanitation-crisis.html>; last visited on 22 April 2025.

18. What has deteriorated the water tragedy in Gaza specifically during the past year has been the brutal devastation of United Nations Structure for Water, Sanitation and Hygiene (WASH) in the Gaza Strip, demonstrating the Israeli occupying régime's direct targeting of humanitarian aid from the United Nations even prior to recent years' strikes¹⁰. The question remains as to how this *cannot* be seen as evidence of genocidal intent by the Israeli occupying régime?

(iii) Violation of Palestinians' right to food

19. As regards Palestinians' right to food, the OCHA announced, in November 2023 already, that Gazans were at a high risk of starvation¹¹, further stating that it was incapable of providing adequate food, water and medical care to meet Gazans' needs¹².

20. As another example, as early as March 2024, a report was released by the Integrated Food Security Phase Classification Famine Review Committee stating that widespread famine would be imminent in Gaza and there would be "a major acceleration of death and malnutrition"¹³. Mr President, Members of the Court, more than a year has passed since this catastrophic phase and the situation has only deteriorated as starvation and wilful obstruction of humanitarian aid cause serious bodily harm to Palestinians, again in contravention of the Genocide Convention.

(iv) Violation of Palestinians' right to health

21. Mr President, Members of the Court, Gaza's health system has also been debilitated by the Israeli régime; at least 627 healthcare workers are known to have been killed, 212 have been arrested and 47 ambulances have been destroyed or damaged through targeted attacks¹⁴. By January 2024,

¹⁰ Perlman B, Collins SM, Van Den Hoek J (2025), Public health implications of satellite-detected widespread damage to WASH infrastructure in the Gaza Strip. PLOS Glob Public Health 5(2): e0004221, 10 February 2025, p. 2, at pp. 7-8, figure 3; <https://doi.org/10.1371/journal.pgph.0004221>.

¹¹ Emma Graham-Harrison, UN Warns of Gaza Starvation as Concerns Rise about Safety in the South, *The Guardian* (Nov. 17, 2023) <https://www.theguardian.com/world/2023/nov/17/gaza-un-starvation-disease#:~:text=The%20UN%20has%20said%20Gaza%27s,out%20communications%20across%20the%20strip>; last visited on 22 April 2025.

¹² *Ibid.*

¹³ Gaza Strip March 2024: Conclusions and Recommendations, Integrated Food Security Phase Classification Famine Review Committee, p. 2 (18 March 2024), https://www.ipcinfo.org/fileadmin/user_upload/ipcinfo/docs/IPC_Famine_Committee_Review_Report_Gaza_Strip_Acute_Food_Insecurity_Feb_July2024_Special_Brief.pdf; last visited on 22 April 2025.

¹⁴ Turfah M. Israel Has Created a Medical Apocalypse in Gaza, 2024. Available: <https://www.thenation.com/article/world/gaza-medical-crisis/>, last visited on 22 April 2025.

the Israeli régime had already bombed every one of Gaza's 12 universities¹⁵ in what may be called "a full-fledged scholasticide"; ironically, at a time when the need for doctors has never been so urgent, no medical student has been able to graduate.

22. What is even more staggering is the often-neglected psychological effects of the Israeli régime's actions on the well-being of civilians in Palestine, and in particular in Gaza. Years of exposure to violence, displacement and loss have led to a burgeoning mental health crisis¹⁶, with chronic stress, PTSD, depression and anxiety becoming endemic, leaving the Gazan children particularly vulnerable¹⁷. The impact of this psychological trauma is profound.

23. In such a crisis, blockade of access to medical care of the United Nations, other international organizations and entities is a blatant disregard for fundamental principles of international law by the Israeli occupying régime, significantly undermining the Palestinians' right to health. This constitutes a literal violation of Article 2 of the Genocide Convention as its terms are breached verbatim by the Israeli occupying régime.

III. Commission of international crimes as a cause and effect of obstruction of humanitarian access

24. Mr President, distinguished Members of the Court, international crimes being committed by the Israeli occupying régime in Palestine have appeared as a cause and effect of obstruction of humanitarian access. These include, among others, genocide, war crimes and crimes against humanity. This pattern is reflected in the ICC Prosecutor's application for arrest warrants against Israeli criminals and the pending proceedings before this honourable Court regarding alleged violations of the Genocide Convention.

25. War crimes have become a routine by the Israeli occupying régime particularly in the Gaza Strip. Attacks against civilians, including United Nations staff, medical personnel, as well as journalists, deliberate targeting of civilian infrastructure and medical facilities, and imposing

¹⁵ Desai C. The war in Gaza is wiping out Palestine's education and knowledge systems. The Conversation, 2024. Available: <http://theconversation.com/the-war-in-gaza-is-wiping-out-palestines-education-and-knowledge-systems-222055>, last visited on 22 April 2025.

¹⁶ Taha AM, Sabet C, Nada SA, Abuzerr S, Nguyen, D. Addressing the mental health crisis among children in Gaza. *Lancet Psychiatry*. 2024;11 (4):249–250. DOI: 10.1016/S2215-0366(24)00036-1.

¹⁷ *Ibid.*

collective punishment on the civilian population are only part of the war crimes committed by the Israeli occupying régime in the last year.

26. According to the United Nations, up to 1.9 million people in Gaza are internally displaced, including people who have been displaced nine or ten times¹⁸. From the perspective of displacement, the present-day ethnic cleansing of Gaza can be compared to the 1948 Nakba of Palestine. This, among others, is a clear instance of crimes against humanity, especially when coupled with obstruction of humanitarian access.

27. More concerning still is the estimate provided by the United Nations and other organizations about increasing numbers of newborns on the brink of death¹⁹. The United Nations highlighted hunger, starvation and famine as the cause of such deaths as a result of extensive restrictions, by the Israeli régime, on the entry and distribution of humanitarian aid and commercial goods, mass population displacement and the destruction of crucial civilian infrastructure²⁰. Such measures are intended to prevent births among Palestinians as an instance of genocide under Article 2 of the Genocide Convention.

28. According to another report by the United Nations Independent International Commission of Inquiry in Palestine²¹, the Israeli régime has perpetrated a concerted policy to destroy Gaza's healthcare system as part of a broader assault in Gaza, which is evidence of commission of the crime against humanity of *extermination*²².

29. Such policies and practices have systematically denied humanitarian access to United Nations agencies and other relief organizations, precluding the delivery of vital assistance to civilians; a pattern appearing both as a cause and effect of obstruction of humanitarian access.

¹⁸ UNRWA Situation Report #118 on the Situation in the Gaza Strip and the West Bank, including East Jerusalem, available at: <https://www.unrwa.org/resources/reports/unrwa-situation-report-118-situation-gaza-strip-and-west-bank-including-east-jerusalem/>; last visited on 22 April 2025.

¹⁹ Gaza: Increasing numbers of newborns on brink of death, agencies warn, 19 March 2024, available at: <https://news.un.org/en/story/2024/03/1147711>; last visited on 22 April 2025.

²⁰ *Ibid.*

²¹ Report of the Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel, contained in document A/79/232, of 11 September 2024.

²² See OHCHR Press release of 10 October 2024, available at: <https://www.ohchr.org/en/press-releases/2024/10/un-commission-finds-war-crimes-and-crimes-against-humanity-israeli-attacks>; last visited on 22 April 2025.

**CONCLUSION: ENSURING HUMANITARIAN ACCESS AS A MINIMAL
OBLIGATION TO STOP GENOCIDE**

30. Mr President, Members of the Court, to conclude, the question put to the Court, on its face, concerns humanitarian access to a civilian population in a situation of armed conflict, however, we are faced with a genocidal situation here; it is indispensable for the Court to opine on humanitarian access to a people targeted by genocidal acts and the ensuing obligations of the international community to stop them.

31. In its Judgment of 26 February 2007 in the case concerning *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro)*, the Court clarified the *content of the duty to prevent genocide* under the Convention. In the Court's opinion, responsibility is incurred "if the State manifestly failed to take all measures to prevent genocide which were within its power, and which might have contributed to preventing the genocide"²³. The Court further considers the first parameter to be "the capacity to influence effectively the action of persons likely to commit, or already committing, genocide"²⁴. In the Court's view,

"a State's obligation to prevent, and the corresponding duty to act, arise *at the instant that the State learns of, or should normally have learned of, the existence of a serious risk that genocide will be committed*. From that moment onwards, if the State has available to it means likely to have a deterrent effect on those *suspected of preparing genocide*, or reasonably *suspected of harbouring specific intent (dolus specialis)*, it is under a duty to make such use of these means as the circumstances permit."²⁵

Mr President, we ask if there *is* a State that has not learned of the existence of a serious risk that genocide would be committed in Gaza. What have those States that are in a position to prevent genocide done to fulfil their duty under the Convention? We regard obstruction of humanitarian aid by the Israeli occupying régime as, among others, evidence of genocidal intent and invite the Court to clarify States' duties to ensure Palestinians' humanitarian access in view of States' obligation to prevent genocide under the Genocide Convention.

32. Having said that, notwithstanding the present proceedings, the rules are clear; obligations of States and international organizations are evident; and the international community has again

²³ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro)*, Judgment, I.C.J. Reports 2007 (I), p. 221, para. 430.

²⁴ *Ibid.*

²⁵ *Ibid.*, p. 222, para. 431; emphasis added.

failed. This is the failure of the United Nations system, the United Nations Member States and that of humanity. This failure has already been registered in the archives of human history, due to and because of supremacy of politics over rule of law!

33. Lastly, this statement shall, in no way, imply our recognition of the Israeli régime. I thank you, Mr President.

The PRESIDENT: I thank the representative of the Islamic Republic of Iran for his presentation. J'invite à présent la délégation de la Jordanie à prendre la parole, et appelle à la barre le professeur Marcelo Kohen. Monsieur, je vous en prie.

M. KOHEN :

**I. « L'OBLIGATION PREMIÈRE D'ISRAËL EST LE RESPECT DU DROIT
DU PEUPLE PALESTINIEN À L'AUTODÉTERMINATION »**

I. Introduction

1. Monsieur le président, Mesdames et Messieurs les juges, c'est un honneur de comparaître devant vous au nom du Royaume hachémite de Jordanie et de ratifier son exposé écrit et ses conclusions, où nous dressons la liste de toutes les obligations d'Israël qui font l'objet de la présente demande d'avis consultatif²⁶.

2. La Jordanie est particulièrement concernée par les questions qui sont débattues ici. Le Royaume hachémite accueille sur son territoire 2 400 000 réfugiés palestiniens enregistrés par l'UNRWA, il est le gardien des lieux saints musulmans et chrétiens de Jérusalem et se trouve en première ligne dans la fourniture d'aide humanitaire à la population du Territoire palestinien occupé. La Jordanie entretient des relations diplomatiques aussi bien avec l'État d'Israël qu'avec l'État de Palestine et œuvre sans relâche pour la paix au Moyen-Orient.

3. Après le dépôt des exposés écrits, la situation s'est dramatiquement aggravée comme conséquence de la rupture du cessez-le-feu, l'interdiction de l'assistance humanitaire à Gaza et les actions israéliennes en Cisjordanie, d'où l'importance et l'urgence de cet avis consultatif.

²⁶ Exposé écrit de la Jordanie, « submissions ».

4. Je vais brièvement aborder la question de l'exercice par votre Cour de la compétence consultative et examiner ensuite l'impact du principe d'autodétermination sur les différents aspects de la question posée par l'Assemblée générale. Mes collègues Eirik Bjorge et Alfredo Crosato aborderont respectivement le droit de l'ONU et l'assistance humanitaire.

II. Rien n'empêche l'exercice par la Cour de sa compétence consultative

5. Monsieur le président, il existe des raisons décisives pour que la Cour exerce sa compétence consultative ; les Nations Unies ont une responsabilité permanente concernant la question palestinienne jusqu'à ce que tous ces aspects soient réglés en conformité au droit international²⁷.

6. Les arguments avancés contre l'exercice de votre compétence ne sont pas fondés, à savoir 1) qu'il existerait un risque de préjugement du fait de l'existence d'une affaire contentieuse pendante, 2) que la question aurait déjà été traitée par la Cour dans son avis de 2024, 3) que la question serait « unidirectionnelle » et éviterait de tenir compte du contexte, 4) que la Cour n'aurait pas les éléments de faits nécessaires²⁸.

7. Il suffira de dire ici que l'affaire *Afrique du Sud c. Israël* concerne exclusivement la convention sur le génocide²⁹, alors que la question posée ici a trait aux obligations d'Israël dans un cadre plus général.

8. La question diffère aussi de celles déjà répondues par la Cour en 2024. L'avis consultatif de l'an dernier fournit des éléments juridiques précieux pour mieux répondre à la question posée maintenant³⁰, qui n'a pas été soulevée par l'Assemblée générale dans sa demande précédente.

9. Si la question se réfère uniquement aux obligations d'Israël, c'est parce que c'est cet État — et pas d'autres — qui occupe le territoire palestinien.

10. La question posée a une portée limitée, elle ne vise pas à aborder l'ensemble des questions liées à la persistance de l'occupation ou à la situation découlant du 7 octobre 2023. L'Assemblée générale tout comme le Conseil de sécurité et votre propre Cour ont déjà exigé la libération

²⁷ *Conséquences juridiques découlant des politiques et pratiques d'Israël dans le Territoire palestinien occupé, y compris Jérusalem-Est, avis consultatif du 19 juillet 2024*, par. 35.

²⁸ Exposé écrit d'Israël, par. 59-70 ; exposé écrit de la Hongrie, par. 12-18.

²⁹ *Application de la convention pour la prévention et la répression du crime de génocide dans la bande de Gaza (Afrique du Sud c. Israël)*.

³⁰ Cf. exposé écrit de la Jordanie, par. 3.4.

immédiate et inconditionnelle des otages détenus à Gaza³¹. Cette situation ne décharge pas Israël du respect de ses obligations en vertu du droit international. Par ailleurs, la question posée porte sur les obligations juridiques et la Cour possède les éléments des faits lui permettant de se prononcer. Si Israël a des griefs contre les Nations Unies ou ses organes, la convention sur les privilèges et immunités des Nations Unies lui donne les moyens nécessaires pour y recourir.

