

INTERNATIONAL COURT OF JUSTICE

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 an Advisory Opinion)

WRITTEN STATEMENT OF THE REPUBLIC OF CHILE

19 February 2025

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1. On 19 December 2024, the United Nations General Assembly adopted, at its fifty-fourth plenary meeting of its seventy-ninth session, resolution 79/232, by which it decided, pursuant to Article 96 of the Charter of the United Nations and Article 65 of the Statute of the International Court of Justice, to request the Court to render an advisory opinion. In accordance with paragraph 10 of Resolution 79/232, the question submitted to the Court reads as follows:

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

2. By Order of 23 December 2024, the Court decided that the United Nations and its member States, as well as the Observer State of Palestine, are considered likely to be able to furnish information on the questions submitted to the Court for an advisory opinion. For this purpose, it fixed 28 February 2025 as the time-limit within which written statements on the question may be presented to the Court, in accordance with Article 66, paragraph 2, of the Statute.

3. The purpose of this written statement is to put forward the views of the Republic of Chile regarding the jurisdiction of the Court and the admissibility of the request for an advisory opinion made by the General Assembly of the United Nations, and also to provide its views about the substantive issues involved in this request.
4. For these reasons, this written statement is divided into the following four chapters:
 - I. The Court has jurisdiction and should not use its discretionary power to reject giving this advisory opinion.
 - II. The applicable law that the Court should take into consideration in answering the present advisory request.
 - III. Israel's obligations as a member of the United Nations.
 - IV. Israel's obligations as an occupying Power.

I. THE COURT HAS JURISDICTION AND SHOULD NOT USE ITS DISCRETIONARY POWER TO REJECT GIVING THIS ADVISORY OPINION

5. Before delving into the substantive questions, the Court needs to determine (a) whether it has jurisdiction to give the advisory opinion requested by the General Assembly, and (b) whether it should exercise its discretion to give the opinion.
6. In accordance with Article 65 of its Statute, the Court “may give an advisory opinion on any legal question at the request of whatever body may be authorized by or in accordance with the Charter of the United Nations to make such a request.” As explained by the Court in its Advisory Opinion on the *Application for Review of Judgment No. 273 of the United Nations Administrative Tribunal*,¹ it is “a precondition of the Court’s competence that the advisory opinion be requested by an organ duly authorized to seek it under the Charter.”

¹ *Application for Review of Judgment No. 273 of the United Nations Administrative Tribunal*, Advisory Opinion, I.C.J. Reports 1982, p. 325, at pp. 333-334, para. 21.

7. Furthermore, even if the conditions of jurisdiction are met, the Court must determine “whether there is any reason why the Court should, in the exercise of its discretion, decline to answer the request”.²
8. In Chile’s view the Court has jurisdiction to give the requested advisory opinion and there are no compelling reasons that could lead the Court to decline to respond to the General Assembly’s request.

A. JURISDICTION TO GIVE THE REQUESTED ADVISORY OPINION

9. As stated in Article 96(1) of the Charter of the United Nations, the General Assembly is duly authorized to request the International Court of Justice to give an advisory opinion on any legal question, and the request concerns matters that fall within the competence of the General Assembly.
10. Indeed, Article 10 of the Charter provides that “[t]he General Assembly may discuss any questions or any matters within the scope of the present Charter or relating to the powers and functions of any organs provided for in the present Charter [...]”. While, Article 11 states that: (1) “The General Assembly may consider the general principles of co-operation in the maintenance of international peace and security, [...] and make recommendations with regard to such principles to the members or to the Security Council or to both”.
11. In addition, relating to the privileges and immunities of the United Nations, the General Assembly can “make recommendations with a view to determining the details of [their] application [...] or may propose conventions to the members of the United Nations for this purpose.”³

² *Legal Consequences Arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, Including East Jerusalem*, Advisory Opinion, 19 July 2024, at p. 15, para. 22. See also, *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Advisory Opinion, I.C.J. Reports 2004, p. 136, at p. 156, para. 44; and *Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965*, Advisory Opinion, I.C.J. Reports 2019, p. 95, at p. 113, para. 65.

³ Charter of the United Nations (adopted 26 June 1945, entered into force 24 October 1945) 1 UNTS XVI (UN Charter) art 105(3).

12. In exercising those powers, the General Assembly has dealt with the question of Palestine since 1947,⁴ and in particular with the situation of Palestinian Refugees since 1948.⁵ Precisely for the purpose of carrying “out in collaboration with local governments the direct relief and works programmes”⁶ for Palestine refugees, the General Assembly, through Resolution 302(IV), established the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA). Since then, the General Assembly has continuously renewed its mandate on a periodic basis, most recently until 30 June 2026.⁷
13. It is thus clear, that the General Assembly, as an organ duly authorized to request and advisory opinion from the Court, has done so in exercise of its mandate.
14. Furthermore, the question put to the Court is of a legal character, since it requests the Court to identify Israel’s legal obligations as an occupying Power and as a member of the United Nations, in relation to the presence and activities of the United Nations, including its agencies and bodies, other international organizations and third States, in and in relation to the Occupied Palestinian Territory.
15. The fact that a legal question involves certain political aspects does not bar the Court from exercising its jurisdiction.⁸ To the contrary, the Court has stated that in situations in which political considerations are prominent, it is even more necessary to understand the legal principles applicable to the matter in question;⁹ and that it cannot refuse to respond to a request for an advisory opinion on the sole basis that it is related to certain political aspects or motives.¹⁰

⁴ UNGA Res. 181 (II) (29 November 1947).

⁵ UNGA Res. 194 (III) (11 December 1948).

⁶ UNGA Res. 302 (IV) (8 December 1949), para. 7.

⁷ UNGA Res. 77/123 (12 December 2022).

⁸ *Legality of the Threat or Use of Nuclear Weapons*, Advisory Opinion, I.C.J. Reports 1996, p. 226, at p. 234, para. 13; *Legal Consequences of the Construction of a Wall* (n 2) at p. 155, para. 41; and *Application for Review of Judgment No. 158 of the United Nations Administrative Tribunal*, Advisory Opinion, I.C.J. Reports 1973, p. 166, at p. 172, para. 14.

⁹ *Interpretation of the Agreement of 25 March 1951 between the WHO and Egypt*, Advisory Opinion, I.C.J. Reports 1980, p. 73, at p. 87, para. 33.

¹⁰ *Conditions of Admission of a State to Membership in the United Nations (Article 4 of the Charter)*, Advisory Opinion, 1948, I.C.J. Reports 1947-1948, p. 57, at p. 61; *Legality of the Threat or Use of Nuclear Weapons* (n 8)

16. Therefore, Chile's position is that the Court has jurisdiction to give the requested advisory opinion.

B. NO COMPELLING REASONS TO REFUSE GIVING THE ADVISORY OPINION

17. In accordance with the Court's jurisprudence, the Court has "a discretionary power to decline to give an advisory opinion even if the conditions of jurisdiction are met".¹¹ However, given its functions as the principal judicial organ of the United Nations, the Court should, in principle, not refuse to give such an opinion,¹² unless a refusal is necessary due to compelling reasons.¹³ Nevertheless, no such compelling reasons exist in the present case.

18. As the Court has previously stated, the situation of the Occupied Palestinian Territory is not only a bilateral matter between Israel and Palestine.¹⁴ As aforementioned, United Nations organs have been involved in the question of Palestine since at least 1947, which has remained on the agenda of both the General Assembly and the Security Council to this date.

19. Thus, when a matter can be regarded as of concern to the United Nations, it is clear that an advisory opinion may contribute to its proper functioning,¹⁵ since it would have relevance for its continuing debate in the General Assembly. The Court has also noted that it is not for the Court to decide whether or not an advisory opinion is needed by the Assembly for the performance of its function, as this is to be decided by the Assembly itself.¹⁶

at p. 234, para. 13; and *Accordance with International Law of the Unilateral Declaration of Independence in Respect of Kosovo*, Advisory Opinion, I.C.J. Reports 2010, p. 403, at p. 415, para. 27.

¹¹ *Legal Consequences Arising from the Policies and Practices of Israel* (n 2), at p. 16, para. 30. See also, *Legal Consequences of the Construction of a Wall* (n 2) at p. 156, para. 44; and *Accordance with International Law of the Unilateral Declaration of Independence in Respect of Kosovo* (n 10) at pp. 415-416, para. 29.

¹² *Legal Consequences Arising from the Policies and Practices of Israel* (n 2) at p. 16, para. 30; and *Legal Consequences of the Separation of the Chagos Archipelago* (n 2) at p. 113, para. 65.

¹³ *Legal Consequences Arising from the Policies and Practices of Israel* (n 2) at p. 16, para. 31; and *Legal Consequences of the Separation of the Chagos Archipelago* (n 2) at p. 113, para. 65.

¹⁴ *Legal Consequences Arising from the Policies and Practices of Israel* (n 2) at p. 17, para. 35.

¹⁵ *Legal Consequences of the Construction of a Wall* (n 2) at p. 159, para. 50.

¹⁶ *Legality of the Threat or Use of Nuclear Weapons* (n 8) at p. 237, para. 16; and *Legal Consequences Arising from the Policies and Practices of Israel* (n 2) at p. 17, para. 37.

20. Further, as a matter of particular interest to the Organization, the rendering of this advisory opinion cannot be construed as circumventing the principle of consent to judicial settlement either, particularly because the issue raised by the request does not directly relate to the ongoing negotiations between Israel and Palestine, but rather to the obligations Israel has in relation to third States, the UN and other international organizations; and ultimately it should be deemed “part of the Palestinian question, including the General Assembly’s role relating thereto”.¹⁷
21. Indeed, the question posed by the General Assembly is broad, and requires the Court to undertake an examination of the applicable law in order to assist the General Assembly in exercising its functions, with a clear view on the identification of the obligations that Israel has as a UN member and occupying power in relation to third States, the UN, its agencies and bodies, and other international organizations in and in relation to the Occupied Palestinian Territory. In any event, the Court has been clear in stating that it “may give an advisory opinion on any legal question, abstract or otherwise.”¹⁸
22. Hence, Chile’s position is that there are no compelling reasons for the Court to decline giving the requested advisory opinion.