III. Le principe d'autodétermination prime par-dessus tout

11. Monsieur le président, Mesdames et Messieurs les juges, le principe d'autodétermination revêt une importance capitale pour répondre à chacun des éléments de la question posée. En effet, le respect et la mise en œuvre de ce droit par le peuple palestinien sont la toile de fond à partir de laquelle toutes les autres obligations incombant à Israël doivent être interprétées et appliquées. Il exige en outre qu'Israël, dans les circonstances actuelles et conformément à son obligation de ne pas entraver la réalisation de ce droit, adopte toutes les mesures nécessaires et efficaces pour protéger la population civile palestinienne.

12. L'autodétermination étant un principe fondamental du droit international, un droit *erga omnes* et une règle impérative de droit international³², les obligations d'Israël le sont non seulement à l'égard du peuple palestinien, mais aussi par rapport aux compétences des Nations Unies en la matière et à la communauté internationale dans son ensemble. Comme le dit l'article premier commun des deux pactes des droits humains, « [e]n aucun cas, un peuple ne pourra être privé de ses propres moyens de subsistance »³³.

³¹ Résolutions 2712 (2023) et 2720 (2024) du Conseil de sécurité, résolutions ES-10/21 du 27 octobre 2023 et ES-10/22 du 12 décembre 2023 de l'Assemblée générale ; *Application de la convention pour la prévention et la répression du crime de génocide dans la bande de Gaza (Afrique du Sud c. Israël)*, mesures conservatoires, ordonnance du 26 janvier 2024, p. 30, par. 85 ; *Application de la convention pour la prévention et la répression du crime de génocide dans la bande de Gaza (Afrique du Sud c. Israël)*, mesures conservatoires, ordonnance du 28 mars 2024, par. 50.

³² *Conséquences juridiques pour les États de la présence continue de l'Afrique du Sud en Namibie (Sud-Ouest africain) nonobstant la résolution 276 (1970) du Conseil de sécurité*, avis consultatif, C.I.J. Recueil 1971, p. 31, par. 52 ; *Sahara occidental*, avis consultatif, C.I.J. Recueil 1975, p. 31-33, par. 54-59 ; *Différend frontalier (Burkina Faso/République du Mali)*, arrêt, C.I.J. Recueil 1986, p. 566-567, par. 25 ; *Timor oriental (Portugal c. Australie)*, arrêt, C.I.J. Recueil 1995, p. 102, par. 29 ; *Conséquences juridiques de l'édification d'un mur dans le territoire palestinien occupé*, avis consultatif, C.I.J. Recueil 2004 (I), p. 171-172, par. 88 ; *Effets juridiques de la séparation de l'archipel des Chagos de Maurice en 1965*, avis consultatif, C.I.J. Recueil 2019 (I), p. 131-135, par. 144-162 ; *Conséquences juridiques découlant des politiques et pratiques d'Israël dans le Territoire palestinien occupé, y compris Jérusalem-Est*, avis consultatif du 19 juillet 2024, par. 230-234.

³³ [Anglais : « [i]n no case may a people be deprived of its own means of subsistence ».]

13. L'obligation de respecter le droit du peuple palestinien à disposer de lui-même n'admet de la part d'Israël aucune exception. Les pouvoirs que le règlement de La Haye et la convention IV de Genève reconnaissent à la puissance occupante ne peuvent pas être appliqués à l'encontre du droit impératif d'autodétermination³⁴. En temps de conflits armés, seules les règles relatives à la protection de la personne humaine ont été considérées par votre Cour comme des « principes intransgressibles » du droit international coutumier³⁵ et l'occupant doit les respecter. Comme la Cour l'a affirmé, les pouvoirs reconnus à la puissance occupante le sont pour une occupation temporaire, pas pour une occupation prolongée qui constitue *de facto* une annexion permanente en violation du principe d'autodétermination³⁶.

14. Israël a l'obligation de coopérer avec les Nations Unies, les autres organisations internationales et les États tiers pour mettre fin le plus rapidement possible à sa présence illicite dans le Territoire palestinien occupé, afin de permettre le plein exercice du droit du peuple palestinien à l'autodétermination, de cesser toute activité qui empêche cet exercice et d'agir positivement pour le faciliter. Cela inclut l'obligation de respecter son intégrité territoriale, en empêchant toute forme de déplacement de ses composantes et en s'abstenant de tout changement de la composition démographique du territoire, en assurant et en facilitant la fourniture sans entraves des approvisionnements d'urgence essentiels à la survie de la population civile, ainsi que des services de base et de l'aide humanitaire et au développement. Israël a aussi l'obligation de respecter la souveraineté permanente du peuple palestinien sur ses richesses et ressources naturelles et de ne pas entraver les relations diplomatiques, consulaires et autres des États tiers et des organisations internationales avec les autorités palestiniennes.

15. La Knesset a adopté une déclaration indiquant qu'elle s'opposait à la création d'un État palestinien, et ce, un jour avant que votre Cour ne rende son avis consultatif en juillet 2024³⁷. Cette déclaration du Parlement israélien est à nouveau en contradiction flagrante avec le droit du peuple

³⁴ Cf. exposé écrit d'Israël, par. 87 ; exposé écrit des États-Unis d'Amérique, par. 14.

³⁵ *Licéité de la menace ou de l'emploi d'armes nucléaires, avis consultatif, C.I.J. Recueil 1996 (I), p. 257, par. 79.*

³⁶ *Conséquences juridiques découlant des politiques et pratiques d'Israël dans le Territoire palestinien occupé, y compris Jérusalem-Est, avis consultatif du 19 juillet 2024, par. 109, 159-160, 173, 243 et 257.*

³⁷ "Knesset Plenum votes in favour of a declaration stating that parliament opposes the establishment of a Palestinian state", 18 juillet 2024, accessible à l'adresse suivante : <https://main.knesset.gov.il/en/news/pressreleases/pages/press18724w.aspx#>.

palestinien à l'autodétermination. Tous les organes de l'État d'Israël ont l'obligation de respecter ce droit et de ne pas faire obstacle à sa mise en œuvre. En ce sens, l'obligation existe d'abroger toute disposition législative ou administrative visant à empêcher la réalisation du droit à l'autodétermination.

IV. Conclusion

16. Monsieur le président, Mesdames et Messieurs les juges, rien ne justifie le maintien de l'occupation israélienne sur le peuple palestinien qui l'empêche d'exercer son droit à l'autodétermination. La première obligation pertinente est donc celle de respecter ce droit et de cesser sa violation. C'est par le respect strict du droit international et non pas par l'expansionnisme, l'oppression ou la force que l'on peut régler les problèmes. La meilleure garantie pour la paix de tout le Moyen-Orient est la solution à deux États dans le respect de leur indépendance et de leur sécurité³⁸.

17. Je vous remercie de votre attention et vous prie, Monsieur le président, de donner la parole au professeur Eirik Bjorge.

Le PRÉSIDENT: Je remercie le professeur Kohen. I now invite Professor Eirik Bjorge to address the Court. You have the floor, Sir.

Mr BJORGE:

II. ISRAEL'S OBLIGATIONS UNDER THE LAW OF THE UNITED NATIONS

1. Mr President, Members of the Court, it is an honour to appear before you on behalf of Jordan to address Israel's obligations under the law of the United Nations.

2. I make four points: *first*, Israel's obligation to respect the privileges and immunities of the United Nations; *second*, Israel's obligation to give the United Nations every assistance; *third*, Israel's obligation to co-operate with other States; and, *fourth*, Israel's obligations regarding the safety and security of United Nations personnel.

³⁸ Résolutions 1397 (2002), 1515 (2003), 1850 (2008), 1860 (2009), 2334 (2016) et 2720 (2023) du Conseil de sécurité.

Israel's obligations as regards United Nations privileges and immunities

3. *First*: Israel has an obligation to respect the privileges and immunities of the United Nations³⁹.

4. Israel recognized in the Exchange of Letters with UNRWA of 1967 that a number of facilities were “essential” for the Agency to operate effectively⁴⁰. The fact that Israel recognized these facilities as essential indicates that they are, pursuant to Article 105 of the Charter, “necessary for the fulfilment” of UNRWA’s purposes⁴¹.

5. The General Assembly has recalled that “the Agency, as a subsidiary organ of the United Nations, enjoys the benefits of the Convention on the Privileges and Immunities of the United Nations”⁴². The main provisions of the General Convention anyway reflect customary international law⁴³. I will deal with three of these.

6. The immunity from every form of legal process set forth in Section 2 is essential for the independent exercise by UNRWA of its functions⁴⁴.

7. The inviolability of UNRWA premises set forth in Section 3 guarantees that the premises “may not be entered and that the United Nations must itself be permitted to control activities occurring on those premises”⁴⁵.

8. All UNRWA officials enjoy immunity and the privileges set forth in Section 18. The provisions relating to “officials” in the General Convention apply to all staff members, the only exception being those “recruited locally and assigned to hourly rates”⁴⁶. Those criteria are cumulative⁴⁷.

³⁹ Convention on the Privileges and Immunities of the United Nations, 13 February 1946, 1 *UNTS* 15.

⁴⁰ Exchange of Letters Constituting a Provisional Agreement between the United Nations Relief and Works Agency for Palestine Refugees in the Near East and Israel, 14 June 1967, 620 *UNTS* 186.

⁴¹ Written Statement of Pakistan, paras. 135-136.

⁴² General Assembly resolution 1456 (XIV) of 9 December 1959, sixth preambular recital; see also J. Salmon, “L’U.N.R.W.A. Un exemple de décentralisation internationale par service” in *Mélanges offerts à Henri Rolin* (1964), pp. 330-332; *Radicopoulos v. UNRWA* (1957), Vol. 24, *ILR*, p. 684, para. 2 (Madame Bastid, P.; Lord Crook; Petrán; Venkataraman).

⁴³ *United Nations Juridical Yearbook*, 1967, p. 314, para. 11; Special Rapporteur Mr Abdullah El-Erian, *Yearbook of the International Law Commission* 1977, Vol. II, Part One, pp. 151-152, paras. 57-62.

⁴⁴ See e.g. “Brief for the United Nations as *amicus curiae*”, *United Nations Juridical Yearbook*, 1980, p. 232.

⁴⁵ *Yearbook of the International Law Commission*, 1967, Vol. II, p. 227, para. 90.

⁴⁶ General Assembly resolution 76 (I), 7 December 1946.

⁴⁷ Statement made by the Legal Counsel at the 59th meeting of the Fifth Committee of the General Assembly on 1 December 1981, *United Nations Juridical Yearbook*, 1981, p. 162, para. 5.

9. The immunity of UNRWA from every form of legal process⁴⁸ and the inviolability of its premises⁴⁹ are *absolute*. They may not be qualified or overridden by military expediency or national security⁵⁰.

10. Israel has an absolute obligation to respect the privileges and immunities of the United Nations. Israel self-evidently has an obligation, *inter alia*, not to enter UNRWA premises, not to damage or destroy such premises, not to detain UNRWA staff without charge or trial, and not to seek to extirpate the Agency from the Occupied Palestinian Territory.

Israel's obligation to give the United Nations every assistance

11. *Second*: the text of Article 2, paragraph 5, of the Charter is to the effect that Israel has a general obligation to give every assistance to the United Nations⁵¹. State practice⁵² — including that of Israel itself⁵³ — confirms this⁵⁴. The contention by Israel that the obligation relates only to enforcement action taken by the Security Council has no basis in international law⁵⁵. The interpretation for which Israel now contends runs counter to the clear wording of Article 2, paragraph 5, and is inconsistent with the Court's interpretation in the *Reparations* case⁵⁶.

12. Israel has an obligation “to give UNRWA every assistance in any action it takes . . . pursuant to the provisions of the Charter”⁵⁷.

⁴⁸ Legal Opinion of the Office of Legal Affairs, *UN Juridical Yearbook* 1984, pp. 188-189.

⁴⁹ M. de Serpa Soares, 41st Annual Seminar on International Humanitarian Law, 20 March 2024, pp. 3, 11.

⁵⁰ Opinion of the Legal Counsel of the United Nations rendered on 28 November 1988, A/C.6/43/7, para. 4; Legal Opinion of the Office of Legal Affairs, *United Nations Juridical Yearbook*, 2003, p. 522, para. 11; Summary of the report of the United Nations Headquarters Board of Inquiry, A/63/855, S/2009/250, paras. 16, 91.

⁵¹ *Reparation for Injuries Suffered in the Service of the United Nations, Advisory Opinion, I.C.J. Reports 1949*, p. 183; see also Written Statement of France, para. 37; Algeria, p. 18; the Arab League, paras. 165-170; Belgium, paras. 69-71; Chile, paras. 34-35; Malaysia, paras. 85-87; Maldives, paras. 61-64; Mexico, para. 88; Palestine, paras. 5.4-5.6; Saudi Arabia, paras. 54-57; Pakistan, paras. 115-117; Spain, para. 20; Tunisia, para. 57.

⁵² General Assembly, A/PV.923, 22 November 1960, p. 952, para. 39 (India); General Assembly, 4th Committee, A/C.4/SR.1479, 13 November 1963, p. 306, para. 11 (USSR); General Assembly, A/PV.2182, 28 November 1973, p. 4, para. 43 (Ghana); and General Assembly, Special Political Committee, A/SPC/37/SR.38, 29 November 1982, p. 10, para. 36 (Tunisia); see also Respect for the privileges and immunities of officials of the United Nations and the specialized agencies and related organizations, Report of the Secretary-General, 20 October 1983 (A/C.5/38/17), Annex I, p. 27, para. 7; *United Nations Juridical Yearbook*, 2015, p. 294, para. 5.

⁵³ General Assembly, 1439th plenary meeting, A/PV.1439, 12 October 1966, p. 10 (Israel).

⁵⁴ Written Statement of Jordan, para. 3.42.

⁵⁵ Cf. Written Statement of Israel, para. 75.

⁵⁶ *Reparation for Injuries Suffered in the Service of the United Nations, Advisory Opinion, I.C.J. Reports 1949*, p. 183; see also Written Statement of Jordan, paras. 3.40-3.44.

⁵⁷ Identical letters dated 9 December 2024 from the Secretary-General addressed to the President of the General

13. There is a further aspect. Judge Lauterpacht was correct in *Voting Procedure*, where he observed that a State which ignores a series of General Assembly resolutions

“acts at its peril when a point is reached when the cumulative effect of the persistent disregard of the articulate opinion of the Organization is such as to foster the conviction that the State in question has become guilty of disloyalty to the Principles and Purposes of the Charter”⁵⁸.

14. Israel is obliged under the Charter to give “due consideration in good faith”⁵⁹ to the resolutions of the General Assembly. In *Whaling in the Antarctic*, the Court adopted this reasoning in respect of the Whaling Convention⁶⁰. It applies *no less* to the Charter⁶¹. Israel has the obligation to “give due regard”⁶² to General Assembly resolutions, notably those adopted in the Tenth Emergency Special Session⁶³.

Israel’s obligation to co-operate with other States

15. *Third*: one of the purposes of the United Nations is, according to Article 1, paragraph 3, of the Charter, “[t]o achieve international co-operation in solving international problems of [a] . . . humanitarian character”.

16. As Judge El-Erian observed, the principle of international co-operation in Article 1, paragraph 3, is, like the other purposes and principles of the United Nations, a “legal principle” binding on States⁶⁴. The Charter recognizes this in Article 14, to which the Court was taken this

Assembly and the President of the Security Council (A/79/684-S/2024/892); see also the Written Statement of the Secretary-General of the United Nations, para. 186; France, para. 38; Egypt, para. 113; Pakistan, para. 117.

⁵⁸ Separate opinion, Judge Lauterpacht, *Voting Procedure on Questions relating to Reports and Petitions concerning the Territory of South West Africa, Advisory Opinion*, I.C.J. Reports 1955, p. 120.

⁵⁹ *Ibid.*, p. 119; see also separate opinion of Judge Klæstad, p. 88.

⁶⁰ *Whaling in the Antarctic (Australia v. Japan: New Zealand intervening)*, Judgment, I.C.J. Reports 2014, p. 257, para. 83.

⁶¹ A. Pellet, “*Le droit international à la lumière de la pratique : l’introuvable théorie de la réalité*” (2021), Vol. 414, *Recueil des Cours*, pp. 195-197.

⁶² *Whaling in the Antarctic (Australia v. Japan: New Zealand intervening)*, Judgment, I.C.J. Reports 2014, p. 257, para. 83; see also Written Statement of Jordan, para. 3.51.

⁶³ See e.g. General Assembly resolution ES-10/20 of 13 June 2018; ES-10/21 of 27 October 2023; ES-10/22 of 12 December 2023; ES-10/24 of 18 September 2024; ES-10/25 of 11 December 2024; ES-10/26 of 11 December 2024; see also Written Statement of Jordan, paras. 3.95-3.104.

⁶⁴ A. El-Erian, “International Law and the Developing Countries” in *Transnational Law in a Changing Society: Essays in Honor of Philip C. Jessup* (1972), p. 95; see also N. Bentwich and A. Martin, *A Commentary on the Charter of the United Nations* (1950), p. 5.

morning, and which addresses the situation of “a *violation* of the provisions of the present Charter setting forth the purposes and principles of the United Nations”⁶⁵.

17. This obligation to co-operate was developed in greater detail in the Friendly Relations Declaration⁶⁶. Its fourth principle lays down “[t]he duty of States to co-operate with one another in accordance with the Charter”⁶⁷.

Israel’s obligations as to safety and security of United Nations personnel

18. *Fourth*: Israel’s obligations as regards the safety and security of United Nations personnel.

19. Israel has obligations in this regard under the rules of customary international law codified in the Convention on the Safety of United Nations and Associated Personnel⁶⁸. That this Convention codifies customary international law is evident from the fact that the General Assembly adopted it by consensus⁶⁹.

20. Notable in this regard is Israel’s obligation to facilitate the unimpeded transit of UNRWA and other United Nations personnel across its own territory⁷⁰. This obligation includes unimpeded transit from one part of the Occupied Palestinian Territory to another. Israel also has the obligation to ensure the safety and security of United Nations personnel⁷¹, to release detained personnel⁷² and to penalize crimes against them⁷³. Israel has, finally, the obligation not to make UNRWA or other United Nations personnel the object of an attack or any other action that prevents them from discharging their mandate⁷⁴.

⁶⁵ Emphasis added; cf. *Certain Expenses of the United Nations (Article 17, paragraph 2, of the Charter)*, Advisory Opinion, I.C.J. Reports 1962, p. 163.

⁶⁶ General Assembly resolution 2625 (XXV), 24 October 1970.

⁶⁷ *Ibid.*, Annex, fourth principle.

⁶⁸ Convention on the Safety of United Nations and Associated Personnel, adopted by General Assembly resolution 49/59; 9 December 1994, 2051 UNTS 363.

⁶⁹ Cf. *Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970)*, Advisory Opinion, I.C.J. Reports 1971, p. 47, para. 94; see also Written Statement of Jordan, para. 3.106.

⁷⁰ Convention on the Safety of United Nations and Associated Personnel, Art. 5.

⁷¹ *Ibid.*, Art. 7, para. 2.

⁷² *Ibid.*, Art. 8.

⁷³ *Ibid.*, Art. 9.

⁷⁴ *Ibid.*, Art. 7, para. 1.

21. That, Mr President, Members of the Court, concludes my presentation. I thank you and ask that you invite Professor Alfredo Crosato to the podium.

The PRESIDENT: I thank Professor Bjorge. I now give the floor to Professor Alfredo Crosato. Sir, you have the floor.

Mr CROSATO NEUMANN:

III. ISRAEL'S OBLIGATIONS CONCERNING HUMANITARIAN RELIEF

1. Thank you, Mr President, Members of the Court, it is an honour to appear before you on behalf of Jordan. I shall now focus on Israel's obligations concerning humanitarian relief in Gaza.

2. These arise from a variety of sources that include the law of occupation, human rights law, the law on the protection of persons in the event of disasters and this Court's orders on provisional measures.

3. All told, international law requires Israel to provide humanitarian relief to the civilian population of Gaza, a territory which is at present far from adequately supplied — indeed, a humanitarian catastrophe is already unfolding⁷⁵. Where Israel is unable or unwilling to fulfil its duties, it must facilitate relief schemes undertaken by third parties. Time is of the essence, and Israel must do so swiftly and in co-operation with the third parties involved in good faith.

⁷⁵ See, more recently, Statement by UNICEF, 3 March 2025 (<https://www.unicef.org/mena/press-releases/stoppage-humanitarian-aid-deliveries-gaza-strip-unicef-warns-severe-consequences>); Statement by Mr Philippe Lazzarini, UNRWA Commissioner-General, 4 March 2025 (<https://www.unrwa.org/newsroom/official-statements/decision-israel-stop-aid-gaza>); Statement by Mr Muhannad Hadi, Humanitarian Coordinator, OCHA, 10 March 2025 (<https://www.ochaopt.org/content/statement-humanitarian-coordinator-mr-muhannad-hadi-halt-entry-humanitarian-supplies-gaza>); Statement by Mr Philippe Lazzarini, UNRWA Commissioner-General, 10 March 2025 (<https://www.unrwa.org/newsroom/official-statements/press-remarks-unrwa-commissioner-general-philippe-lazzarini-0>); Statement by the ICRC, 10 March 2025 (<https://www.icrc.org/en/news-release/israel-and-occupied-territories-icrc-warns-worsening-humanitarian-crisis-gaza>); Statement by the World Food Programme, 14 March 2025 (<https://www.wfp.org/news/earlier-food-security-gains-gaza-risk-food-insecurity-concerns-grow-west-bank>); Statement by Mr Philippe Lazzarini, UNRWA Commissioner-General, 17 March 2025 (<https://www.unrwa.org/newsroom/official-statements/briefing-unrwa-commissioner-general-philippe-lazzarini-european-parliamentary-committees>); Statement by Ms Catherine Russell, UNICEF Executive Director, 18 March 2025 (<https://www.unicef.org/mena/press-releases/statement-unicef-executive-director-catherine-russell-attacks-gaza>); Statement by Mr Tom Fletcher, Under-Secretary General for Humanitarian Affairs and Emergency Relief Coordinator, 19 March 2025 (<https://www.ochaopt.org/content/statement-gaza-tom-fletcher-under-secretary-general-humanitarian-affairs-and-emergency-relief-coordinator>); Statement by Mr Philippe Lazzarini, UNRWA Commissioner-General, 23 March 2025 (<https://www.unrwa.org/newsroom/official-statements/unrwa-commissioner-general-three-weeks-israeli-authorities-banned-entry>); Statement by Mr Philippe Lazzarini, UNRWA Commissioner-General, 28 March 2025 (<https://www.unrwa.org/newsroom/official-statements/unrwa-commissioner-general-gaza-humanity-its-darkest-hour>); Statement by Mr Philippe Lazzarini, UNRWA Commissioner-General, 3 April 2025 (<https://www.unrwa.org/newsroom/official-statements/unrwa-commissioner-general-gaza-hunger-and-desperation-spread-food-and>); Statement by the World Health Organization, 7 April 2025 (<https://www.emro.who.int/opt/news/healthy-beginnings-hopeful-futures-on-world-health-day-who-calls-for-an-immediate-ceasefire-in-gaza.html>).

4. Let me start with the law of occupation and two general remarks.

5. First: the Court recently reaffirmed that the law of occupation applies to the entire Palestinian territory, including Gaza⁷⁶. That situation has not changed, and any contention that Israel does not currently occupy Gaza must be rejected⁷⁷. Israel has not been liberated from its obligations as an occupying Power.

6. Second: the scope of Israel's claimed authority as an occupying Power. Whatever the situation, international law does *not* confer such an authority or "discretion"⁷⁸ allowing a State to circumvent obligations aimed at ensuring the survival of a civilian population.

The PRESIDENT: I am sorry to interrupt you, but could you speak more slowly? Thank you very much.

Mr CROSATO NEUMANN: Sure.

It is impossible to conceive a good-faith interpretation of the law of occupation, consistent with its object and purpose, that would result in widespread suffering of civilians and destruction of civilian objects.

7. The Court has determined that Israel's occupation is illegal⁷⁹. Its policies and practices "manifest an intention to create a permanent and irreversible Israeli presence in the Occupied Palestinian Territory"⁸⁰, breaching the prohibition of acquisition of territory by force⁸¹ and the principle of self-determination⁸². You also found that Israel has engaged in a "sustained abuse . . . of its position as an occupying Power"⁸³.

⁷⁶ *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem, Advisory Opinion of 19 July 2024*, paras. 93, 96, 264.

⁷⁷ Cf. Written Statement of Hungary, para. 37; Written Statement of Israel, para. 84; Written Statement of the United States of America, para. 8.

⁷⁸ Written Statement of Israel, paras. 86-92.

⁷⁹ *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem, Advisory Opinion of 19 July 2024*, paras. 261, 285.

⁸⁰ *Ibid.*, para. 252.

⁸¹ *Ibid.*, para. 254.

⁸² *Ibid.*, para. 257.

⁸³ *Ibid.*, para. 261.

8. Any territorial control still exercised by Israel, until it has withdrawn, must therefore ensure the well-being of Palestinians and respect for their right to self-determination. Moreover, since Israel has been abusing the law of occupation, it cannot claim broad rights or powers arising from it. This is the core legal consequence of the general principle prohibiting the abuse of rights.

9. Israel's relevant obligations are primarily found in the Fourth Geneva Convention and customary international law. As long as Israel occupies Gaza, the customary rule reflected in Article 43 of the Hague Regulations requires it to act "for the benefit of the local population"⁸⁴. This is a general guiding principle and a fundamental duty of Israel.

10. Article 55 of the Fourth Geneva Convention requires Israel, "to the fullest extent of the means available to it", to ensure "the food and medical supplies of the population", including by "bring[ing] in the necessary foodstuffs, medical stores and other articles if the resources of the occupied territory are inadequate". Article 69 of Additional Protocol I, which reflects custom, expands the range of supplies that must be provided.

11. Under Article 56, Israel must ensure and maintain "the medical and hospital establishments and services, public health and hygiene", and allow "[m]edical personnel of all categories . . . to carry out their duties". Article 50 mandates the facilitation of "the proper working of all institutions devoted to the care and education of children".

12. The Convention also contains key provisions concerning third parties when the occupying Power does not or cannot fulfil the obligations I just mentioned. Where Israel fails to act, civilians are not left to their own fate without more.

13. Article 59 stipulates that if the occupied territory is "inadequately supplied", the occupying Power "shall agree to relief schemes on behalf of the . . . population, and shall facilitate them by all the means at its disposal". Such schemes may be undertaken by States or by "impartial humanitarian organizations", and shall consist, in particular, "of the provision of consignments of foodstuffs, medical supplies and clothing".

14. These are *erga omnes* obligations of both result and conduct. Israel cannot oppose those relief schemes. *Agreement* is the required outcome — no exception. Israel must also *facilitate* those

⁸⁴ *Ibid.*, para. 105.

schemes, using all available means. This is a high standard of conduct, consistent with the gravity of the situation that Article 59 addresses, prohibiting Israel from actions or omissions that may hinder humanitarian relief.

15. Article 59 must be read together with Article 1, which contains States' undertaking "to respect and to *ensure respect* for the . . . Convention in all circumstances". Every State party must ensure compliance by Israel with its obligations, while respecting of course other rules of international law⁸⁵.

The PRESIDENT: Excuse me for interrupting you. Could you please speak more slowly?