II. THE APPLICABLE LAW THAT THE COURT SHOULD TAKE INTO CONSIDERATION IN ANSWERING THE PRESENT REQUEST FOR AN ADVISORY OPINION

23. The rules and principles of international law that are relevant to answer the question posed by the General Assembly in its request for an advisory opinion, are the United Nations Charter, specifically Article 2(2) which mandates members to fulfil in good faith their obligations under the Charter, Article 25 which binds members to Security Council decisions, Articles 2(5) and 56 which enshrine a general duty to cooperate with other States and the Organization itself, and Article 105 regarding the privileges and

¹⁷ *Legal Consequences of the Construction of a Wall* (n 2) at p. 159, para. 50; and *Legal Consequences Arising from the Policies and Practices of Israel* (n 2) at p. 17, para. 35..

¹⁸ *Legality of the Threat or Use of Nuclear Weapons* (n 8) at p. 234, para. 15; *Legal Consequences of the Construction of a Wall* (n 2) at p. 161, para. 56.; *Conditions of Admission of a State to Membership in the United Nations* (n 10) at p. 61; *Effect of Awards of Compensation Made by the United Nations Administrative Tribunal*, Advisory Opinion, I.C.J. Reports 1954, p. 47, at p. 51; *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. 16, at p. 27, para. 40

immunities of the Organization; the 1946 Convention on the Privileges and Immunities of the United Nations; International Humanitarian Law (“IHL”), in particular the law of occupation; and International Human Rights Law (“IHRL”), with special emphasis on the right to self-determination.

24. It is worth noting that this Court has already declared that, because the powers and responsibilities that stem from the Oslo Accords should be exercised “with due regard to internationally-accepted norms and principles of human rights and the rule of law”,¹⁹ which include Palestinians right to self-determination, and considering that under IHL the protection to civilians and the occupied population cannot be deprived through any agreement, “the Oslo Accords cannot be understood to detract from Israel’s obligations under the pertinent rules of international law”.²⁰

A. THE UNITED NATIONS CHARTER

25. As a member of the United Nations,²¹ Israel has accepted the obligations contained in the United Nations Charter and is deemed able to carry them out.²² As aforementioned, of particular relevance for answering the present request for an advisory opinion are Articles 2(2), 2(5), 25, 56 and 105 of the Charter.

26. Pursuant to Article 2(2) of the United Nations Charter all members “shall fulfill in good faith the obligations assumed by them in accordance with the present Charter.”

27. The principle of good faith is “one of the basic principles governing the creation and performance of legal obligations”,²³ and while it does not create obligations on its own,²⁴

¹⁹ Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip (Oslo II Accord) (Israel - the Palestine Liberation Organization) (28 September 1995) art. XIX.

²⁰ *Legal Consequences Arising from the Policies and Practices of Israel* (n 2) at p. 32, para. 102.

²¹ UNGA Res. 273 (III) (11 May 1949).

²² UN Charter (n 3), art 4.

²³ *Nuclear Tests (Australia v. France)*, Judgment, I.C.J. Reports 1974, p. 253, at p.268, para. 46.

²⁴ *Border and Transborder Armed Actions (Nicaragua v. Honduras)*, Jurisdiction and Admissibility, Judgment, I.C.J. Reports 1988, p. 69, at p. 105, para. 94.

this principle obliges States to comply with their international obligations “in a reasonable way and in such a manner that its purpose can be realized.”²⁵

28. In particular, Article 2(2) obliges members of the UN Charter to fulfil their international legal obligations in accordance with the purposes of the Charter, thus preventing States to invoke State sovereignty as a means to avoid its obligations.²⁶ In this regard, good faith operates as a directive for interpretation, mandating States to interpret the black letter in a reasonable manner and in conformity with the spirit of the rule;²⁷ while also serving as the legal basis for basic obligations of cooperation²⁸ and good faith in the accomplishment of common aims between member States, and with the Organization itself.²⁹

29. As further explained by the General Assembly, this obligation of good faith applies also to “obligations under the generally recognized principles and rules of international law”, and valid international agreements, as long as they are in accordance with the UN Charter.³⁰ In this regard, this obligation is closely related to the principle of *pacta sunt servanda* enshrined in Article 26 of the Vienna Convention on the Law of Treaties pursuant to which States are obligated to fulfil their treaty obligations in good faith and “in such a manner that its purpose can be realized.”³¹

30. In addition, under Article 25 of the UN Charter members “agree to accept and carry out the decisions of the Security Council in accordance with the present Charter”. This means that Security Council decisions have a binding effect for UN members.

31. The determination of a resolution’s binding character under Article 25 needs to be established “in each case, having regard to the terms of the resolution to be interpreted, the discussions leading to it, the Charter provisions invoked and, in general, all

²⁵ *Gabčíkovo-Nagymaros Project (Hungary/Slovakia)*, Judgment, I.C.J. Reports 1997, p. 7, at pp.78-79, para. 142.

²⁶ Robert Kolb, ‘Article 2(2)’ in Bruno Simma, Daniel-Erasmus Khan, Georg Nolte (ed.) and Andreas Paulus (eds), *The Charter of the United Nations: A Commentary* (4th edn, OUP 2024), at p. 250.

²⁷ *Ibid.*, p. 254.

²⁸ *Ibid.*, p. 255.

²⁹ *Interpretation of the Agreement of 25 March 1951 between the WHO and Egypt* (n 9) at p. 93, para. 43.

³⁰ UNGA Res. 2625 (XXV) (24 October 1970), p. 124.

³¹ *Gabčíkovo-Nagymaros Project* (n 25) at pp. 78-79, para. 142.

circumstances that might assist in determining the legal consequences of the resolution of the Security Council.”³² It must be noted that this Court has previously clarified that all decisions of the Security Council fall under this provision, and not only those concerning enforcement action under Chapter VII of the Charter.³³

32. Furthermore, the Court has also found that Security Council decisions benefit from the hierarchy of the UN Charter, in that they would “prevail over their obligations under any other international agreement” as per Article 103 of the Charter.³⁴

33. In consequence, in answering the question posed by the General Assembly, the Court needs to take into account all relevant Security Council resolutions that have made any decisions in relation to the situation in the Occupied Palestinian Territory or the provision of humanitarian aid to Palestinians.

34. The Court should also consider the duty enshrined in Articles 2(5) and 56 of the UN Charter under which all members shall cooperate with each other and with the Organization to achieve the purposes set out in Article 55 that aims to create the “conditions of stability and well-being which are necessary for peaceful and friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples”.³⁵

35. It has been commonly understood that Article 2(5) enshrines a general duty to collaborate with the United Nations “in any action it takes in accordance with the present Charter”, while Article 56 encompasses a general duty of cooperation in the economic, social and cultural fields, and in particular for the advancement of human rights, beyond the specific obligations of membership provided in the Charter.³⁶ This duty includes all

³² *Legal Consequences for States of the Continued Presence of South Africa in Namibia* (n 18) at p. 53, para. 114.

³³ *Ibid.*, at pp. 52-53, para. 113.

³⁴ *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. United States of America)*, Provisional Measures, Order of 14 April 1992, I.C.J. Reports 1992, p. 114, at p. 126, para. 42.

³⁵ UN Charter (n 3), art.55.

³⁶ UNGA ‘Report of the Secretary-General on the progressive development of the principles and norms of international law relating to the new international economic order’ (1984) UN Doc A/39/504/Add.1 at para. 129.

bodies, agencies and subsidiary organs of the United Nations,³⁷ and involves not only the observance and implementation of UN policies and decisions, but also an obligation to cooperate in good faith with the Organization, its bodies, agencies and subsidiary organs, and abstain from any obstruction to their mandate.³⁸

36. Lastly, pursuant to Article 105 the United Nations “enjoy[s] in the territory of each of its Members such privileges and immunities as are necessary for the fulfilment of its purposes.”

37. This provision applies to “all principal and subsidiary organs of the UN”,³⁹ such as UNRWA, whereas the specialized agencies enjoy privileges and immunities under the 1947 Convention on the Privileges and Immunities of the Specialized Agencies.

38. This status is broad, grounded on what is necessary for the organization to achieve its purpose,⁴⁰ which is determined on a case-by-case basis. To facilitate its implementation, as mandated by paragraph 3 of Article 105 of the UN Charter, the General Assembly approved the 1946 General Convention on the Privileges and Immunities of the United Nations. Additionally, host States have also engaged in the practice of celebrating bilateral host agreements with the particular UN agency that wishes to operate from their territory.

39. These agreements provide “certain general indications of what the mutual obligations of organizations and host States to cooperate in good faith may involve”.⁴¹

40. Nevertheless, as an obligation within the UN Charter, all members of the UN have the duty to confer the necessary privileges and immunities to the Organization, its agencies

³⁷ Tobias Stoll, ‘Article 56’ in Bruno Simma, Daniel-Erasmus Khan, Georg Nolte (ed.) and Andreas Paulus (eds), *The Charter of the United Nations: A Commentary* (4th edn, OUP 2024), at p. 2101.

³⁸ *Ibid.*, pp. 2101-2102.

³⁹ Andreas R Ziegler, ‘Article 105’ in Bruno Simma, Daniel-Erasmus Khan, Georg Nolte (ed.) and Andreas Paulus (eds), *The Charter of the United Nations: A Commentary* (4th edn, OUP 2024), at p. 2813.

⁴⁰ *Ibid.*, at p. 2809.

⁴¹ *Interpretation of the Agreement of 25 March 1951 between the WHO and Egypt* (n 9) at p. 94, para. 46.

and subsidiary bodies, even if they have not yet entered into any further agreement specifying them,⁴² or they have terminated such agreements.

41. Therefore, in answering the General Assembly's question, the Court should bear in mind the general obligation to accord privileges and immunities to the UN and its agencies under Article 105 of the UN Charter, together with the obligations that arise under the 1946 General Convention, the 1947 Convention on the Privileges and Immunities of the Specialized Agencies and, in the specific case of UNRWA, the exchange of letters of 14 June 1967 between Israel and UNRWA that constitutes the Provisional Agreement that governs the relations between both Parties in all that concerns UNRWA's functions.

B. CONVENTION ON THE PRIVILEGES AND IMMUNITIES OF THE UNITED NATIONS

42. The General Convention is the main international agreement that specifies the privileges and immunities that benefit the United Nations, its agencies and subsidiary bodies, its officials, experts in mission, and the representatives of member States.
43. As aforementioned, it was adopted in compliance with the General Assembly's mandate in Article 105(3) of the UN Charter,⁴³ and as such, it has been argued that "the substance of the Convention is binding on all members of the UN."⁴⁴
44. The Convention guarantees the United Nations absolute immunity of jurisdiction and execution for the organization and its staff, and inviolability of its premises, archives and documents, paired with certain tax exemptions and custom duties, similar to those granted to diplomatic missions.⁴⁵ The purpose of these privileges and immunities is to ensure the independence of the organization, and allow it to carry out its mandate without any undue interference or financial gain by the host State.⁴⁶

⁴² Rosalyn Higgins and others, *Oppenheim's International Law: United Nations* (OUP 2017), pp. 546-547.

⁴³ Convention on the Privileges and Immunities of the United Nations (adopted 13 February 1946, entered into force 17 September 1946) 1 UNTS 15 (General Convention), preamble.

⁴⁴ Higgins and others (n 42), at p. 548.

⁴⁵ Ziegler (n 39), at pp. 2813-2818.

⁴⁶ Higgins and others (n 42), at pp. 559-562.

45. It is important to note that despite the fact that the United Nations is not a party to the General Convention, considering that its object and purpose is precisely to grant the Organization with specific rights that would permit its smooth operation, the UN is entitled to invoke those rights against State parties to the Convention.⁴⁷
46. Israel became a party to the General Convention on 21 September 1949, through the deposit of an instrument of accession. Therefore, in answering the question put by the General Assembly, the relevant provisions of the Convention that the Court should consider are Article II, regarding the immunities that apply over UN's property, funds and assets; Article III, that provides facilities to the Organization for its official communications; Article V, on the immunities and privileges of UN staff; and Article VI, on the privileges and immunities of experts on missions for the United Nations.

C. INTERNATIONAL HUMANITARIAN LAW

47. In its most recent Advisory Opinion, the Court recognized that the Occupied Palestinian Territory, including East Jerusalem, and Gaza are occupied territories.⁴⁸ Thus, international humanitarian law, and in particular the law of occupation, is relevant in assessing Israel's obligation in relation to said territory, especially regarding the obligation to provide supplies essential to the survival of the Palestinian civilian population as well as of basic services and humanitarian and development assistance.
48. Indeed, as was recognized by the Court "Israel's powers and duties in the Occupied Palestinian Territory are governed by the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949 (hereinafter the "Fourth Geneva Convention") and by customary international law."⁴⁹ Further, the Fourth Geneva Convention is supplementary of the rules regarding occupation enshrined in the 1907 Hague Regulations which have become part of customary international law.⁵⁰

⁴⁷ *Ibid.*, at p. 549.

⁴⁸ *Legal Consequences Arising from the Policies and Practices of Israel* (n 2) at pp. 30-31, paras. 90-94.

⁴⁹ *Ibid.*, p. 31, para. 96.

⁵⁰ *Ibid.*

49. Although the rules contained in the Fourth Geneva Convention are “to be observed by all States whether or not they have ratified the conventions that contain them, because they constitute intransgressible principles of international customary law”,⁵¹ they are also binding upon Israel as a party to the Convention which it ratified on 6 July 1951.
50. In relation to the presence and activities of the United Nations, including its agencies and bodies, other international organizations and third States, under IHL, Israel, as the occupying Power, has a duty to permit and facilitate the provision of humanitarian relief to the civilian population,⁵² and thus, must allow the aforementioned actors adequate access for this purpose.

D. INTERNATIONAL HUMAN RIGHTS LAW

51. As the Court has clarified, the protection granted by International Human Rights Law does not cease during an armed conflict or an occupation. Therefore, except for those rights that are exclusively governed by International Humanitarian Law, IHRL applies either exclusively or conjunctively with IHL.⁵³ This means that IHL and IHRL are meant to be complementary where possible, subject only to legitimate derogations.⁵⁴
52. In addition, IHRL instruments are also applicable in respect of acts outside the jurisdiction of a State, and in particular in occupied territories.⁵⁵ As such, it is clear that IHRL is applicable to the Occupied Palestinian Territory.⁵⁶ Accordingly, as the

⁵¹ *Ibid.*, citing *Legality of the Threat or Use of Nuclear Weapons* (n 8) at p. 257, para. 79.

⁵² Convention (IV) relative to the Protection of Civilian Persons in Time of War (adopted 12 August 1949, entered into force 21 October 1950) 75 UNTS 287 (GC IV), arts 59 to 62.

⁵³ *Legal Consequences Arising from the Policies and Practices of Israel* (n 2) at p. 32, para. 99.

⁵⁴ UNGA ‘Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967’ (23 October 2017) UN Doc A/72/556, para. 23.

⁵⁵ *Legal Consequences Arising from the Policies and Practices of Israel* (n 2) at p. 32, para. 99.

⁵⁶ *Legal Consequences of the Construction of a Wall* (n 2), at p. 178, para. 106; and *Armed Activities in the Territory of the Congo (Democratic Republic of the Congo v. Uganda)*, Judgment, I.C.J. Reports 2005, p. 168, at p. 231, paras. 178-179; UNHRC ‘Report of the Secretary-General on the human rights situation in the Occupied Palestinian Territory, including East Jerusalem’ (13 April 2017) UN Doc A/HRC/34/38, paras. 5-9; UNHRC ‘Report of the United Nations High Commissioner for Human Rights on Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and in the occupied Syrian Golan’ (15 March 2023) UN Doc A/HRC/52/76, para. 4; UNGA ‘Report of the Secretary-General on Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and the Occupied Syrian Golan’ (3 October 2022) UN Doc A/77/493, para. 3; UNHRC ‘Report of the Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel’ (9 May 2023) UN Doc A/HRC/53/22, para. 5; UNHRC ‘Report of the Independent

occupying Power, Israel's obligations under the International Covenant on Civil and Political Rights,⁵⁷ the International Covenant on Economic, Social, and Cultural Rights,⁵⁸ the International Convention on the Elimination of All Forms of Racial Discrimination,⁵⁹ the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,⁶⁰ the Convention on the Elimination of All Forms of Discrimination against Women,⁶¹ the Convention on the Rights of the Child,⁶² the Convention on the Rights of Persons with Disabilities,⁶³ and other applicable rules of IHRL, including customary international human rights law, fully apply within the Occupied Palestinian Territory.⁶⁴

53. In relation to the question posed by the General Assembly to the Court, amongst all applicable human rights, the right of self-determination is of special importance. It comprises the right of all peoples to “freely determine their political status and freely pursue their economic, social and cultural development.”⁶⁵

54. As the Court has recognized, the right of self-determination is “one of the essential principles of contemporary international law”.⁶⁶ It is enshrined in several bodies of

International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel' (9 May 2022) UN Doc A/HRC/50/21, para. 20; UNHRC 'Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, Francesca Albanese' (9 June 2023) UN Doc A/HRC/53/59, para. 15; and UNCHR 'Report of the Special Rapporteur of the Commission on Human Rights, Mr. John Dugard, on the situation of human rights in the Palestinian territories occupied by Israel since 1967' (6 March 2002) UN Doc E/CN.4/2002/32, p. 14, para. 9.

⁵⁷ International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 (ICCPR).

⁵⁸ International Covenant on Economic, Social and Cultural Rights (adopted 16 December 1966, entered into force 3 January 1976) 993 UNTS 3 (ICESCR).

⁵⁹ International Convention on the Elimination of All Forms of Racial Discrimination (adopted 7 March 1966, entered into force 4 January 1969) 660 UNTS 195 (CERD).

⁶⁰ Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (adopted 10 December 1984, entered into force 26 June 1987) 1465 UNTS 85 (CAT)

⁶¹ Convention on the Elimination of All Forms of Discrimination against Women (adopted 18 December 1979, entered into force 3 September 1981) 1249 UNTS 13 (CEDAW).

⁶² Convention on the Rights of the Child (adopted 20 November 1989, entered into force 2 September 1990) 1577 UNTS 3 (CRC).

⁶³ Convention on the Rights of Persons with Disabilities (adopted 13 December 2006, entered into force 3 May 2008) 2515 UNTS 3 (CRPD).

⁶⁴ *Legal Consequences of the Construction of a Wall* (n 2) at paras. 106-113.

⁶⁵ UNGA Res. 1514 (XV) (14 December 1960), para. 2. *See also*, Common Article 1 ICCPR and ICESCR; and HRC, General Comment No. 12 'Article 1 (Right to self-determination)' (1984), para. 2.

⁶⁶ *Legal Consequences Arising from the Policies and Practices of Israel* (n 2) at p. 65, para. 231. *See also*, *East Timor (Portugal v. Australia)*, Judgment, I.C.J. Reports 1995, p. 90, at p. 102, para. 29.

law,⁶⁷ has been deemed part of customary international law,⁶⁸ and has been reiterated in several General Assembly resolutions.⁶⁹

55. Moreover, because its realization is a necessary condition for the realization of other basic human rights,⁷⁰ the right of self-determination has often been hailed as a cornerstone right,⁷¹ with an undisputed *erga omnes* character, recognized by this Court in repeated occasions.⁷² Hence, the international community as a whole has a legal interest in its protection.