Mr CROSATO NEUMANN:

16. Article 59 is a form of application of Article 1 — a means for States to ensure compliance with Israel's relief obligations⁸⁶. When States seek to provide relief schemes, individually or jointly, they do not do so only by virtue of an option envisaged by Article 59 — they have an obligation to act of their own.

17. Article 59 may require practical arrangements for the orderly supply of humanitarian relief⁸⁷. In so far as these are needed, Israel must consider them in good faith, bearing in mind the needs of civilians. Arbitrary or unjustified delays would not be consistent with Article 59 — they would defeat the purpose of the obligation.

18. In the present circumstances, Jordan, like virtually all participants⁸⁸, considers that Gaza is inadequately supplied⁸⁹ — this is manifest — and that Israel's obligations have been triggered.

⁸⁵ *Ibid.*, para. 279; *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, I.C.J. Reports 2004 (I)*, pp. 199-200, paras. 158-159.

⁸⁶ See also *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America), Merits, Judgment, I.C.J. Reports 1986*, p. 124, para. 242.

⁸⁷ Cf. Written Statement of Israel, para. 98.

⁸⁸ See, for example Written Statement of Algeria, pp. 7-15; Written Statement of Bangladesh, paras. 27-33; Written Statement of Belgium paras. 45-46; Written Statement of Bolivia, paras. 3, 5, 125-126; Written Statement of China, paras. 35, 41-46; Written Statement of Comoros, paras. 14-19; Written Statement of Egypt, paras. 197-226; Written Statement of France, paras. 4-9; Written Statement of Iceland, paras. 7-11; Written Statement of Indonesia, para. 62; Written Statement of Kuwait, paras. 2-4; Written Statement of the League of Arab States, paras. 4-14; Written Statement of Malaysia, paras. 41, 50; Written Statement of the Maldives, paras. 6-16; Written Statement of Mexico, paras. 22-27; Written Statement of Namibia, paras. 18-29; Written Statement of Norway, paras. 4, 61; Written Statement of Pakistan, paras. 10-11, 43-51; Written Statement of Palestine, paras. 1.9-1.33; Written Statement of Qatar, paras. 2-8; Written Statement of the Russian Federation, paras. 36-39; Written Statement of Saudi Arabia, paras. 6-25; Written Statement of Senegal, paras. 7-18; Written Statement of Slovenia, paras. 17-27; Written Statement of South Africa, para. 164; Written Statement of Türkiye, pp. 19-20.

⁸⁹ Written Statement of the Hashemite Kingdom of Jordan, paras. 1.47-1.65.

19. Jordan is also of the firm view that UNRWA meets the principles of impartiality and neutrality, as confirmed recently by the Colonna Report⁹⁰ and the OIOS investigations⁹¹. Furthermore, there is no other actor that could realistically replace the Agency and its mandate to provide and distribute humanitarian relief and other services in Gaza⁹².

20. Israel must therefore allow UNRWA to continue its humanitarian operations and cease all conduct which prevents the Agency from doing so. There is no other way to give full effect to Article 59 of the Convention in the circumstances.

21. Israel's obligations, as we noted, also arise from other sources. These are separate obligations which complement and are as stringent as the law of occupation. I will address a few key ones.

22. Israel must ensure the right to life of Palestinians, consistent with the ICCPR⁹³ and the Convention on the Rights of the Child⁹⁴, which apply in Gaza⁹⁵. This includes a positive duty to take action to prevent foreseeable harm or injury that may result in arbitrary deprivation of life. In the present context, such risk is not only foreseeable but already materializing. To avoid further loss of life, Israel must strictly respect the fundamental principles of IHL and facilitate humanitarian relief in Gaza.

23. The Covenant on Economic, Social and Cultural Rights requires Israel to ensure the right to an adequate standard of living⁹⁶; the right to the highest attainable standard of physical and mental health⁹⁷; and the right to education⁹⁸. These rights are at risk of being altogether denied to Palestinians in Gaza, and Israel must take immediate action and allow the supply of relief to prevent such denial.

⁹⁰ *Ibid.*, para. 1.26.

⁹¹ *Ibid.*, para. 1.27.

⁹² *Ibid.*, paras. 1.5-1.11, 1.79-1.80, 3.130.

⁹³ International Covenant on Civil and Political Rights, Article 6.

⁹⁴ Convention on the Rights of the Child, Article 6.

⁹⁵ *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, I.C.J. Reports 2004 (I)*, p. 180, paras. 111-112; *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem, Advisory Opinion of 19 July 2024*, paras. 100-101.

⁹⁶ International Covenant on Economic, Social and Cultural Rights, Article 11.

⁹⁷ *Ibid.*, Article 12.

⁹⁸ *Ibid.*, Article 13.

24. Jordan has also referred to the law on the protection of persons in the event of disasters, recently codified by the ILC⁹⁹. The obligations in this area are closely linked to those under human rights law, and require Israel, among others, to co-operate in good faith with third parties, to facilitate humanitarian assistance, and not to arbitrarily withhold consent to such assistance.

25. Finally, Israel has obligations arising from the interim measures in the *South Africa v. Israel* case. It must take all necessary and effective measures to enable the unhindered provision of basic services and humanitarian assistance in Gaza; it must do so as a matter of urgency, without delay, and in co-operation with the United Nations¹⁰⁰.

26. The obligations we have addressed should be interpreted and applied in a systemic manner and against the background of the principle of self-determination, which is of paramount importance. Time, again, is of the essence, and Israel must perform its duties swiftly and in good faith. The horror that Palestinian civilians are undergoing in Gaza must stop.

27. Mr President, Members of the Court, this concludes my presentation, and Jordan's oral submissions. We thank you for your kind attention in these important proceedings.

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

The Court adjourned from 4.25 p.m. to 4.45 p.m.

The PRESIDENT: Please be seated. The sitting is resumed. I now invite the next participating delegation, Kuwait, to address the Court and I call His Excellency Ambassador Abdullah Suleiman Majed Al-Shaheen to the podium. You have the floor, Sir.

⁹⁹ Written Statement of the Hashemite Kingdom of Jordan, paras. 3.141-3.149.

¹⁰⁰ *Ibid.*, paras. 3.150-3.156.

Mr AL-SHAHEEN:

I. INTRODUCTORY REMARKS

1. Mr President, distinguished Members of the Court, I have the honour to address this esteemed Court today on behalf of the State of Kuwait (Kuwait), fully conscious of the urgency and gravity of the issues before us. In recognition of the limited time available, Kuwait will concisely address the essential matters, clearly setting forth its position.

2. Regrettably, we meet at a time marked by a grave humanitarian crisis and mounting dangers in the Occupied Palestinian Territory (OPT), where the unfolding tragedy poses a direct challenge to the conscience of the international community and to the very foundations of international law.

3. The humanitarian situation in the OPT has deteriorated alarmingly, compelling the urgent attention of this Court. The recent escalation of military actions by Israel, hereafter referred to as the “occupying Power”, has tragically intensified the suffering of the Palestinian civilian population¹⁰¹. Civilians continue to endure harm, exacerbated by systemic obstruction of humanitarian aid¹⁰². This crisis is deepened further by recent legislative measures that severely restrict and jeopardize the critical humanitarian role provided by the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA).

4. Mr President, Kuwait stands unwaveringly committed to the primacy of international law as the fundamental mechanism through which the legitimate rights and aspirations of the brotherly Palestinian people can be secured. International law remains our most potent instrument for achieving justice, accountability and lasting peace in the region. These principles have been recently articulated by the representative of His Highness the Amir of the State of Kuwait Sheikh Meshal Al-Ahmad Al-Jaber Al-Sabah, His Highness the Crown Prince Sheikh Sabah Khaled Al-Hamad Al-Sabah, during Kuwait’s address at the Extraordinary Arab Summit in Cairo.

¹⁰¹ See Kuwait News Agency, *Kuwait Re-affirms Arabs’ Rejection of Schemes to Expel Palestinians* (25 February 2025), available at: <https://www.kuna.net.kw/ArticleDetails.aspx?id=3220815&language=en>; Middle East Monitor, *Kuwait Calls for Action against Israel’s Violations of UN Charter* (20 February 2025), available at: <https://www.middleeastmonitor.com/20250220-kuwait-calls-for-action-against-israels-violations-of-un-charter/>; and Kuwait News Agency, *Kuwait Strongly Condemns Latest Wave of Israeli Attacks on Gaza* (18 March 2025), available at: <https://www.kuna.net.kw/ArticleDetails.aspx?id=3223116&language=en>.

¹⁰² See Kuwait News Agency, *Kuwait Condemns Israeli Occupation’s Halting of Aid Entry into Gaza Strip* (3 March 2025), available at: <https://www.kuna.net.kw/ArticleDetails.aspx?id=3221333&Language=en>; and Gulf Cooperation Council, *Kuwait Declaration For the 45th Session of the Supreme Council of Gulf Cooperation Council (GCC)* (1 December 2024), available at: <https://gcc-sg.org/en/MediaCenter/News/Pages/news2024-12-1-4.aspx>.

The PRESIDENT: Excuse me for interrupting, but could you please speak more slowly?

Mr AL-SHAHEEN:

5. That address emphasized the imperative necessity of holding the occupying Power accountable through the mechanisms of international law, including international humanitarian law, resolutions of the General Assembly, the Security Council, the Human Rights Council and the International Court of Justice¹⁰³.

6. In February 2024, Kuwait, along with several States, stood before this honourable Court condemning the occupying Power's prolonged illegal occupation of Palestinian lands. This Court, in its seminal Advisory Opinion issued on 19 July 2024, unequivocally affirmed that the occupying Power's occupation is unlawful and must end as rapidly as possible¹⁰⁴. Yet, the relentless continuation of military operations, including devastating aerial strikes on Gaza since 18 March 2025, stands as a distressing testament to this ongoing injustice¹⁰⁵.

7. In parallel, the occupying Power's actions have severely imperilled the vital humanitarian mission of UNRWA. Recent legislative actions enacted by the occupying Power in January 2025 have severely curtailed UNRWA's capacity to function, critically undermining its ability to deliver indispensable support and services to Palestinian civilians.

8. Kuwait's oral submission is structured thematically to facilitate the Court's careful consideration of the applicable legal frameworks. I will begin by confirming the Court's jurisdiction and clarifying the scope of the question and relevant law. I will then highlight the occupying Power's violations of the privileges and immunities of the United Nations and UNRWA. Finally, I will

¹⁰³ See Diwan of H.H. the Crown Prince — State of Kuwait, *Kuwait Amir Representative Delivers Kuwait's Speech at Extraordinary Arab Summit* (4 March 2025), available at: <https://cpd.gov.kw/en/NewsDetails.aspx?id=288>.

¹⁰⁴ *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem, Advisory Opinion of 19 July 2024*, para. 261.

¹⁰⁵ See Kuwait Times, *Zionist Airstrike Kills Nine, Including Journalists in Gaza* (15 March 2025), available at: <https://kuwaittimes.com/article/25498/world/middle-east/zionist-airstrike-kills-nine-including-journalists-in-gaza/>; CNN, *Gaza Truce Shatters as Israel Carries out Wave of Deadly Strikes and Says It Has 'Returned to Fighting'* (18 March 2025), available at: <https://www.cnn.com/2025/03/17/middleeast/israel-strikes-gaza-hamas-ceasefire-intl-hnk/index.html>; and New York Times, *What to Know About Israel's Renewed Assault on Gaza* (24 March 2025), available at: <https://www.nytimes.com/2025/03/18/world/middleeast/israel-attack-gaza-hamas.html>. See also, Office of the United Nations High Commissioner for Human Rights (OHCHR), Press Release, *Tragedy Foretold and Stain on Our Collective Humanity': Special Rapporteur Warns of Mass Ethnic Cleansing in the West Bank* (18 March 2025), available at: <https://www.ohchr.org/en/press-releases/2025/03/tragedy-foretold-and-stain-our-collective-humanity-special-rapporteur-warns>.

address its breaches of international humanitarian and human rights law. This structured approach is intended to provide the Court with a clear and coherent legal foundation for its advisory opinion.

9. Mr President, Members of the Court, this inquiry is urgent and essential. The Court's authoritative guidance is vital to relieving immediate suffering and reaffirming international law.

II. THE CONDITIONS FOR RENDERING AN ADVISORY OPINION ARE FULLY MET

10. Mr President, honourable Members of the Court, with your permission, I shall now address — briefly, but with the requisite care — the question of whether the Court possesses jurisdiction in the present advisory proceedings, and whether it should exercise that jurisdiction. The legal basis is beyond doubt. The Court's jurisprudence is clear. And the urgency of the matter before you could not be greater.

11. The advisory jurisdiction of this Court is grounded in two foundational provisions: Article 96 (1) of the UN Charter and Article 65 (1) of the Statute of the Court. Article 96 authorizes the UN General Assembly to request an advisory opinion from this Court on any legal question. Article 65, in turn, enables the Court to respond to such requests, provided they are made by an organ duly authorized under the UN Charter. These two provisions form the legal cornerstone of the Court's advisory function. They leave no room for doubt.

12. The request presently before the Court originates from the General Assembly¹⁰⁶. Moreover, the question it poses is unmistakably legal: specifically, it asks whether that conduct of the occupying Power complies with the rules and principles of international law, including international humanitarian law, international human rights law and the 1946 Convention on the Privileges and Immunities of the United Nations (1946 Convention)¹⁰⁷. It directly concerns the United Nations, its agencies and other international actors, as it relates to their operations and the protection of their personnel in and in relation to the OPT.

13. The great minority of participants in these proceedings have suggested that the political context surrounding this request undermines its legal character and the clarity of the question. But this Court has long and consistently held otherwise. As reaffirmed in the Court's jurisprudence, the

¹⁰⁶ See UN General Assembly, resolution 79/232, UN doc. A/RES/79/232 (19 Dec. 2024).