56. Most recently, the Court has recognized that in “cases of foreign occupation such as the present case, the right to self-determination constitutes a peremptory norm of international law.”⁷³

57. In addition to the right of self-determination, the Court should also consider Palestinians’ right to life;⁷⁴ the right to personal integrity and the prohibition of torture and other cruel, inhuman or degrading treatment or punishment;⁷⁵ the right to the enjoyment of the highest attainable standard of physical and mental health;⁷⁶ the right to education;⁷⁷ the right to an adequate standard of living;⁷⁸ the protection of the family;⁷⁹ the rights of

⁶⁷ Including Article 1(2) as one of the purposes of the Charter of the United Nations, and in common Article 1 of the ICCPR and the ICESCR that mandate States Parties to promote the realization of this right.

⁶⁸ *Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965*, Separate Opinion of Judge Robinson, I.C.J. Reports 2019, at pp. 305-306, paras. 40-42.

⁶⁹ *i.e.*, UNGA Res. 1514 (XV) (n 58) and UNGA Res. 2625 (XXV) (n 30).

⁷⁰ *See*, HRC ‘General Comment No.12’ (n 58), para. 1; UNGA ‘Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, Francesca Albanese’ (21 September 2022) UN Doc A/77/356, para. 15; and *Legal Consequences Arising from the Policies and Practices of Israel* (n 2) at p. 65, para. 233.

⁷¹ *See*, UNHRC ‘Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967’ (29 July 2021), para. 39 UN Doc A/HRC/47/57; and Albanese (n 63), para. 15 UN Doc A/77/356; *East Timor* (n 59) at p. 102, para. 29.

⁷² *i.e.*, *East Timor* (n 59) at para. 29; *Legal Consequences of the Construction of a Wall* (n 2) at p.199, para. 155; *Legal Consequences of the Separation of the Chagos Archipelago* (n 2) at p. 139, para. 180; and *Legal Consequences Arising from the Policies and Practices of Israel* (n 2) at p. 65, para. 232.

⁷³ *Legal Consequences Arising from the Policies and Practices of Israel* (n 2) at pp. 65-66, para. 233.

⁷⁴ ICCPR, art 6.

⁷⁵ ICCPR, art 7; and CAT.

⁷⁶ *Ibid.*

⁷⁷ ICESCR, art 13.

⁷⁸ ICESCR, art 11.

⁷⁹ ICESCR, art 10.

children;⁸⁰ the rights of persons with disabilities;⁸¹ the prohibition against discrimination of women and girls in all their diversity;⁸² the prohibition against racial discrimination and apartheid;⁸³ and the right to development,⁸⁴ amongst others.

58. Lastly, Chile would like to point out that pursuant to Article 27 of the Vienna Convention on the Law of Treaties “[a] party may not invoke the provisions of its internal law as justification for its failure to perform a treaty.” Therefore, any conduct of Israel in compliance with the two laws enacted by the Knesset of Israel concerning UNRWA cannot be used to excuse any violation of its international obligations.

III. ISRAEL’S OBLIGATIONS AS A MEMBER OF THE UNITED NATIONS

59. The first part of the question posed by the General Assembly seeks to establish Israel’s obligations as a member of the United Nations, in relation to the presence and activities of the Organization, including its agencies and bodies, other international organizations and third States, in and in relation to the Occupied Palestinian Territory.

60. In particular, as stated in the preamble of the General Assembly’s resolution that requested the present advisory proceedings, the concern relates to Israel’s plans and measures, including legislation “to interfere with or obstruct the presence and operations

⁸⁰ Specially, but not limited to, their rights to life (art 6 CRC), to family relations and not to be separated from their parents (arts 8 and 9 CRC), to be protected from unlawful interference with their privacy, family and home (art 16 CRC), to be protected from physical or mental violence (art 19 CRC), to the enjoyment of the highest attainable standard of health (art 24 CRC), to a standard of living adequate for the child's physical, mental, spiritual, moral and social development (art 27 CRC), to education (art 28 CRC), to rest and leisure (art 31 CRC), the rights of children with disabilities (art 23 CRC), the prohibition of torture or other cruel, inhuman or degrading treatment or punishment, and the prohibition of unlawful and arbitrary deprivations of liberty (art 37 CRC), the protection of children affected by armed conflict (art 38 CRC), amongst others.

⁸¹ Specially, but not limited to, their rights to equality and non-discrimination (art 5 CRPD), right to life (art 10 CRPD), to protection in situations of armed conflict and humanitarian emergencies (art 11 CRPD), to liberty and security (art 14 CRPD), the prohibition of torture or other cruel, inhuman or degrading treatment or punishment (art 15 CRPD), protection of their physical and mental integrity (art 17 CRPD), right to education (art 24 CRPD), right to health (art 25 CRPD), adequate standard of living and social protection (art 28 CRPD), as well as the rights of women (art 6 CRPD) and children with disabilities (art 7 CRPD), amongst others.

⁸² See CEDAW.

⁸³ CERD, art 3

⁸⁴ UNGA Res. 41/128 (4 December 1986).

of the United Nations and United Nations entities and organizations, including the United Nations Relief and Works Agency for Palestine Refugees in the Near East”.⁸⁵

61. In that regard, the present section will address the obligations that arise for Israel towards third States, the United Nations, its agencies and bodies, in particular those that operate within the Occupied Palestinian Territory, and more specifically UNRWA.

A. THE UNITED NATIONS RELIEF AND WORKS AGENCY FOR PALESTINE REFUGEES IN THE
NEAR EAST

62. The displacement of hundreds of thousands of Palestinians during the 1948 conflict created an acute humanitarian crisis. In response, the General Assembly adopted Resolution 212 (III)⁸⁶ which recognized the urgent need to provide relief to Palestinian refugees. This resolution called upon member States to contribute resources for essential aid, such as food, shelter, and medical care, to address the immediate needs of the displaced population. In addition, it emphasized the urgent need for international relief for Palestinian refugees and called upon UN member States to provide financial and material assistance. This resolution marked the beginning of a collective responsibility framework, urging States to act in solidarity to alleviate the refugees’ suffering.

63. While humanitarian relief efforts were underway, the General Assembly also sought to address the broader refugee crisis within the context of the ongoing conflict. On 11 December 1948, Resolution 194 (III)⁸⁷ was adopted, emphasizing the rights of refugees to return to their homes or receive compensation if they chose not to return. Paragraph 11 of the resolution became a cornerstone for discussions about Palestinian refugee rights, asserting that those “wishing to return to their homes and live at peace with their neighbors” should be permitted to do so.

64. Recognizing the ongoing need for a dedicated mechanism to provide sustained humanitarian assistance, the General Assembly adopted Resolution 302 (IV).⁸⁸ This

⁸⁵ UNGA Res. 79/232 (19 December 2024), preambular para. 15.

⁸⁶ UNGA Res. 212 (III) (19 November 1948).

⁸⁷ UNGA Res. 194 (III) (n 5).

⁸⁸ UNGA Res. 302 (IV) (n 6).

resolution formally established UNRWA as a temporary agency to deliver relief and works programs aimed at supporting Palestinian refugees and fostering their economic and social development. UNRWA began operations by inheriting responsibilities from earlier relief organizations⁸⁹ and becoming the primary entity responsible for addressing the needs of Palestinian refugees. While initially envisioned as a short-term measure, the lack of a political resolution to the conflict has extended UNRWA's mandate for decades.

65. Together, Resolutions 212, 194, and 302 reflect the dual humanitarian and political dimensions of the Palestinian refugee crisis. They highlight the international community's early efforts to balance immediate relief with the pursuit of long-term solutions. UNRWA's creation was a direct response to these challenges, embodying the United Nations' commitment to addressing the plight of Palestinian refugees while broader efforts for conflict resolution continued.
66. The establishment of UNRWA under Resolution 302 (IV) not only created a mechanism to address the humanitarian needs of Palestinian refugees but also placed significant obligations on United Nations member States. These obligations are rooted in the recognition of the shared responsibility to support the refugees and ensure the agency's effectiveness. The foundation of these duties can be traced through the provisions of Resolutions 212 (III), 194 (III), and 302 (IV).
67. Resolution 302 (IV) specifically called on UN member States to provide the necessary funds and resources for the agency's operations. It recognized that UNRWA's ability to fulfil its mandate —basic education, primary health care and mental health care, relief and social services, microcredit, and emergency assistance— depended entirely on the voluntary financial contributions of member States.
68. In addition to financial contributions, member States also have an obligation to support UNRWA's mission by upholding the principles of international cooperation and

⁸⁹ UNGA Res. 194 (III) (n 5).

solidarity. This includes fostering an environment in which UNRWA can operate effectively and independently.

B. OBLIGATION TO RESPECT THE PRIVILEGES AND IMMUNITIES OF THE ORGANIZATION

69. As a UN member State, Israel has specific obligations under Article 105 of the UN Charter concerning the privileges and immunities of the United Nations and its officials, including those of agencies such as UNRWA.
70. Paragraphs 1 and 2 of Article 105 specify that the United Nations “shall enjoy in the territory of each of its members such privileges and immunities as are necessary for the fulfilment of its purposes”, and that officials of the Organization shall “similarly enjoy such privileges and immunities as are necessary for the independent exercise of their functions in connection with the Organization”.
71. This provision introduces the principle of functional necessity of privileges and immunities, which was to become a fundamental rule of the entire system of international privileges and immunities.⁹⁰
72. This functional approach ensures that immunities are limited to what is necessary for the organization’s proper functioning, preventing misuse while maintaining its effectiveness. It also ensures that the privileges and immunities granted to the United Nations and its representatives are sufficient to enable them to perform their functions independently, effectively, and impartially, without any undue interference from its members, especially those on whose territory the Organization operates.
73. Thus, Israel is required to ensure that the UN and its officials enjoy the privileges and immunities necessary for fulfilling the organization’s purposes, which at the least

⁹⁰ *i.e.*, Statute of the International Atomic Energy Agency, (adopted 26 October 1956, entered into force 29 July 1957) 276 UNTS 4, art XV; Constitution of the International Labour Organization, (adopted 1 April 1919, entered into force June 28, 1919) 15 UNTS 40, art. 40; Agreement Establishing the World Trade Organization, (adopted 15 April 1994, entered into force 1 January 1995) 1867 UNTS 154, art. VIII.

includes ensuring the inviolability of UN premises⁹¹ and documents, protecting UN personnel and property from interference, and allowing the UN to carry out its duties independently and without obstruction.⁹²

74. In addition, under Article 105, Israel must take steps to enable UN agencies that operate in its territory and the Occupied Palestinian Territory, such as UNRWA, to act effectively within its territory or areas under its control. This obligation includes ensuring the freedom of movement for UN personnel and materials necessary for their operations, providing access to populations in need, including Palestinian refugees, and avoiding actions that might hinder or obstruct the delivery of humanitarian assistance or the performance of the UN's mandate.⁹³

75. Israel also has a duty to protect UN officials, staff, experts in missions, and facilities from harm or harassment. This is particularly significant in conflict zones or areas where tensions are high. In this regard, attacks or undue interference with UN personnel or facilities would constitute a violation of Article 105.⁹⁴

76. Lastly, under Article 105, Israel has a clear obligation to respect and facilitate the work of the United Nations and its agencies, ensuring that they can operate freely and independently in fulfilling their mandates.⁹⁵ This obligation is key to maintaining the integrity and effectiveness of international humanitarian and peacekeeping efforts in the region.

77. Beyond the general provisions of Article 105, Israel is also bound by specific agreements with the United Nations concerning privileges and immunities. In particular, the 1946 Convention on the Privileges and Immunities of the United Nations elaborates on the obligations contained in Article 105, detailing specific immunities for UN property,

⁹¹UN Office for the Coordination of Humanitarian Affairs, 'Field Update on Gaza from the Humanitarian Coordinator' (30 January–2 February 2009), available at <https://www.unocha.org/publications/report/occupied-palestinian-territory/opt-field-update-gaza-humanitarian-coordinator-30-jan-02-feb> (accessed 27 January 2025).

⁹² *Difference Relating to Immunity from Legal Process of a Special Rapporteur of the Commission on Human Rights*, Advisory Opinion, I.C.J. Reports 1999, p. 62, at p. 66, para. 10.

⁹³ *Legal Consequences of the Construction of a Wall* (n 2) at p. 188, para. 129

⁹⁴ *Reparation for injuries in the service of the United Nations*, Advisory Opinion, I.C.J. Reports 1949, p. 174, at p. 183.

⁹⁵ *Ibid.*

funds, and personnel. Israel, as a UN member State and a party to this Convention, is expected to comply with its obligations in good faith⁹⁶ and ensure its application to UN agencies operating within its jurisdiction.

78. Pursuant to Article II section 2 of the General Convention “[t]he United Nations, its property and assets wherever located and by whomsoever held, shall enjoy immunity from every form of legal process except insofar as in any particular case it has expressly waived its immunity”. In other words, this provision grants the UN absolute immunity from all forms of legal proceedings, whether initiated by States, individuals, or organizations. This immunity applies not only to procedures in which the Organization is a party, but also to cases in which the UN is not a party but where the proceedings would create a legal obligation for the UN to abide by the judgement or order of the court.⁹⁷

79. Section 3 of Article II mandates that “[t]he premises of the United Nations shall be inviolable. The property and assets of the United Nations, wherever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation and any other form of interference, whether by executive, administrative, judicial or legislative action.”⁹⁸ This means that the authorities of the State concerned shall not enter the premises of the Organization except with the consent of the UN. On the other hand, the UN is required to respect the local law on those premises, and local courts have jurisdiction with regards to acts committed within the premises.⁹⁹

⁹⁶ Vienna Convention on the Law of Treaties (adopted 23 May 1969, entered into force 27 January 1980) 1155 UNTS 331; art 26 (VCLT).

⁹⁷ Higgins and others (n 42), at p. 565.

⁹⁸ This does not mean that these rules have never been violated. Indeed, Nicaraguan National Police officers raided the premises of the Organization of American States (OAS) in Managua, on 24 April 2022. The Secretary General of the OAS called the raid a “violation of the most essential international norms”, particularly of Art. 133 of the OAS Charter that guarantees immunity to the representatives of the organization in its member States. *See* AM Ripplinger and F Kriener, ‘Nicaragua’s OAS Raid and the Inter-American System’ (Verfassungsblog, 2 May 2022) available at <https://verfassungsblog.de/nicaraguas-oas-raid-and-the-inter-american-system/> (accessed 9 January 2025).

⁹⁹ Higgins and others (n 42), at p. 575.

80. Chile highlights the “fundamental character of the principle of inviolability”,¹⁰⁰ which in the case of the UN and its agencies is absolute, and cannot be qualified, limited or overridden in times of internal unrest or armed conflict.¹⁰¹
81. The obligation to respect the inviolability of the UN’s premises also extend to the obligation on the host State to act with due diligence to protect them, to prevent interference with them by private parties, and prevent unauthorized entry into or attacks on the premises.¹⁰²
82. The terms “search, requisition, confiscation, expropriation” bear the meaning they ordinarily have in international law.¹⁰³ With regards to the meaning of the word “search”, the United Nations has interpreted this to include immunity from any actual inspection by national authorities and immunity from verification of the contents of United Nations property (*e.g.*, by opening the trunk of a car). Thus, United Nations’ official statement regarding any imported food or supplies contained, for example, in sacks, envelopes or other containers, should be accepted by national authorities, and any search of the containers would be in violation of section 3.¹⁰⁴ The exemption from physical search¹⁰⁵ bars national authorities from verifying the content of UN property, but does not preclude external visual inspection.¹⁰⁶
83. Furthermore, the interpretation of the phrase relating to immunity from “any other form of interference” has been considered in a number of contexts. For example, it has been

¹⁰⁰ *United States Diplomatic and Consular Staff in Tehran*, Judgment, I.C.J. Reports 1980, p. 3, at p. 41, para. 86.

¹⁰¹ UNSC ‘Letter dated 4 May 2009 from the Secretary-General addressed to the President of the Security Council’ UN Doc A/63/855-S/2009/250, at p. 21, para. 91. *See also*, OLA, ‘Note to the Under Secretary-General of the Department of Peacekeeping Operations, United Nations’ (2003) UNJYB, at p. 522, para. 11.

¹⁰² Agreement between the United Nations and the United States of America regarding the Headquarters of the United Nations (adopted 26 June 1947, entered into force 21 November 1947), art. IV, sect. 16.

¹⁰³ Higgins and others (n 42), at p. 576.

¹⁰⁴ ILC ‘The practice of the United Nations, the specialized agencies and the International Atomic Energy Agency concerning their status, privileges and immunities’ (1967) UN Doc A/CN.4/L.118 and Add.1 and 2, at p. 234, para. 123.

¹⁰⁵ *See* ‘Note to the Under Secretary-General of the Department of Peacekeeping Operations, United Nations’ (n 100) at p. 523, para. 17, advising that coalition forces in Afghanistan are precluded from searching vehicles belonging to the UN Assistance Mission in Afghanistan (UNAMA), but that UNAMA has an obligation to cooperate with observance of police regulations.

¹⁰⁶ *Ibid.*

pointed out that unusually burdensome additional requirements in respect of the documents needed for customs purposes might constitute interference.¹⁰⁷

84. In this sense, Israel cannot take any actions that would endanger, damage or constitute an expropriation of these premises or of any property of the Organization.

85. Similarly, section 4 of Article II states that “[t]he archives of the United Nations, and in general all documents belonging to it or held by it, shall be inviolable wherever located”. The term “archives” is defined in some UN agreements as including “records, correspondence, documents, manuscripts, photographs, cinematograph films and sound recordings”.¹⁰⁸ The purpose of this protection is to ensure the confidentiality of communications within the Organization, and between the Organization, members and others. Therefore, the obligation to respect inviolability applies to protect unauthorized disclosure of documents in the context of litigation before national courts. The inviolability also applies to personal records of UN staff held on file. Even if an employee agrees to their disclosure, the UN remains free to withhold such information from host State authorities.¹⁰⁹

86. In relation to tax exemption and custom duties, the General Convention contains a series of dispositions (Section 5, 6, 7, and 8), which illustrate some of the many reasons for the conferral of privileges and immunities to international organizations. The concession of this kind of privileges and immunities has the purpose to avoid the possibility of States exercising indirect control over the works of the UN, prevent member States from gaining financially from the resources of the Organization, and guarantee and facilitate the work of the UN in the territory of the host country.¹¹⁰

¹⁰⁷ ILC, ‘The practice of the United Nations’ (n 103), at p. 235, pp. 125.

¹⁰⁸ *i.e.*, common section 1(g) of the Agreement between the United Nations and Ethiopia regarding the Headquarters of the United Nations Economic Commission for Africa (UNECA) (adopted and entered into force 18 June 1958) and the Agreement between the Economic Commission for Latin America and the Caribbean (ECLAC) and the Republic of Chile regarding the Headquarters of ECLAC (adopted 16 February 1953, entered into force 29 December 1953).

¹⁰⁹ *i.e.*, ‘Interoffice memorandum to the Senior Advisor, Office of the executive Director of the United Nations Children’s Fund (UNICEF), regarding the release of records relating to the earnings of a UNICEF staff member’ (2006), UNJYB, at p. 535.

¹¹⁰ UNGA Res. 64/89 (19 January 2010), para. 17.