¹⁰⁷ Convention on the Privileges and Immunities of the United Nations, 13 Feb. 1946, 1 *UNTS* 15.

presence of political aspects in a question does not deprive it of its character as a legal question¹⁰⁸. Indeed, this Court was created precisely to answer legal questions that arise — even, and especially — within politically sensitive contexts.

14. It is true that Article 65 of the Statute uses permissive language: the Court *may* render an advisory opinion. That implies discretion. But the Court’s own jurisprudence makes clear that this discretion is not absolute. The Court has emphasized that responding to such requests forms part of its participation in the work of the United Nations, and that it should not, in principle, refuse to respond — unless compelling, or in the Court’s own language, “decisive” reasons are present.

15. In this context, it is essential to recall that the General Assembly’s request does not invoke Section 30 of the 1946 Convention¹⁰⁹, which governs the settlement of disputes between the United Nations and Member States. As explained in Kuwait’s written statement¹¹⁰, the request does not concern such a dispute. Rather, it seeks clarification of the occupying Power’s legal obligations, particularly as they relate to the presence and activities of the United Nations and other international actors in and in relation to the OPT.

16. Finally, it shall be made clear that rendering an advisory opinion could in no way compromise the Court’s judicial integrity in pending cases against the occupying Power before this Court. Kuwait categorically rejects this view. The Court’s advisory and contentious functions are clearly distinct, and the pendency of a related case cannot deprive the General Assembly of its right to request an advisory opinion. Also, in the present advisory proceedings, the divergence of legal views specifically concerns the actions of the United Nations and its organs, in relation to the occupying Power’s obligations as a UN Member and as the occupying Power in the OPT¹¹¹.

¹⁰⁸ See *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Advisory Opinion, I.C.J. Reports 2004 (I), pp. 153-156, paras. 37 and 41; and *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*, Advisory Opinion of 19 July 2024, para. 29.

¹⁰⁹ See *Applicability of Article VI, Section 22, of the Convention on the Privileges and Immunities of the United Nations*, Advisory Opinion, I.C.J. Reports 1989, p. 192, para. 42.

¹¹⁰ See written statement of Kuwait, paras. 10-11.

¹¹¹ See *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Advisory Opinion, I.C.J. Reports 2004 (I), p. 159, para. 50.

17. Mr President, Members of the Court, the question is legal, and it falls squarely within the ambit of Articles 65 and 96. Nothing prevents the Court from rendering an advisory opinion. To the contrary, the gravity of the situation makes the Court's guidance not only appropriate — but indispensable.

The PRESIDENT: Excuse me, the interpreter is having trouble, so please speak more slowly.

Mr AL-SHAHEEN:

III. CLARIFYING THE SCOPE OF THE QUESTION SUBMITTED TO THE COURT AND IDENTIFYING THE GOVERNING LAW

18. Mr President, I will now address the scope of the question submitted by the General Assembly and the relevant legal framework governing the Court's analysis.

19. The present request is distinct from last year's advisory opinion, focusing on specific legal questions. The General Assembly does not seek a comprehensive account of all obligations of the occupying Power as a UN Member, but rather an opinion on its duties concerning the presence and activities of the United Nations — its organs, agencies such as UNRWA, other international organizations and third States — in and in relation to the OPT. This includes measures such as legislation aimed at banning UNRWA.

20. General Assembly resolution 79/232 recalls the occupying Power's obligation to ensure unrestricted humanitarian assistance, essential services and support for the Palestinian people's right to self-determination¹¹². Paragraph 10 of the resolution establishes a coherent legal framework, referencing relevant sources: the UN Charter, international humanitarian and human rights law, the law governing privileges and immunities of international organizations, pertinent resolutions of the Security Council, the General Assembly, the Human Rights Council, and this Court's Advisory Opinions from 2004 and 2024.

¹¹² See UNGA, resolution 79/232, UN doc. A/RES/79/232 (19 Dec. 2024), preamble.

21. In Kuwait's view, this list is explicitly non-exhaustive. As underlined by at least 25 participants in these proceedings¹¹³, it includes the Convention on the Rights of the Child¹¹⁴, to which the occupying Power is a party, given the disproportionate and devastating impact of the conflict on Palestinian children, as well as the Court's binding provisional measures in the *Genocide* case brought by South Africa against the occupying Power¹¹⁵, a valid point highlighted by a great number of participants¹¹⁶.

**IV. THE OCCUPYING POWER'S ACTIONS AGAINST THE UNITED NATIONS AND
UNRWA FLAGRANTLY VIOLATE ITS INTERNATIONAL OBLIGATIONS,
INCLUDING RESPECT FOR THE PRIVILEGES
AND IMMUNITIES OF THE UN**

22. Mr President, Members of the Court, I shall now turn to the legal obligations incumbent upon the occupying Power concerning the privileges and immunities of the United Nations, with particular attention to UNRWA.

23. The privileges and immunities enjoyed by the United Nations are firmly grounded in Article 105 of the UN Charter. These privileges and immunities constitute essential protections, enabling the United Nations to perform its mandate independently and effectively, free from

¹¹³ See Written Statement of Belgium, paras. 21-22; Written Statement of Bolivia, paras. 55, 83-84, 140 (*d*); Written Statement of Brazil, paras. 61-65; Written Statement of China, para. 54; Written Statement of Colombia, para. 4.51; Written Statement of France, paras. 39-40, 49; Written Statement of Indonesia, paras. 38, 40-42; Written Statement of Jordan, paras. 3.150-3.156; Written Statement of the League of Arab States, paras. 18-20, 207; Written Statement of the Maldives, paras. 86-89; Written Statement of Mexico, paras. 94-95; Written Statement of Namibia, paras. 83-84; Written Statement of Norway, paras. 12, 129; Written Statement of Palestine, paras. 4.88-4.93, 5.16; Written Statement of the Philippines, para. 31 (*d*) (*i*); Written Statement of Poland, paras. 21-23; Written Statement of Qatar, paras. 84-85. Written Statement of Saudi Arabia, para. 59; Written Statement of Slovenia, paras. 17-20, 39; Written Statement of South Africa, paras. 23, 86-91, 179, 289 (*c*), 303; Written Statement of Spain, para. 29; Written Statement of Türkiye, para. 17.

¹¹⁴ Convention on the Rights of the Child, 20 Nov. 1989, 1577 *UNTS* 3.

¹¹⁵ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)*, Provisional Measures, Order of 26 January 2024, *I.C.J. Reports 2024 (I)*; *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)*, Provisional Measures, Order of 28 March 2024; and *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 24 May 2024. See Kuwait News Agency, *Kuwait UN Envoy Urges Action against Israeli Occupation Violations of Int'l Law* (19 February 2025), available at: <https://www.kuna.net.kw/ArticleDetails.aspx?id=3219784>.

¹¹⁶ See Written Statement of Belgium, paras. 21-22; Written Statement of Bolivia, paras. 55, 83-84, 140 (*d*); Written Statement of Brazil, paras. 61-65; Written Statement of China, para. 54; Written Statement of Colombia, para. 4.51; Written Statement of France, paras. 39-40, 49; Written Statement of Indonesia, paras. 38, 40-42; Written Statement of Jordan, paras. 3.150-3.156; Written Statement of the League of Arab States, paras. 18-20, 207; Written Statement of the Maldives, paras. 86-89; Written Statement of Mexico, paras. 94-95; Written Statement of Namibia, paras. 83-84; Written Statement of Norway, paras. 12, 129; Written Statement of Palestine, paras. 4.88-4.93, 5.16; Written Statement of the Philippines, para. 31 (*d*) (*i*); Written Statement of Poland, paras. 21-23; Written Statement of Qatar, paras. 84-85. Written Statement of Saudi Arabia, para. 59; Written Statement of Slovenia, paras. 17-20, 39; Written Statement of South Africa, paras. 23, 86-91, 179, 289 (*c*), 303; Written Statement of Spain, para. 29; Written Statement of Türkiye, para. 17.

interference. Importantly, these protections apply not only to the United Nations as an entity but extend comprehensively to its representatives, officials, personnel and assets.

24. Consequently, the occupying Power bears a clear and unequivocal legal obligation to uphold and respect these privileges and immunities. This obligation is explicitly reinforced and codified by the 1946 Convention, which remains fully applicable and binding upon the occupying Power due to its ongoing membership in the United Nations.

25. The 1946 Convention establishes a comprehensive legal framework to safeguard the functioning of the Organization. It guarantees, *inter alia*, the immunity of UN property from interference, the inviolability of its premises, the freedom of movement of officials and experts on mission, and legal immunity for acts performed in an official capacity. These protections extend equally to the UN's specialized agencies and programmes, including UNRWA. Significantly, in the 1967 Exchange of Letters between UNRWA and the occupying Power¹¹⁷, the latter expressly undertook to fully co-operate with UNRWA's humanitarian activities in both the West Bank and the Gaza Strip.

26. These privileges and immunities impose a binding obligation on the occupying Power to allow UNRWA to function fully in its territory and in the OPT. They cannot be unilaterally revoked. Furthermore, Article 103 of the UN Charter ensures that obligations under the Charter prevail over any conflicting international norms. Accordingly — and as Kuwait and 20 other participants have underscored¹¹⁸ — justifications based on military necessity or national security cannot override the privileges and immunities accorded to the United Nations.

27. Despite these obligations, the occupying Power has passed legislation that came into force in January 2025, explicitly prohibiting UNRWA's operations and banning official contact with its

¹¹⁷ See Report of the Commissioner-General of UNRWA, *1 July 1966-30 June 1967, General Assembly Supplement No. 13 (A/6713), Annex III, Agreement Between UNRWA and the Government of Israel Embodied in an Exchange of Letters Dated 14 June 1967 for the Purpose of Enabling UNRWA to Continue to Provide Services to Refugees in Areas under the Control of the Government of Israel*.

¹¹⁸ See Written Statement of Brazil, para. 88; Written Statement of Chile, para. 80; Written Statement of China, paras. 66-67; Written Statement of Egypt, paras. 67, 121, 131; Written Statement of Ireland, para. 42; Written Statement of Jordan, paras. 3.84-3.88; Written Statement of Kuwait, para. 22; Written Statement of the League of Arab States, para. 192; Written Statement of Luxembourg, para. 23; Written Statement of Malaysia, paras. 74-75; Written Statement of the Maldives, paras. 83-84; Written Statement of Mexico, para. 83; Written Statement of Namibia, paras. 123-125; Written Statement of the Netherlands, para. 5.2; Written Statement of Pakistan, paras. 127, 158, 163; Written Statement of Palestine, paras. 5.27-5.28; Written Statement of the Philippines, para. 31 (c); Written Statement of Qatar, para. 43; Written Statement of Saudi Arabia, para. 75; Written Statement of the UN Secretary-General, paras. 195, 207-210; Written Statement of South Africa, para. 135.

representatives. This law severely hinders UNRWA's capacity to operate in the OPT, not only by prohibiting engagement but by obstructing the issuance of permits required for personnel movement and aid delivery. Such measures constitute a clear violation of the occupying Power's obligations under international law.

28. The inviolability of UN premises — a cornerstone of both Article 105 of the UN Charter and Section 3 of the 1946 Convention — prohibits any forced entry, interference or attack on UN facilities. This protection extends beyond physical inviolability to include immunity from domestic legal jurisdiction. Yet, the occupying Power has repeatedly violated this principle by targeting UN humanitarian facilities with military strikes, in clear breach of its obligations.

29. In addition, the freedom of movement of UN officials is enshrined in Article 105 (2) of the UN Charter and Section 18 (d) of the 1946 Convention. These provisions prohibit immigration restrictions or administrative barriers that would obstruct UN operations. Nevertheless, the occupying Power has denied entry to UN officials, barred the UN Secretary-General and declared senior UN personnel *persona non grata*. These actions not only obstruct the UN's functions but also violate both treaty-based and customary international law.

30. Mr President, UN officials and experts on mission also enjoy functional immunity for acts performed in the course of their official duties. This immunity includes protection from legal proceedings and procedural safeguards such as the right to visitation and fair treatment in cases of detention. However, the occupying Power has detained UN personnel for statements made and acts performed in their official capacities — violating Section 18 of the 1946 Convention. In particular, the arbitrary detention of UNRWA staff has denied the United Nations the ability to communicate with or visit its personnel, thereby undermining their independence¹¹⁹.

31. Kuwait submits that the occupying Power has consistently violated its international legal obligations relating to the privileges and immunities of the United Nations. Such conduct is not merely unlawful; it endangers the effective functioning of the United Nations within and in relation to the OPT. Kuwait therefore respectfully calls upon the Court to reaffirm the inviolability of the

¹¹⁹ UNWRA, *Detention and Alleged Ill-treatment of Detainees from Gaza during Israel-Hamas War* (16 April 2024), available at: https://www.unrwa.org/sites/default/files/content/resources/summary_on_detention_and_alleged_ill-treatmentupdated.pdf, p. 2.

United Nations and its agencies, and to clarify the legal consequences arising from the occupying Power's persistent non-compliance.

**V. ESTABLISHING THE OCCUPYING POWER'S BREACHES OF INTERNATIONAL
HUMANITARIAN AND HUMAN RIGHTS LAW THROUGH
EGREGIOUS AND SYSTEMATIC VIOLATIONS**

32. Mr President, Members of the Court, I will now turn to the obligations of the occupying Power under international humanitarian law and international human rights law, as they apply to the OPT.

33. The Court has consistently reaffirmed that international humanitarian law applies to the OPT. In its 2004 and 2024 Advisory Opinions¹²⁰, the Court confirmed the applicability of the Geneva Convention Relative to the Protection of Civilian Persons in Time of War¹²¹ and the 1907 Hague Regulations as binding legal frameworks¹²². The occupying Power, by virtue of its continued military presence and effective control over the territory, remains fully bound by these provisions.

34. First, under Article 50 of the Fourth Geneva Convention, the occupying Power must ensure the proper functioning of educational institutions, particularly those serving children. The systematic targeting of UNRWA schools and the displacement of students has gravely disrupted education in the OPT. These acts violate the duty to protect access to education in conflict-affected areas¹²³.