87. The necessity of the customs exemption for the UN arises from the recognition that, first, any special charge upon the resources of the organization or a subsidiary organ is a burden reducing its ability to carry out its international function; and, second, that other member States contributing to the budget of the programs will have strongest grounds to complain, since the payment of customs merely constitutes an indirect payment by the other member States into the treasury of a single State, to the detriment of the programme and their own resources.¹¹¹
88. In this regard, Chile notes that the General Assembly, through its Resolution 64/89, has called Israel to cease its obstruction of the import by UNRWA of “necessary construction materials and supplies for the reconstruction and repair of damaged or destroyed Agency facilities and for the implementation of suspended civilian infrastructure projects in refugee camps in the Gaza Strip”.¹¹²
89. Pursuant to Article III sections 9 and 10 of the General Convention “[t]he United Nations shall enjoy in the territory of each Member for its official communications treatment not less favourable than that accorded by the Government of that Member to any other Government including its diplomatic mission in the matter of priorities, rates and taxes on mails, cables, telegrams, radiograms, telephotos, telephone and other communications; and press rates for information to the press and radio. No censorship shall be applied to the official correspondence and other official communications of the United Nations”. The Organization further enjoys the right to use codes and dispatch courier bags that enjoy the same privileges and immunities than diplomatic bags. This means that the monitoring, by States, of phone calls, emails, or any other form of communication made by UN officials would be contrary to these provisions.¹¹³
90. In the specific case of UNRWA, as a subsidiary organ of the General Assembly, the assurance of this provision for the independence and effective functioning of the Agency

¹¹¹ ILC, ‘The practice of the United Nations’ (n 103), at p. 250, para. 189.

¹¹² UNGA Res. 64/89 (n 109), para. 18.

¹¹³ UN News Centre, ‘If Reports that UN was Bugged Prove True Practice Must Stop’ (26 February 2004), available at <https://news.un.org/en/story/2004/02/95382> (accessed 10 January 2025).

must be considered a priority, particularly considering the constant exchange of information that takes place between the various UN actors involved in Palestine.

91. Indeed, considering that these rules help to ensure that staff members can perform their duties free from national interference or legal actions that could impede their work, this protection becomes even more relevant after the Israeli Knesset passed two pieces of legislation with an overwhelming majority that outlawed UNRWA. While one of the bills banned UNRWA from carrying out its activities within Israeli territory, the second barred Israeli authorities from any kind of coordination with the agency. If implemented, these laws could effectively block any attempt to secure communications of the United Nations.
92. Article V of the General Convention outlines the immunities and privileges granted to UN officials. The General Assembly accepted that “officials” includes all UN staff members (employed by any principal or subsidiary organ) who are engaged on a full-time or substantially full-time basis and who have been registered in that capacity with host States, with the exception of local or hourly contracts.¹¹⁴ The article goes on to describe a series of privileges and immunities including immunity from legal process, personal inviolability, exemption from taxation and custom duties, exemption from immigration restrictions, amongst others. All of the above is intended to ensure that UN staff can operate freely, without legal or political hindrance, while attending official meetings or engaging in other functions related to their international duties.
93. In terms of immunity from legal process, it extends to all actions related to civil or criminal proceedings involving UN officials, provided those actions are tied to their official duties. It applies to acts performed in an official capacity, including statements made or written in such capacity. This protection encompasses situations such as arrest or the initiation of legal actions, as long as they pertain to the staff member’s official functions.

¹¹⁴ UNGA Res. 76 (I) (7 December 1946). *See also*, Ziegler (n 39), at p. 2819

94. The Secretary General, as the chief administrative officer of the UN, has the primary responsibility and authority to assess whether its agents act within the scope of their functions and, where he so concludes, to protect those agents by asserting their immunity.¹¹⁵
95. Regarding personal inviolability, the host country has to ensure UN officials' safety and freedom to enter and depart from the host country as well as free choice of the place of residence. While freedom of movement has not been defined by any clear provision, according to the principle of functional necessity and Article 100 (2) of the UN Charter, member States, including Israel, are obliged to respect the international character of the Organization and not subject it to any instruction. In particular, they are obligated to abstain from selective travel restrictions on UN officials.
96. In this regard, Chile notes that in the Gaza Strip “the total number of UNRWA team members killed since 7 October 2023 is 265.”¹¹⁶ Furthermore, the General Assembly through its Resolution 64/89 has called Israel to cease its obstruction of the UNRWA “movement and access of the staff, vehicles and supplies of the Agency and to cease the levying of extra fees and charges, which affect the Agency’s operations detrimentally”¹¹⁷.
97. Similarly, under Article VI, experts on mission also benefit from personal inviolability, immunity from legal process, and inviolability of communications, papers and documents. This Court has previously recognized that experts on mission are any person “to whom a mission has been entrusted by the Organization and who are therefore entitled to enjoy the privileges and immunities provided for in [Section 22 of the General Convention] with a view to the independent exercise of their functions.”¹¹⁸ In particular, the Court specifically acknowledged that special rapporteurs “must be regarded as

¹¹⁵ *Difference Relating to Immunity from Legal Process* (n 91), at p. 87, para. 60.

¹¹⁶ UNRWA, ‘Situation Report #154 on the Humanitarian Crisis in the Gaza Strip and the West Bank, including East Jerusalem’ (12 January 2025), available at <https://www.unrwa.org/resources/reports/unrwa-situation-report-154-humanitarian-crisis-gaza-strip-and-west-bank-including> (accessed 27 January 2025).

¹¹⁷ UNGA Res. 64/89 (n 109), para. 17.

¹¹⁸ *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. 177, at pp. 195-196, para. 52.

experts on missions within the meaning of Section 22”, and they consequently enjoy the privileges and immunities necessary for the exercise of their functions.¹¹⁹

98. Therefore, Israel is obligated to allow special rapporteurs appointed by the United Nations, its agencies and subsidiary bodies, “entry and exit as [...] necessary for the independent exercise of their functions”¹²⁰ into its territory and the Occupied Palestinian Territory with the purpose of fulfilling their mandate, and must, consequently ensure that they are not impeded in their functions, and guarantee their personal inviolability.

C. DUTY OF COOPERATION

99. It is a well-established principle of international law¹²¹ that under Articles 55 and 56 of the UN Charter and several human rights instruments,¹²² member States have a duty to cooperate in solving international problems of an economic, social, cultural, or humanitarian character,¹²³ and in promoting and encouraging universal respect and observance of human rights and fundamental freedoms.¹²⁴ As stressed by Article 55, this duty should be based on the respect “for the principle of equal rights and self-determination of peoples”.¹²⁵ Indeed, the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States further developed the duty of all States to “cooperate in the promotion of universal respect for, and observance of, human rights and fundamental freedoms for all, and in the elimination of all forms of racial discrimination and all forms of religious intolerance”.¹²⁶

¹¹⁹ *Ibid.*, at pp. 196-197, para. 55.

¹²⁰ Ronja Bandyopadhyay and Tomoko Iwata, ‘Experts on Missions (Article VI Sections 22–23 General Convention)’ in August Reinisch (ed), *The Conventions on the Privileges and Immunities of the United Nations and its Specialized Agencies: A Commentary*, at p. 459. *See also*, ILC, ‘The practice of the United Nations’ (n 103), at p. 289, paras. 361, 364.

¹²¹ ILC, ‘Second report on the protection of persons in the event of disasters by Eduardo Valencia-Ospina, Special Rapporteur’ (7 May 2009) UN Doc A/CN.4/615, para. 52. *See also*, HRC, ‘Report on enhancement of international cooperation in the field of human rights Prepared by Emmanuel Decaux, Rapporteur of the drafting group of the Advisory Committee’ (30 May 2011) UN Doc. A/HRC/AC/7/2, para. 9.

¹²² *i.e.*, CESCR, General Comment No. 13 ‘The right to education (article 13 of the Covenant)’ (1999) UN Doc E/C.12/1999/10, para. 13.

¹²³ UN Charter (n 3), art. 55(b).

¹²⁴ *Ibid.*, art. 55(c)

¹²⁵ *Ibid.*, art. 55.

¹²⁶ UNGA Res. 2625 (XXV) (n 30) at p. 123.

100. Thus, the human rights dimension is a key element of this duty of cooperation.¹²⁷ Indeed, the promotion and encouragement of the respect for human rights and fundamental freedoms is essential for “creating the conditions of stability and well-being which are necessary for peaceful and friendly relations among nations”,¹²⁸ and ultimately for maintaining international peace and security.¹²⁹
101. Nevertheless, the field of cooperation is much broader. In fact, the Declaration of Friendly Relations clearly asserts a duty to “cooperate in the various spheres of international relations”,¹³⁰ while Article 2(5) of the UN Charter, as one of the principles that need to be followed by the UN and its members, “in pursuit of the Purposes stated in Article 1”,¹³¹ specifically mandates UN members to “give the United Nations every assistance in any action it takes in accordance with the present Charter”.
102. This provision has been construed as “creating a general obligation to collaborate with the organization in the fulfilment of its actions.”¹³² Indeed, the Court has found similarly when stating that “the effective working of the Organization—the accomplishment of its task, and the independence and effectiveness of the work of its agents—require that these undertakings should be strictly observed”,¹³³ in referring to the duty to cooperate established under Article 2(5) of the UN Charter.
103. Therefore, the duty of cooperation does not only operate at an inter-State level, as emphasised by the Declaration of Friendly Relations,¹³⁴ under which Israel is obligated to cooperate with third States to promote international economic stability and progress, and the general welfare of nations¹³⁵; but also, and especially when it comes to providing humanitarian assistance, with the United Nations and other humanitarian agencies and

¹²⁷ Emmanuel Decaux (n 120), para. 9.

¹²⁸ Valencia-Ospina (n 120), para. 52.

¹²⁹ UNGA Res. 2625 (XXV) (n 30) at p. 123.

¹³⁰ *Ibid.*

¹³¹ UN Charter (n 3), art. 2.

¹³² Pierre d’Argent and Nadine Susani, ‘United Nations, Purposes and Principles’ in *Max Planck Encyclopedias of International Law* [MPIL] (2009), para. 17. *See also*, Helmut Philipp Aust, ‘Article 2 (5)’ in Bruno Simma, Daniel-Erasmus Khan, Georg Nolte (ed.) and Andreas Paulus (eds), *The Charter of the United Nations: A Commentary* (4th edn, OUP 2024), at p. 385.

¹³³ *Reparation for injuries* (n 93) at p. 183.

¹³⁴ UNGA Res. 2625 (XXV) (n 30) at p. 123.

¹³⁵ *Ibid.*

organizations.¹³⁶ Thus, this duty requires UN members to take positive action to ensure the Organization, its agencies and subsidiaries bodies are able to duly fulfil their mandate, in particular when they have a humanitarian character.