35. Second, Article 59 requires the occupying Power to facilitate the delivery of humanitarian relief, especially when local resources are insufficient. The occupying Power has imposed a total siege on Gaza, and has systematically obstructed humanitarian aid — especially that delivered by UNRWA¹²⁴. Access points at Rafah, Karam Abu Salem and northern Gaza were closed. Though briefly eased during the latest ceasefire agreement, restrictions were fully reinstated in March 2025,

¹²⁰ *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Advisory Opinion, I.C.J. Reports 2004 (I), p. 177, para. 101; *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*, Advisory Opinion of 19 July 2024, para. 96.

¹²¹ Geneva Convention (IV) Relative to the Protection of Civilian Persons in Time of War, 12 Aug. 1949, 75 UNTS 287.

¹²² *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*, Advisory Opinion of 19 July 2024, paras. 96 and 89.

¹²³ See Kuwait News Agency, *Kuwait strongly deplores Israeli occupation attacks on school, medical supplies warehouse in Gaza* (4 April 2025), available at: <https://www.kuna.net.kw/ArticleDetails.aspx?id=3224827&language=en>.

¹²⁴ See Al Jazeera, *A Timeline of Israel's Weaponization of Aid to Gaza* (25 March 2025), available at: <https://www.aljazeera.com/news/2025/3/25/a-timeline-of-israels-weaponisation-of-aid-to-gaza>.

halting all supplies, including water access¹²⁵. The obstruction of aid operations not only breaches international obligations, but may also constitute collective punishment, which is strictly prohibited under Article 33 of the Fourth Geneva Convention. Furthermore, Article 63 demands that the occupying Power respects the work of humanitarian organizations — something the occupying Power has consistently failed to do.

36. Third, the prohibition against the use of starvation as a method of warfare is firmly entrenched as a rule of customary international law and constitutes a war crime. It is unequivocally prohibited under the statutes and jurisprudence of international criminal courts and tribunals. Pursuant to Articles 55 and 59 of the Fourth Geneva Convention, the occupying Power is legally obliged to guarantee the civilian population's access to food, water and essential provisions, and to facilitate humanitarian assistance if local resources are insufficient. Any deliberate interference with aid deliveries — including food, medical supplies and clean water — is thus a violation of this obligation, severely endangering civilian lives. It is deeply concerning that, since March 2025, the occupying Power has again resorted explicitly to starvation as a deliberate policy measure¹²⁶. In this context, it is noteworthy that the occupying Power's re-enactment of recent measures constitutes another strong indication that the occupying Power blatantly disregards the Court's provisional measures Order dated 28 March 2024 in the *Genocide* case brought by South Africa against the occupying Power¹²⁷.

37. Fourth, the occupying Power must protect humanitarian personnel and facilities. Article 71 (2) of the Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I)¹²⁸, prohibits attacks, harassment or arbitrary detention of relief workers. The occupying Power's targeting of UNRWA

¹²⁵ See UN News, *Aid Restrictions and Dismantling UNRWA Will Compound Gazans' Suffering* (4 November 2024), available at: <https://news.un.org/en/story/2024/11/1156471>. See also Al Jazeera, *Israel Cuts off Aid to Gaza as It Seeks to Change Ceasefire Deal with Hamas* (2 March 2025), available at: <https://www.aljazeera.com/news/2025/3/2/israel-reneges-on-ceasefire-deal-warns-hamas-of-consequences>.

¹²⁶ See Al Jazeera, *Israel Cuts off Aid to Gaza as It Seeks to Change Ceasefire Deal with Hamas* (2 March 2025), available at: <https://www.aljazeera.com/news/2025/3/2/israel-reneges-on-ceasefire-deal-warns-hamas-of-consequences>.

¹²⁷ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)*, Request for the modification of the Order of 26 January 2024 indicating provisional measures, Order of 28 March 2024, para. 51 (2) (a).

¹²⁸ Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977, 1125 UNTS 3.

premises, aid convoys and medical staff constitutes a serious breach of this obligation and may amount to a war crime under customary international law.

38. Fifth, under Articles 18, 20 and 56 of the Fourth Geneva Convention, hospitals, medical staff and healthcare infrastructure are to be protected at all times. Deliberate attacks on these institutions, and restrictions on evacuations and medical aid, have severely undermined the already fragile healthcare system in Gaza¹²⁹. In this context, the occupying Power has impeded the entry of healthcare personnel, essential medicines and critical medical supplies into Gaza. Concurrently, it has prevented and delayed the safe evacuation of patients by international organizations and third States¹³⁰.

39. Mr President, the Court has also confirmed that international human rights law continues to apply during situations of occupation, including in the OPT. The occupying Power remains bound by its obligations under the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social, and Cultural Rights (ICESCR), to which it is a party.

40. The right to life, enshrined in Article 6 of the ICCPR, is absolute and non-derogable. Restrictions on life-saving aid and attacks targeting civilians constitute clear violations of this fundamental right. The rights to food and water — core components of the right to an adequate standard of living as recognized in Articles 11 and 12 of the ICESCR — have been systematically undermined by the occupying Power's destruction of critical infrastructure and obstruction of humanitarian access. Similarly, the right to the highest attainable standard of physical and mental health, also guaranteed by the same Covenant, has been violated through repeated attacks on hospitals, the denial of medical evacuations and the deliberate restriction of life-saving medical supplies. Equally, the right to education, set forth in Article 13 of the same human rights instrument and reaffirmed in Article 50 of the Fourth Geneva Convention, has likewise been gravely impaired

¹²⁹ See, for instance, Office of the United Nations High Commissioner for Human Rights (OHCHR), *Comment by UN Human Rights Chief Volker Türk on the Killing of Gaza Humanitarian Workers by Israeli Army* (1 April 2025), available at: <https://www.ohchr.org/en/press-releases/2025/04/comment-un-human-rights-chief-volker-turk-killing-gaza-humanitarian-workers>; and OHCHR, *Israel's Attacks Have Devastating Impact on Gaza's Hospitals, Türk Tells Security Council* (3 January 2025), available at: <https://www.ohchr.org/en/statements-and-speeches/2025/01/israels-attacks-have-devastating-impact-gazas-hospitals-turk-tells>.

¹³⁰ See *Human Rights Watch*, *Israeli Authorities Block Health Care Workers from Entering Gaza* (27 February 2025), available at: <https://www.hrw.org/news/2025/02/27/israeli-authorities-block-health-care-workers-entering-gaza>; and AP News, *Ailing Kids Wait Months for Israeli Permission to Leave Gaza for Treatment. Some Die in the Meantime* (6 December 2024), available at: <https://apnews.com/article/gaza-medical-evacuation-israel-children-dead-7ad6294bd10970e57b35e6e26bc6fa7b>.

by the widespread destruction of schools, forced displacement and targeted assaults on educational institutions.

41. As far as children are concerned, pursuant to Article 6 (2) of the Convention on the Rights of the Child, States parties are required to take all feasible measures to ensure the survival and development of children to the greatest extent possible. Accordingly, the occupying Power bears a clear responsibility to ensure sufficient nutrition and protect the lives of the children under its effective control. Deliberately causing malnutrition to hundreds of thousands of children is entirely unjustifiable and unequivocally prohibited under all circumstances.

42. Finally, the right to self-determination — a peremptory norm of international law — underpins many of these obligations. The occupying Power's sustained interference with Palestinian civil, political and economic development — particularly through its assault on humanitarian infrastructure — represents a profound violation of this right.

43. Kuwait reaffirms its steadfast commitment to international law and to the vital role of this Court in upholding its principles. The present advisory proceedings concern the obligations of the occupying Power in relation to the presence and activities of the United Nations, other international organizations and third States in and in relation to the OPT. By clarifying these obligations and the legal consequences arising from their violation, the Court will offer indispensable guidance to the international community. Kuwait expresses its full confidence that the Court's opinion will reinforce the rule of law, protect the integrity of the UN system, and reaffirm the inalienable rights of the Palestinian people.

44. Mr President, Members of the Court, this concludes Kuwait's oral statement. On behalf of the delegation of Kuwait, I wish to extend our sincere appreciation to the Court for its careful attention and to express our gratitude to the Registry, and the interpreters for their invaluable support throughout these proceedings. It has been an honour to appear before you in service of the principles of international law and the UN Charter.

The PRESIDENT: I thank the representative of Kuwait for his presentation. J'invite à présent la délégation suivante, celle du Luxembourg, à prendre la parole, et appelle à la barre M. Tobias Schell.

M. SCHELL :

1. Monsieur le président, Mesdames et Messieurs les Membres de la Cour, c'est un honneur pour moi de présenter devant vous aujourd'hui, en tant qu'agent du Gouvernement du Luxembourg, nos observations orales dans le cadre de la présente requête pour avis consultatif.

2. Par sa participation, le Luxembourg exprime son attachement profond au système de justice internationale, et au rôle essentiel que joue votre Cour dans l'affirmation et l'application des règles qui régissent ce système. La participation du Luxembourg dans le cadre de la présente requête reflète sa volonté de contribuer au renforcement de l'ordre international fondé sur la règle de droit, pour lequel votre Cour revêt un rôle essentiel.

I. CONSIDÉRATIONS LIMINAIRES

3. L'avis consultatif sollicité s'inscrit dans la continuité de celui rendu par votre Cour le 19 juillet 2024 concernant les *Conséquences juridiques découlant des politiques et pratiques d'Israël dans le Territoire palestinien occupé, y compris Jérusalem-Est*¹³¹. Dans cet avis, votre Cour a constaté l'illicéité de la présence continue d'Israël dans le Territoire palestinien occupé¹³², et a affirmé l'obligation pour Israël de mettre fin à cette présence illicite dans les plus brefs délais¹³³. En ce qui concerne plus particulièrement la question de l'occupation prolongée du TPO qui persiste depuis 1967, votre Cour a observé que l'État israélien agissant en tant que puissance occupante détient, de par cette qualité, un ensemble de pouvoirs et de responsabilités à l'égard du territoire sur lequel il exerce un contrôle effectif¹³⁴.

¹³¹ *Conséquences juridiques découlant des politiques et pratiques d'Israël dans le Territoire palestinien occupé, y compris Jérusalem-Est, avis consultatif du 19 juillet 2024.*

¹³² *Ibid.*, par. 261.

¹³³ *Ibid.*, par. 267.

¹³⁴ *Ibid.*, par. 104-110.

4. L'avis consultatif sollicité permettrait de compléter et d'approfondir les conclusions juridiques auxquelles votre Cour est parvenue dans l'avis consultatif de 2024, et de clarifier les obligations spécifiques d'Israël en ce qui concerne la présence et les activités de l'Organisation des Nations Unies dans le TPO et en lien avec celui-ci. Les conclusions juridiques de cet avis serviront de toile de fond à l'analyse des obligations d'Israël dans le cadre de la présente procédure consultative.

5. Depuis les horribles attentats terroristes perpétrés par le Hamas le 7 octobre 2023 et la prise par le Hamas de plus de 200 otages, la situation humanitaire dans la bande de Gaza, mais également dans le reste du TPO, s'est dramatiquement aggravée. La détérioration rapide des conditions de vie de la population palestinienne exige que votre Cour examine, à titre prioritaire et de toute urgence, les questions supplémentaires soulevées par l'Assemblée générale, afin d'éclaircir les obligations d'Israël, en tant qu'État Membre de l'ONU et puissance occupante, en ce qui concerne la présence et les activités de l'ONU dans le TPO, y compris celles de l'UNRWA.

6. Il est entendu que les présentes observations orales se limitent à répondre aux questions juridiques posées à la Cour en ce qui concerne les obligations juridiques d'Israël, sans préjuger des responsabilités éventuelles d'autres acteurs.

II. LA COMPÉTENCE DE LA COUR À ÉMETTRE UN AVIS SUR LA QUESTION POSÉE

7. En ce qui concerne la recevabilité de la demande, le Luxembourg estime que votre Cour est compétente pour répondre à la requête d'avis consultatif de l'Assemblée générale, et qu'elle devrait y faire droit compte tenu de l'absence de raisons décisives pour y opposer un refus.

III. CONSIDÉRATIONS JURIDIQUES RELATIVES À LA QUESTION POSÉE À LA COUR

8. Quant au fond de la requête, le Luxembourg souhaite présenter quelques observations sur les points juridiques soulevés dans les questions soumises à votre Cour. Les obligations d'Israël doivent être examinées à deux niveaux distincts : (A) en tant que puissance occupante exerçant un contrôle effectif sur le TPO, et (B) en tant qu'État Membre des Nations Unies.

9. Les obligations d'Israël concernant la présence et les activités de l'ONU dans le TPO découlent, sans s'y limiter, du droit des organisations internationales et de la Charte, du droit

international humanitaire, du droit international des droits humains, ainsi que du droit international coutumier.

A. Obligations d’Israël en tant que puissance occupante dans le TPO

10. Il est aujourd’hui clairement établi¹³⁵ qu’Israël demeure la puissance occupante dans le TPO, qui comprend la Cisjordanie, y compris Jérusalem-Est, et la bande de Gaza.

11. L’occupation est par essence une situation temporaire — elle ne saurait justifier un transfert de souveraineté¹³⁶. La qualité de puissance occupante impose à Israël un ensemble d’obligations juridiques qui subsistent indépendamment de toute considération relative à la licéité¹³⁷ et à la durée¹³⁸ de l’occupation. À ce titre, votre Cour a souligné que

« les obligations découlant des faits internationalement illicites d’Israël ne le dispensent pas de son devoir continu de s’acquitter des obligations internationales auxquelles contrevient son comportement. En particulier, Israël demeure tenu d’observer l’obligation qui lui incombe de respecter le droit du peuple palestinien à l’autodétermination et les obligations auxquelles il est tenu au regard du droit international humanitaire et du droit international relatif aux droits de l’homme »¹³⁹.

a) Obligations en vertu du droit international humanitaire

12. Les pouvoirs et devoirs d’Israël dans l’exercice de ses responsabilités en tant que puissance occupante dans le TPO sont régis par le droit international humanitaire, et en particulier le règlement de La Haye de 1907¹⁴⁰ — qui, faisant partie du droit international coutumier, s’impose à Israël bien qu’il ne soit pas partie contractante¹⁴¹ —, la quatrième convention de Genève de 1949¹⁴², ainsi que le droit international coutumier.

¹³⁵ *Conséquences juridiques de l’édification d’un mur dans le territoire palestinien occupé, avis consultatif, C.I.J. Recueil 2004 (I)*, p. 167, par. 78 ; *Conséquences juridiques découlant des politiques et pratiques d’Israël dans le Territoire palestinien occupé, y compris Jérusalem-Est, avis consultatif du 19 juillet 2024*, par. 86-94.

¹³⁶ *Conséquences juridiques découlant des politiques et pratiques d’Israël dans le Territoire palestinien occupé, y compris Jérusalem-Est, avis consultatif du 19 juillet 2024*, par. 105.

¹³⁷ *Ibid.*, par. 264.

¹³⁸ *Ibid.*, par. 106-107.

¹³⁹ *Ibid.*, par. 272 et jurisprudence citée.

¹⁴⁰ Règlement de La Haye du 18 octobre 1907 concernant les lois et coutumes de la guerre sur terre.

¹⁴¹ *Ibid.*, par. 96.

¹⁴² Quatrième convention de Genève du 12 août 1949 relative à la protection des personnes civiles en temps de guerre.

i) Obligation générale d'administrer le territoire dans l'intérêt de la population locale

13. Israël a, en tant que puissance occupante, l'obligation générale d'administrer le territoire occupé dans l'intérêt de la population locale¹⁴³. Cette obligation découle de l'article 43 du règlement de La Haye.

14. Cette obligation repose également sur le droit à l'autodétermination. Dans l'avis consultatif de 2024, votre Cour a déclaré que

« [l]a dépendance de la Cisjordanie, de Jérusalem-Est, et plus particulièrement de la bande de Gaza, à l'égard d'Israël pour la fourniture des biens et services essentiels fait obstacle à la jouissance de droits de l'homme fondamentaux, en particulier le droit à l'autodétermination »¹⁴⁴.

Partant, Israël est tenu, en vertu du droit à l'autodétermination dont jouit le peuple palestinien, de prendre des mesures visant à réduire cette dépendance, en particulier en autorisant et en facilitant la fourniture de biens et de services essentiels par les Nations Unies.

ii) Obligation d'assurer la fourniture de l'aide humanitaire à la population civile

15. En vertu de l'article 55 de la quatrième convention de Genève, Israël est tenu d'assurer l'approvisionnement de la population du TPO d'articles de première nécessité essentiels à leur survie lorsque les ressources locales sont insuffisantes. Comme l'a observé votre Cour dans son avis consultatif de 2024, « la puissance occupante a l'obligation continue de veiller à ce que la population locale dispose d'un accès adéquat à la nourriture, y compris l'approvisionnement en eau »¹⁴⁵.

iii) Obligation d'accepter et de faciliter les actions de secours

16. La responsabilité première de la fourniture de l'aide humanitaire incombe donc à la partie au pouvoir de laquelle se trouvent les civils et les autres personnes protégées. Toutefois, si leurs besoins essentiels ne peuvent être satisfaits de cette manière, la partie au pouvoir, son adversaire et les États tiers doivent permettre à des acteurs extérieurs de fournir une aide humanitaire, sous réserve de certaines conditions. L'article 59 de la quatrième convention de Genève comporte deux obligations, d'une part l'obligation *d'accepter* les actions de secours, et d'autre part l'obligation de

¹⁴³ *Conséquences juridiques découlant des politiques et pratiques d'Israël dans le Territoire palestinien occupé, y compris Jérusalem-Est, avis consultatif du 19 juillet 2024*, par. 105.

¹⁴⁴ *Ibid.*, par. 241.

¹⁴⁵ *Ibid.*, par. 124.

faciliter ces actions dans toute la mesure de ses moyens. Ces obligations ont un caractère inconditionnel¹⁴⁶, la puissance occupante ne saurait s'y soustraire dès lors qu'il est établi que la population du territoire occupé est insuffisamment approvisionnée.

17. Ces actions collectives de secours pourront être entreprises par des États ou des organismes humanitaires impartiaux. Bien que la puissance occupante dispose d'une certaine marge d'appréciation dans l'acceptation et la facilitation de l'aide humanitaire, elle demeure tenue de prendre en compte les besoins réels de la population du territoire occupé ainsi que les moyens disponibles pour assurer l'assistance humanitaire.

18. Le Luxembourg tient à souligner le rôle indispensable joué par les agences et programmes des Nations Unies dans la fourniture d'une assistance humanitaire essentielle à la population civile du TPO, et en particulier le rôle vital de l'UNRWA. Son rôle essentiel dans la fourniture d'une assistance humanitaire aux réfugiés palestiniens par le biais de programmes essentiels d'éducation, de santé, de secours et de services sociaux, et d'aide d'urgence a été reconnu par le Conseil de sécurité, qui l'a décrit comme l'épine dorsale de toutes les interventions humanitaires à Gaza, et a souligné qu'aucune organisation ne peut remplacer ou se substituer à la capacité et au mandat de l'UNRWA de servir les réfugiés palestiniens et les civils qui ont un besoin urgent d'une assistance humanitaire¹⁴⁷. Le rôle irremplaçable et vital de l'UNRWA a été également souligné par l'Assemblée générale dans sa résolution ES-10/25¹⁴⁸.

19. L'UNRWA est le principal fournisseur d'aide humanitaire et de services essentiels dans le TPO. Eu égard à la gravité extrême de la crise humanitaire dans la bande de Gaza et à l'absence d'alternatives disposant des capacités requises pour assurer un approvisionnement adéquat de la population, il incombe à Israël, en sa qualité de puissance occupante, de permettre et de faciliter l'accès sans entrave des agences des Nations Unies, y compris de l'UNRWA, à l'aide humanitaire, conformément à l'article 59 de la quatrième convention de Genève.

¹⁴⁶ CICR, « Convention (IV) de Genève relative à la protection des personnes civiles en temps de guerre, 12 août 1949 — Commentaire de 1958 », p. 344.

¹⁴⁷ SC/15874, 30 October 2024 — Security Council Press Statement on UNRWA.

¹⁴⁸ Résolution A/RES/ES-10/25 du 11 décembre 2024, par. 7.

iv) Obligation de permettre le libre passage des secours humanitaires

20. Son article 59, paragraphe 3, impose à tous les États contractants, dont fait partie Israël, l'obligation d'autoriser le libre passage des envois de secours et, de manière complémentaire, l'obligation d'en assurer la protection.

21. Son article 59, paragraphe 4, contient une clause de sauvegarde permettant, notamment, à la puissance occupante d'exercer son droit d'inspection et de contrôler les envois de secours et de surveiller la distribution. Les dispositions techniques prescrites ne doivent toutefois pas porter atteinte à l'obligation d'assurer le passage rapide et sans entrave des secours, comme l'a affirmé votre Cour concernant la situation à Gaza¹⁴⁹. Israël ne saurait cependant exercer son droit d'inspection et de contrôle de manière abusive ou arbitraire pour rendre inopérant le principe lui-même, ni retarder indûment l'acheminement des secours¹⁵⁰.

22. Comme l'a souligné le Secrétaire général des Nations Unies dans son communiqué de presse du 8 avril 2025¹⁵¹, les mécanismes d'autorisation récemment proposés par les autorités israéliennes pour l'acheminement de l'aide risquent de limiter sans ménagement l'aide, alors qu'aux points de passage, les denrées alimentaires, les médicaments et les abris s'accumulent et les équipements vitaux sont bloqués.

v) Obligation de protéger l'aide et le personnel humanitaires

23. L'obligation de permettre le libre passage des secours humanitaires est complétée par l'obligation de protéger l'aide et le personnel humanitaire, règle qui est consacrée par le droit international coutumier¹⁵².

24. Pour que l'aide humanitaire puisse être fournie aux populations civiles, la sécurité du personnel humanitaire qui fournit cette aide doit être assurée. Le personnel de secours est protégé

¹⁴⁹ Application de la convention pour la prévention et la répression du crime de génocide dans la bande de Gaza (Afrique du Sud c. Israël), mesures conservatoires, ordonnance du 26 janvier 2024, p. 29, par. 80, accessible à l'adresse suivante : <https://icj-cij.org/sites/default/files/case-related/192/192-20240126-ord-01-00-fr.pdf>.

¹⁵⁰ CICR, « Convention (IV) de Genève relative à la protection des personnes civiles en temps de guerre, 12 août 1949 — Commentaire de 1958 », p. 347.

¹⁵¹ Communiqué du Secrétaire général des Nations Unies du 8 avril 2025, accessible à l'adresse suivante : <https://www.un.org/sg/en/content/sg/press-encounter/2024-10-08/secretary-generals-press-encounter-the-situation-the-middle-east>.

¹⁵² J.-M. Henckaerts et L. Doswald-Beck, *Droit international coutumier, Volume I : Règles*, CICR, Bruylant, 2006, p. 142, règle 31.

contre les attaques en vertu du principe de distinction¹⁵³. La pratique souligne non seulement l'interdiction des attaques contre le personnel humanitaire, mais également celle du harcèlement, de l'intimidation et de la détention arbitraire à son encontre, et énonce, à titre d'exemples, des actes condamnés commis contre le personnel humanitaire : mauvais traitements, violences physiques et morales, meurtre, coups, enlèvement, prises d'otages, harcèlement, rapt, arrestation et détention illégales¹⁵⁴. Le Conseil de sécurité rappelle régulièrement la nécessité pour les parties au conflit de respecter et protéger le personnel humanitaire. Dans sa résolution 2730 du 24 mai 2024, le Conseil de sécurité a condamné sans équivoque « le fait de prendre pour cible des membres du personnel humanitaire dans l'exercice de leurs fonctions, de les tuer, de les harceler, de les soumettre à des poursuites, à des arrestations arbitraires ou à des détentions arbitraires »¹⁵⁵.

25. Selon les chiffres communiqués par le Bureau de coordination des affaires humanitaires des Nations Unies en date du 18 février 2025, au moins 384 travailleurs humanitaires ont été tués dans la bande de Gaza depuis le début de la guerre en octobre 2023, dont 277 employés des Nations Unies, la plupart d'entre eux faisant partie du personnel de l'UNRWA¹⁵⁶.

26. Comme pour le personnel humanitaire, les biens utilisés pour des opérations de secours humanitaire doivent également être respectés et protégés en vertu du droit international coutumier¹⁵⁷, pour autant qu'ils aient droit à la protection que le droit international humanitaire garantit aux biens de caractère civil¹⁵⁸.

vi) *Obligation de maintenir les établissements et les services médicaux*

27. L'article 56, paragraphe premier, de la quatrième convention de Genève prévoit que « [d]ans toute la mesure de ses moyens, la Puissance occupante a le devoir d'assurer et de maintenir avec le concours des autorités nationales et locales, les établissements et les services médicaux et

¹⁵³ *Ibid.*, p. 146.

¹⁵⁴ *Ibid.*.

¹⁵⁵ Conseil de sécurité, S/RES/2730 (2024), 24 mai 2024, préambule, al. 15.

¹⁵⁶ Nations Unies, Bureau de coordination des affaires humanitaires, « Reported impact snapshot | Gaza Strip (18 February 2025) », accessible à l'adresse suivante : <https://www.ochaopt.org/content/reported-impact-snapshot-gaza-strip-18-february-2025>.

¹⁵⁷ J.-M. Henckaerts et L. Doswald-Beck, *Droit international coutumier, Volume I : Règles*, CICR, Bruylant, 2006, p. 147, règle 32.

¹⁵⁸ Résolution 2730, par. 3.

hospitaliers, ainsi que la santé et l'hygiène publiques dans le territoire occupé » et que « [l]e personnel médical de toutes catégories sera autorisé à accomplir sa mission ». Il ne fait pas de doute que les hôpitaux et les centres de santé de l'UNRWA, et plus généralement les activités de santé menées par l'UNRWA, peuvent être qualifiés d'« établissements et services médicaux ».

28. La puissance occupante a l'obligation « d'assurer et de maintenir » ces établissements et services médicaux, ce qui l'oblige à prendre toutes les mesures nécessaires pour permettre à ces établissements de mener à bien leur travail. En ce qui concerne le TPO, cela implique notamment l'obligation pour Israël de s'abstenir de prendre des mesures qui contraindraient les établissements de santé de l'UNRWA à mettre fin à leurs activités ou qui endommageraient physiquement leurs infrastructures. Cela implique également de faciliter le mouvement sans entrave du personnel médical, de faciliter la livraison de fournitures et d'équipements médicaux dans le TPO, et la possibilité pour le personnel de santé de l'UNRWA de fournir des soins médicaux aux blessés et aux malades.

vii) *Obligation de faciliter le bon fonctionnement des établissements consacrés aux soins et à l'éducation des enfants*

29. L'article 50, paragraphe premier, de la quatrième convention de Genève, prévoit que « [l]a Puissance occupante facilitera, avec le concours des autorités nationales et locales, le bon fonctionnement des établissements consacrés aux soins et à l'éducation des enfants ». Les activités de ces institutions ne doivent donc pas être entravées par la puissance occupante¹⁵⁹. En ce qui concerne le TPO, cela implique notamment l'obligation pour Israël de s'abstenir de détenir le personnel enseignant des écoles de l'UNRWA, d'utiliser ces écoles pour des opérations militaires, ou encore d'endommager leurs locaux.

30. La puissance occupante est non seulement tenue de s'abstenir de toute action qui empêcherait les activités de ces institutions, mais également de les soutenir activement si les autorités nationales responsables sont défaillantes¹⁶⁰. Elle doit notamment faciliter la réparation des écoles

¹⁵⁹ CICR, « Convention (IV) de Genève relative à la protection des personnes civiles en temps de guerre, 12 août 1949 — Commentaire de 1958 », commentaire sous l'article 50.