104. In this regard, bearing in mind that UNRWA is a subsidiary organ of the General Assembly, Israel, as a UN member, has an obligation to cooperate with it in good faith, and give it every assistance it requires in the fulfilment of its mandate. This obligation is further reinforced in the case of UNRWA by Article 56 of the UN Charter considering that its mandate is purely humanitarian in character.

105. Therefore, in addition to having a duty to respect UNRWA's privileges and immunities, under the UN Charter, Israel has a specific obligation to take active steps in collaborating with the organization in the accomplishment of its humanitarian mission; obligation that needs to be carried out in good faith.

106. This means that any action, including enacting legislation to hinder in any way the ability of UNRWA to fully fulfil its humanitarian mandate, would be contrary to these obligations.

107. In addition, bearing in mind the essential humanitarian character of UNRWA the abovementioned obligations are especially relevant, particularly considering that “[t]here is currently no realistic alternative to UNRWA which could adequately provide the services and assistance required, whether it be other United Nations entities, other international organizations or any other entity.”¹³⁷

D. SECURITY COUNCIL RESOLUTIONS

108. As explained in section II.B, UN Security Council (“UNSC”) decisions are binding upon members of the UN. It is important to note that within the same resolution, not all

¹³⁶ See, UNGA Res. 63/139 (5 March 2009), para. 25; HRC, ‘Report of the independent expert on human rights and international solidarity, Rudi Muhammad Rizki’ (7 February 2007) UN Doc A/HRC/4/8, para. 11; ILC, ‘Protection of persons in the event of disasters Memorandum by the Secretariat’ (11 December 2007) UN Doc A/CN.4/590, para. 18.

¹³⁷ UNGA ‘Letter dated 28 October 2024 from the Secretary-General addressed to the President of the General Assembly’ UN Doc A/79/558, at p. 3.

operative paragraphs necessarily contain a decision, but rather they may include a mix between binding and non-binding elements.¹³⁸

109. To determine if a resolution contains a binding decision, the resolution in question needs to be interpreted “in order to ascertain the Council’s intent”.¹³⁹ The Court has previously stated that an interpretation of Security Council resolutions needs to be guided by the rules embodied in Articles 31 and 32 of the Vienna Convention on the Law of Treaties while taking into account other factors.¹⁴⁰
110. The first element to consider in determining whether a UNSC resolution is binding is the operative word used.¹⁴¹ Thus, if the resolution is couched in mandatory, rather than exhortatory language, that would be an indication of its binding effect.¹⁴² In this regard, some words have been usually regarded as denoting a binding obligation (such as “decides”, “demands”, “requires”, “requests”, and “authorizes”), while others have been often associated with mere recommendations (like “calls upon”, “urges”, and “encourages”).¹⁴³
111. In addition, because UNSC language is not always clear, relevant contextual elements must also be considered, such as statements made by representatives of Security Council members at the time of its adoption, other related resolutions, and subsequent practice of relevant UN organs and affected States.¹⁴⁴ Indeed, the progression of language through consecutive or related resolutions,¹⁴⁵ or the insistence in specific obligations may be particularly indicative of the UNSC’s intention.

¹³⁸ Michael Wood and Eran Sthoeger, *The UN Security Council and International Law* (Cambridge University Press 2022), p. 32.

¹³⁹ Security Council Report, *Special Research Report* (23 June 2008), p.1, available at <https://www.securitycouncilreport.org/atf/cf/%7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/Research%20Report%20Chapter%20VII%2023%20June%2008.pdf> (accessed 15 January 2025).

¹⁴⁰ *Accordance with International Law of the Unilateral Declaration of Independence in Respect of Kosovo* (n 10) at p. 442, para. 94.

¹⁴¹ Wood and Sthoeger (n 137), p. 38.

¹⁴² *Legal Consequences for States of the Continued Presence of South Africa in Namibia* (n 18) at pp. 52-53, para. 114.

¹⁴³ *See, Ibid.*, at p. 39.

¹⁴⁴ *Accordance with International Law of the Unilateral Declaration of Independence in Respect of Kosovo* (n 10) at p. 442, para. 94.

¹⁴⁵ Security Council Report (n 138) p. 12.

112. Chile contends that as per UNSC Resolutions 2712 (2023), 2720 (2023) and 2728 (2024), and in particular in relation to the Gaza Strip, Israel is obligated to allow, facilitate and enable the safe and unhindered delivery of humanitarian assistance,¹⁴⁶ and to “ensure the safety and security of United Nations and associated personnel, those of its specialized agencies, and all other personnel engaged in humanitarian relief activities consistent with international humanitarian law, without prejudice to their freedom of movement and access”.¹⁴⁷
113. Indeed, all three of these resolutions include, when referring to the aforementioned obligations, the operative word “demands”, which is one of the words that has been used in the past in resolutions that have been deemed binding.¹⁴⁸
114. In addition, aside from the fact that all three of these resolutions refer to an ongoing armed conflict in the Gaza Strip, they are clearly related since the latest refers explicitly to the previous. In this context, it must be noted that the language used by the UNSC becomes progressively more mandatory. When referring to the provision of humanitarian assistance and the establishment of humanitarian corridors, Resolution 2712 (2023) uses the word “calls upon”,¹⁴⁹ while in the subsequent two it uses the word “demands”, clarifying the intent of the Council in this matter.
115. Lastly, several Security Council members made clear statements regarding the binding effect of these decisions.¹⁵⁰
116. Therefore, in Chile’s view, the UNSC has established specific obligations upon Israel, in line with its international obligations, to ensure the adequate provision of humanitarian aid and the protection of UN personnel providing this assistance, which

¹⁴⁶ UNSC Res. 2720 (2023) (22 December 2023), operative para. 2, and UNSC Res. 2728 (2024) (25 March 2024), operative para. 2.

¹⁴⁷ UNSC Res. 2720 (2023) (n 145), at operative para. 13.

¹⁴⁸ *i.e.*, UNSC Resolutions 660 (1990), 661 (1990), and 662 (1990) relating to the Iraqi invasion of Kuwait.

¹⁴⁹ UNSC Res. 2712 (2023) (15 November 2023), operative para. 2.

¹⁵⁰ *See*, UN Meetings Coverage N° SC/15641 ‘Security Council Demands Immediate Ceasefire in Gaza for Month of Ramadan, Adopting Resolution 2728 (2024) with 14 Members Voting in Favour, United States Abstaining (25 March 2024)’, available at <https://press.un.org/en/2024/sc15641.doc.htm> (accessed 15 January 2025); and N° SC/15546 ‘Security Council Requests UN Coordinator for Humanitarian Aid in Gaza, Adopting Resolution 2720 (2023) by Recorded Vote (22 December 2023)’, available at <https://press.un.org/en/2023/sc15546.doc.htm> (accessed 15 January 2025).

includes UNRWA's staff. Hence, as a UN member Israel is bound by these decisions that, pursuant to Article 103 of the UN Charter, shall prevail in the event of a conflict with any other obligations that may fall upon Israel.

IV. ISRAEL'S OBLIGATIONS AS AN OCCUPYING POWER

117. The second part of the question posed by the General Assembly relates to Israel's obligations as an occupying Power in relation to the presence and activities of the United Nations and its agencies, other international organizations and third States, in and in relation to the Occupied Palestinian Territory.
118. In a situation of occupation, the authority of the occupying Power is tolerated, on a temporary basis, exclusively for the benefit of the local population.¹⁵¹ However, such authority is exercised solely under the status of administrator and usufructuary of public goods situated in the occupied territory.¹⁵²
119. It follows that the occupying Power is obliged to take all the measures in its power to restore, and ensure, as far as possible, public order and safety, while respecting, unless absolutely prevented, the laws in force in the country.¹⁵³ In other words, "the occupying Power bears a duty to administer the territory for the benefit of the local population".¹⁵⁴
120. In this regard, Israel, as the occupying Power, has the primary duty to ensure that the basic needs of the occupied population are met, in particular the provision of food and medical supplies and the maintenance of basic health care services.¹⁵⁵ Nevertheless, as enshrined in Article 59 of the Fourth Geneva Convention, "[i]f the whole or part of the population of an occupied territory is inadequately supplied", the occupying Power has an obligation to accept and facilitate relief supplies destined for the occupied population.

¹⁵¹ *Legal Consequences Arising from the Policies and Practices of Israel* (n 2) at p. 33, para. 106.

¹⁵² Convention (IV) respecting the Laws and Customs of War on Land and its annex: Regulations concerning the Laws and Customs of War on Land (adopted 18 October 1907, entered into force 26 January 1910) 205 CTS 277 (1907 Hague Convention IV), art 55.

¹⁵³ 1907 Hague Convention IV (n 151), art 43.

¹⁵⁴ *Legal Consequences Arising from the Policies and Practices of Israel* (n 2) at p. 33, para. 105.

¹⁵⁵ GC IV (n 52), arts 55 and 56.

121. The authoritative commentary to this provision by the International Committee of the Red Cross, explains that this obligation is unconditional, and applies whether the relief is intended for the population in certain localities or for particular classes of the population, such as women and children throughout the territory.¹⁵⁶
122. It also clarifies that the obligation does not only encompass the duty to “agree” to relief schemes on behalf of the population, but rather an obligation to “facilitate” them by all the means at its disposal, which includes the obligation to permit the free passage of these consignments and guarantee their protection.
123. This means that Israel, as an occupying power, is under an obligation to cooperate in the implementation of these schemes which may be undertaken by either States or “impartial humanitarian organizations”. The language of the provision is “general enough to cover any institutions or organizations capable of acting effectively and worthy of trust”,¹⁵⁷ including UN agencies especially created for that purpose, such as UNRWA.¹⁵⁸
124. These relief operations must be of a humanitarian character with the purpose of providing something extra to the population in distress, since “relief consignments are not intended to represent the normal source of supply of the country”.¹⁵⁹
125. Furthermore, pursuant to Article 60 of the Fourth Geneva Convention relief consignments cannot be diverted from their intended purpose. Namely, they cannot be requisitioned and their destination cannot be changed.¹⁶⁰
126. Lastly, in relation to relief consignments, Israel, as the occupying Power, also has the duty to facilitate their rapid distribution.¹⁶¹ Indeed, the effectiveness of a “relief scheme will depend above all on the time the consignments take to reach the recipients”, it is

¹⁵⁶ ICRC, ‘Convention (IV) relative to the Protection of Civilian Persons in Time of War. Geneva, 12 August 1949. Commentary of 1958’ (1958), commentary to art 59.