¹⁶⁰ *Ibid.*

endommagées, faciliter l'acheminement des fournitures nécessaires aux activités éducatives, ou encore sécuriser les itinéraires pour permettre aux enfants d'accéder aux écoles.

31. L'obligation de faciliter le bon fonctionnement des institutions consacrées aux soins et à l'éducation des enfants prévue à l'article 50, paragraphe premier, doit être interprétée conjointement avec d'autres règles du droit international humanitaire ayant trait au bien-être des enfants, telles que l'article 24 de la quatrième convention de Genève et l'obligation, en vertu du droit international coutumier, d'accorder un respect et une protection particuliers aux enfants touchés par un conflit armé¹⁶¹.

b) Obligations en vertu du droit international des droits humains

32. Les obligations des États en matière de droits humains s'appliquent également lorsque l'État exerce sa souveraineté en dehors de son territoire, en particulier dans des situations d'occupation. Votre Cour a rappelé que les principaux instruments internationaux relatifs aux droits humains — le Pacte international relatif aux droits civils et politiques, le Pacte international relatif aux droits économiques, sociaux et culturels, la convention internationale sur l'élimination de toutes les formes de discrimination raciale, et la convention relative aux droits de l'enfant, auxquels Israël est partie — sont applicables dans le TPO¹⁶². Comme l'a souligné votre Cour à plusieurs reprises, « la protection offerte par les conventions régissant les droits de l'homme ne cesse pas en cas de conflit armé ou d'occupation »¹⁶³.

33. Le droit international humanitaire et le droit international des droits humains sont complémentaires et doivent être simultanément pris en compte. Les instruments précités renferment un ensemble de dispositions applicables dans le contexte de la fourniture d'une aide humanitaire dans le TPO et concernent notamment le droit à la vie¹⁶⁴, le droit de toute personne d'être à l'abri de la

¹⁶¹ J.-M. Henckaerts et L. Doswald-Beck, *Droit international coutumier, Volume I : Règles*, CICR, Bruylant, 2006, p. 479.

¹⁶² *Conséquences juridiques de l'édification d'un mur dans le territoire palestinien occupé, avis consultatif, C.I.J. Recueil 2004 (I)*, p. 177-181, par. 102-113 ; *Conséquences juridiques découlant des politiques et pratiques d'Israël dans le Territoire palestinien occupé, y compris Jérusalem-Est, avis consultatif du 19 juillet 2024*, par. 100.

¹⁶³ *Conséquences juridiques découlant des politiques et pratiques d'Israël dans le Territoire palestinien occupé, y compris Jérusalem-Est, avis consultatif du 19 juillet 2024*, par. 99 ; *Conséquences juridiques de l'édification d'un mur dans le territoire palestinien occupé, avis consultatif, C.I.J. Recueil 2004 (I)*, p. 178, par. 106.

¹⁶⁴ PIDCP (Pacte international relatif aux droits civils et politiques), art. 6 ; CIDE, art. 6.

faim¹⁶⁵, le droit à un niveau de vie suffisant pour chaque personne et sa famille, y compris une nourriture, un vêtement et un logement suffisants¹⁶⁶, le droit à la santé¹⁶⁷ et le droit à l'eau¹⁶⁸.

34. À noter que le Pacte international relatif aux droits économiques, sociaux et culturels impose aux États d'agir, y compris par la coopération internationale, pour garantir progressivement l'exercice des droits économiques, sociaux et culturels¹⁶⁹. Ils doivent s'abstenir de toute mesure empêchant leur exercice. Ainsi, si l'aide humanitaire ou au développement est essentielle à la réalisation de ces droits, un État ne peut légitimement en restreindre l'accès.

B. Obligations d'Israël en tant qu'État Membre de l'ONU

a) Considérations générales

35. En tant que Membre de l'ONU, Israël jouit d'un nombre de droits, mais assume également des devoirs. La résolution 273 du 11 mai 1949¹⁷⁰, par laquelle l'Assemblée générale des Nations Unies a admis Israël en tant que Membre de l'ONU, précise que ce dernier « accepte sans réserve aucune les obligations découlant de la Charte des Nations Unies et s'engage à les respecter du jour où il deviendra Membre de l'ONU ».

36. Conformément aux dispositions de la Charte, Israël, comme tout État Membre des Nations Unies, est tenu d'une obligation d'assistance envers l'ONU¹⁷¹ qu'il se doit de remplir de bonne foi¹⁷². Cela vaut également pour les agences de l'ONU, qui font partie intégrante du système onusien.

37. Compte tenu des circonstances factuelles ayant conduit à la saisine de la Cour, à savoir l'adoption par la Knesset le 28 octobre 2024 de deux lois visant à interdire les activités de l'UNRWA, l'analyse qui suit portera essentiellement sur la présence et les activités de cette agence dans le TPO.

¹⁶⁵ PIDESC, art. 11.

¹⁶⁶ *Ibid.*, art. 11 ; CIDE, art. 27.

¹⁶⁷ PIDESC, art. 12 ; CIDE, art. 24.

¹⁶⁸ PIDESC, art. 11 et 12 ; CIDE, art. 24.

¹⁶⁹ PIDESC, art. 2, par. 1.

¹⁷⁰ Résolution 273 (III) de l'Assemblée générale des Nations Unies du 11 mai 1949 (A/RES/273 (III)).

¹⁷¹ Article 2, paragraphe 5, de la Charte des Nations Unies.

¹⁷² Article 2, paragraphe 2, de la Charte des Nations Unies.

b) Obligation de respecter les privilèges et immunités dont jouit l'UNRWA

38. Les privilèges et immunités nécessaires à l'action de l'ONU et de ses agents sur le territoire de chacun des États Membres sont protégés conformément à l'article 105 de la Charte. Les privilèges et immunités dont jouit l'ONU sont définis de manière plus détaillée dans la convention générale sur les privilèges et immunités des Nations Unies du 13 février 1946, à laquelle Israël a adhéré en 1949. En tant qu'État partie à cette convention et Membre de l'ONU, Israël est donc tenu de respecter les obligations en matière de privilèges et immunités qui en découlent. Conformément à la section 35 de la convention générale, les États Membres ne peuvent pas dénoncer cette convention tant qu'ils sont Membres de l'ONU.

39. En ce qui concerne spécifiquement l'UNRWA, l'Assemblée générale a réitéré à de multiples reprises l'applicabilité de la convention générale à cette agence¹⁷³, et a rappelé qu'Israël est tenu de respecter le mandat de l'UNRWA, ainsi que ses privilèges et immunités¹⁷⁴. En tant qu'organe subsidiaire de l'ONU, l'UNRWA bénéficie des mêmes immunités et privilèges dans tous ses États Membres, y compris Israël.

40. Dans l'échange de lettres Comay-Michelmores conclu en 1967, Israël a reconnu que la convention générale régissait les relations entre le Gouvernement israélien et l'UNRWA concernant l'exercice des fonctions de l'agence. Les lois du 28 octobre 2024 prévoient l'abrogation dudit accord et la révocation des privilèges et immunités accordés à l'UNRWA. Or, il convient de noter que cet échange de lettres ne saurait constituer la base légale de la présence de l'UNRWA ou de l'ONU sur le territoire israélien, celle-ci préexistant à la conclusion de l'accord provisoire. L'accord ne crée pas les privilèges et immunités dont jouit l'UNRWA, mais reconnaît simplement leur existence. Par conséquent, la résiliation de l'accord ne saurait priver l'agence des privilèges et immunités dont elle jouit en vertu de la convention générale.

41. Conformément à la section 34 de la convention générale, Israël doit être en mesure d'appliquer, en vertu de son propre droit, les dispositions de la convention. Il ne peut invoquer les dispositions de son droit interne comme justifiant la non-exécution de ses obligations¹⁷⁵. Il en découle

¹⁷³ Voir en ce sens résolution 302 (IV) du 8 décembre 1949, par. 17 ; résolution 76/78 du 9 décembre 2021, par. 38 ; résolution 77/122 du 12 décembre 2022, par. 39 ; résolution 78/73 du 7 décembre 2023, par. 39.

¹⁷⁴ Résolution A/RES/ES-10/25 du 11 décembre 2024, par. 12.

¹⁷⁵ Article 27 de la convention de Vienne sur le droit des traités.

que les lois internes d'Israël, y compris les lois de la Knesset, doivent être mises en œuvre de manière qui soit compatible avec les obligations internationales d'Israël en vertu de la convention.

42. Le Luxembourg considère que certaines dispositions des lois adoptées par la Knesset sont susceptibles, si elles sont mises en œuvre, de violer les obligations d'Israël au titre de l'article 105 de la Charte et de la convention générale.

43. En vertu de ces lois, tout contact entre les employés d'Israël et l'UNRWA, ou à travers un intermédiaire, est interdit. Cette disposition rend impossible l'exercice des activités de l'UNRWA, l'agence ne pouvant *de facto* exercer ses fonctions sans entrer en contact avec les autorités israéliennes, notamment pour ce qui est de la délivrance de visas à son personnel. Cette mesure va à l'encontre de l'obligation d'assistance qu'Israël doit à l'ONU et à ses organes en vertu de la Charte.

44. Les lois de la Knesset prévoient également que des poursuites pénales contre le personnel de l'UNRWA ne peuvent pas être exclues. Si la portée de cette disposition ne semble pas tout à fait claire, il importe de noter que toute poursuite pénale engagée par Israël à l'encontre du personnel de l'UNRWA serait incompatible avec la convention générale qui accorde une immunité de juridiction aux fonctionnaires de l'ONU pour les actes accomplis par eux dans l'exercice de leurs fonctions¹⁷⁶. Conformément à la section 20 de la convention générale, l'immunité des fonctionnaires de l'ONU pourra être levée à la décision de l'ONU. Si Israël souhaite lever cette immunité dans des cas particuliers, il devrait en faire la demande à l'ONU et en motiver la raison.

45. Invoquant les lois de la Knesset, Israël a exigé que l'UNRWA cesse ses activités à Jérusalem et quitte tous ses locaux au plus tard le 30 janvier 2025¹⁷⁷, bien que cela soit incompatible avec l'inviolabilité dont jouissent les locaux de l'UNRWA, ses biens et ses avoirs en vertu de la section 3 de la convention générale. L'inviolabilité des locaux est absolue — elle ne peut être écartée au motif que, dans les circonstances particulières des hostilités, l'inviolabilité des locaux et des biens de l'ONU devait être restreinte ou supplantée par les exigences de l'opportunité militaire¹⁷⁸. La Charte et la convention générale n'admettent aucune réserve à cet égard.

¹⁷⁶ Section 18 de la convention générale.

¹⁷⁷ Lettre du 24 janvier 2025 adressée au Secrétaire général par le représentant permanent d'Israël auprès des Nations Unies (Section II (F), document n° N307).

¹⁷⁸ *UN Juridical Yearbook 2003*, p. 522, par. 11. Voir, également, Rosalyn Higgins, *Oppenheim's International Law: United Nations*, p. 574.

46. Il résulte de ce qui précède que les revendications d'Israël concernant la cessation des activités de l'UNRWA, l'évacuation de ses locaux et la perte des immunités et de l'inviolabilité dont jouissent l'agence et ses employés, si elles sont mises en œuvre, vont à l'encontre des obligations juridiques d'Israël en vertu de la Charte et de la convention générale. L'ONU et ses organes, y compris l'UNRWA, doivent pouvoir continuer de bénéficier des privilèges et immunités nécessaires à l'accomplissement de leurs missions.

47. Le Luxembourg considère par conséquent que les lois de la Knesset sont incompatibles avec les obligations d'Israël en vertu du droit international. Leur mise en œuvre aurait pour conséquence d'empêcher l'UNRWA de poursuivre ses activités essentielles dans le TPO, mettant ainsi en péril le mandat unique et irremplaçable conféré à l'agence.

IV. CONCLUSION

48. Monsieur le président, Mesdames et Messieurs les Membres de la Cour, permettez-moi de faire quelques remarques finales.

49. Les obligations juridiques qui incombent à Israël, à la fois en tant que puissance occupante dans le TPO et en sa qualité d'État Membre des Nations Unies, lui imposent de coopérer avec les agences des Nations Unies concernées, y compris l'UNRWA, afin d'assurer la continuité des opérations humanitaires dans le TPO. Le respect de ces obligations est d'autant plus impératif face à l'urgence humanitaire dramatique qui sévit dans la bande de Gaza. La survie de centaines de milliers de civils dépend de l'accès à l'aide humanitaire.

50. L'action des Nations Unies dans le TPO, notamment à travers l'UNRWA, est essentielle et indispensable, tant en ce qui concerne l'acheminement de l'aide humanitaire que la fourniture de services de base tels que la santé et l'éducation. À cette fin, le rôle de l'UNRWA, reconnu par la communauté internationale comme irremplaçable, doit être pleinement protégé.

51. En tant que puissance occupante, Israël est tenu par le droit international humanitaire d'administrer le TPO dans l'intérêt de la population locale, notamment en assurant la fourniture de l'aide humanitaire à la population civile et en acceptant et facilitant les actions de secours organisés par des tiers, dont les agences des Nations Unies. Cela implique également de permettre le libre passage des secours humanitaires et d'assurer leur protection.

52. En tant que Membre de l'ONU, Israël doit permettre, faciliter et protéger la présence et les activités de l'ONU et de ses organes, notamment en respectant les immunités applicables.

53. Monsieur le président, Mesdames et Messieurs les Membres de la Cour, ceci conclut mon intervention et je vous remercie de votre attention.

Le PRÉSIDENT : Je remercie le représentant du Luxembourg pour sa présentation, qui met un terme à l'audience de cet après-midi. The oral proceedings will resume tomorrow at 10 a.m., in order for the Maldives, Mexico, Namibia and Norway to be heard on the question submitted to the Court. The sitting is closed.

The Court rose at 5.45 p.m.