¹⁵⁷ *Ibid.*

¹⁵⁸ Declaration of 17 December 2014 adopted by the Conference of High Contracting Parties to the Fourth Geneva Convention UN Doc A/69/711, para. 5.

¹⁵⁹ ICRC (n 155), commentary to art 60 (1958).

¹⁶⁰ *Ibid.*

¹⁶¹ GC IV (n 52), art 61.

therefore imperative that the occupying Power takes all necessary steps to facilitate their efficient dispatch and distribution.¹⁶²

127. Therefore, under IHL and as the occupying power, Israel has an obligation to permit and facilitate the delivery of humanitarian assistance to civilians in the occupied territory, whether it comes from third States or other humanitarian organizations, and to take all necessary measures to ensure such relief is received by whoever needs it. In this regard, Israel cannot adopt policies or measures that might hinder these activities.
128. In addition, Israel, as an occupying Power, also has international human rights obligations¹⁶³ that include, in particular, the right to self-determination.
129. The right of the Palestinian people to self-determination is undisputed.¹⁶⁴ In this regard, the Court has recently stated that “Israel, as the occupying Power, has the obligation not to impede the Palestinian people from exercising its right to self-determination, including its right to an independent and sovereign State, over the entirety of the Occupied Palestinian Territory.”¹⁶⁵
130. This Court has already recognized that the right of self-determination has a political and an economic component that comprises the right to territorial integrity; capacity of a people to choose its own government and govern themselves without external interference; to exercise permanent sovereignty and collectively enjoy their natural wealth and resources; and protection against any actions that might undermine their economic, social, and cultural development, and their integrity as a people.¹⁶⁶
131. As observed by the Court, policies and practices that impede Palestinian’s ability to exercise their fundamental human rights, impact their development and living conditions and exacerbates their dependence on foreign aid, and consequently obstructs the right of

¹⁶² ICRC (n 155), commentary to art 61.

¹⁶³ GC IV (n 52), art. 27(1).

¹⁶⁴ *i.e.*, *Legal Consequences Arising from the Policies and Practices of Israel* (n 2) at p. 65, para. 230; UNGA Res. 77/208 (28 December 2022); UNGA Res. 76/150 (5 January 2022); UNGA Res. 67/19 (4 December 2012); and UNGA Res. 58/292 (6 May 2004).

¹⁶⁵ *Legal Consequences Arising from the Policies and Practices of Israel* (n 2) at p. 66, para. 237.

¹⁶⁶ *Legal Consequences Arising from the Policies and Practices of Israel* (n 2) at pp. 66-68, paras. 237-242. *See also*, Albanese (n 63), para. 16.

the Palestinian people freely to pursue its economic, social, and cultural development is a breach of their right to self-determination.¹⁶⁷

132. It follows that the duty to accept and facilitate the provision of humanitarian assistance under the law of occupation is closely related to the right of the occupied population to their economic, social, and cultural development, and ultimately to the fulfilment of their right to self-determination. Therefore, any prolonged breach of this obligation would necessarily impact the ability of a people to exercise their right to self-determination.
133. Considering that UNRWA remains one of the largest health actors operating in the Gaza Strip, contributing to over half of the people reached with health services since 7 October 2023,¹⁶⁸ and that its work is fundamental to ensure the right to access to safe drinking water and sanitation,¹⁶⁹ and to guarantee the rights of women and girls, including their sexual and reproductive healthcare,¹⁷⁰ Israel cannot restrict its operation, or of any other humanitarian organization operating in the Occupied Palestinian Territory to provide relief assistance. This is especially relevant considering that the United Nations Population Fund has reported that women and girls in Gaza, including 50,000 pregnant women, have been left without the essentials to survive.¹⁷¹
134. Lastly, it is important to note that in respect to the Gaza Strip, the Court has already found that the civilian population is extremely vulnerable with “no access to the most basic foodstuffs, potable water, electricity, essential medicines or heating”,¹⁷² with famine and starvation already setting in.¹⁷³ For this reason, in the case concerning the

¹⁶⁷ *Legal Consequences Arising from the Policies and Practices of Israel* (n 2) at p. 68, paras. 242-243.

¹⁶⁸ See UNRWA, ‘Situation Report #155 on the situation in the Gaza Strip and the West Bank, including East Jerusalem’ (16 January 2025), available at: <https://www.unrwa.org/resources/reports/unrwa-situation-report-155-situation-gaza-strip-and-west-bank-including-east-jerusalem> (accessed 27 January 2025).

¹⁶⁹ *Ibid.*, stating that “UNRWA continues to be one of the largest WASH actors in the Gaza Strip. Between August and mid-November, UNRWA accounted for around 44 per cent of water, sanitation and hygiene activities reported in the Gaza Strip, including access to water (56 per cent), access to sanitation and solid waste management (42 per cent), and flood mitigation and prevention (66 per cent).”

¹⁷⁰ *Ibid.*, stating that “On 11 January, UNRWA medical teams provided care for 1,095 post-natal and pregnant women at high risk”.

¹⁷¹ See UNFPA, ‘Situation Report Crisis in Palestine N°12’ (3 December 2024), available at: <https://www.unfpa.org/resources/palestine-situation-report-12-november-2024> (accessed 27 January 2025).

¹⁷² *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, p. 6, para. 18.

¹⁷³ *Ibid.*, at p. 7, para. 21.

Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip, the Court has ordered Israel, in a binding manner,¹⁷⁴ to:

*take all necessary and effective measures to ensure, without delay, in full cooperation with the United Nations, the unhindered provision at scale by all concerned of urgently needed basic services and humanitarian assistance, including food, water, electricity, fuel, shelter, clothing, hygiene and sanitation requirements, as well as medical supplies and medical care to Palestinians throughout Gaza, including by increasing the capacity and number of land crossing points and maintaining them open for as long as necessary.*¹⁷⁵

135. In the context of the Occupied Palestinian Territory, the Court must bear in mind that UNRWA qualifies as an “impartial humanitarian organization” for the purposes of Articles 59 and 61 of the Convention.
136. Indeed, the sole purpose of the agency is to “direct relief and works programmes” for Palestine refugees in Jordan, Lebanon, Syria, the Gaza Strip and the West Bank, including East Jerusalem,¹⁷⁶ which it does “through the provision of education, health, relief and social services and ongoing work in the areas of camp infrastructure, microfinance, protection and emergency assistance”.¹⁷⁷
137. Not only has the Conference of High Contracting Parties to the Fourth Geneva Convention expressly recognized its role, together with the International Committee of the Red Cross, in the Occupied Palestinian Territory,¹⁷⁸ but the necessity of the

¹⁷⁴ *Allegations of Genocide under the Convention on the Prevention and Punishment of the Crime of Genocide (Ukraine v. Russian Federation)*, Provisional Measures, Order of 16 March 2022, I.C.J. Reports 2022, p. 211, at p. 230, para. 84.

¹⁷⁵ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip* (n 171), at p.11, para. 45.

¹⁷⁶ As stated in the section “Where we work” of UNRWA’s official webpage, available at <https://www.unrwa.org/where-we-work> (accessed 2 January 2025).

¹⁷⁷ UNGA Res. 77/123 (n 7), preambular para. 6.

¹⁷⁸ Declaration of 17 December 2014 (n 157), para. 5.

continuation of the work of UNRWA has been affirmed by the General Assembly,¹⁷⁹ the Security Council,¹⁸⁰ and several other United Nations organs.¹⁸¹

138. The Secretary General of the United Nations has even stressed that “UNRWA is the principal means by which essential assistance is supplied to Palestine refugees in the Occupied Palestinian Territory. There is no alternative to UNRWA.”¹⁸² While the Security Council has expressly underscored that “UNRWA remains the backbone of all humanitarian response in Gaza, and affirmed that no organization can replace or substitute UNRWA’s capacity and mandate to serve Palestinian refugees and civilians in urgent need of life-saving humanitarian assistance.”¹⁸³
139. In the same vein, UNRWA Commissioner-General, Philippe Lazzarini, underscored to the United Nations General Assembly that “UNRWA is the mechanism through which [the] Assembly has tasked the United Nations to assist Palestine Refugees. Unique among UN agencies, UNRWA is mandated to directly provide public-like services, including education for more than half a million children, primary healthcare and social support. UNRWA’s services primarily concern human development.”¹⁸⁴
140. Furthermore, he highlighted that in Gaza, “dismantling UNRWA will collapse the United Nations humanitarian response, which relies heavily on the Agency’s infrastructure”,¹⁸⁵ in particular for the provision of education; and in the West Bank,

¹⁷⁹ *i.e.*, UNGA Res. 77/123 (n 7), para. 3.

¹⁸⁰ *i.e.*, UNSC Res. 1860 (2009) (8 January 2009), para. 4.

¹⁸¹ *i.e.*, UNGA ‘Economic and social repercussions of the Israeli occupation on the living conditions of the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem, and of the Arab population in the occupied Syrian Golan’, (30 June 2023) UN Doc A/78/127-E/2023/95, para. 131; and UNICEF statement on Israeli legislation on UNRWA (31 October 2024) available at <https://www.unicef.org/press-releases/unicef-statement-israeli-legislation-unrwa> (accessed 3 January 2024).

¹⁸² Statement of the Secretary-General on Israeli legislation on UNRWA (28 October 2024), available at <https://www.un.org/sg/en/content/sg/statement/2024-10-28/statement-of-the-secretary-general-israeli-legislation-unrwa> (accessed 2 January 2025).

¹⁸³ Security Council Press Statement on United Nations Relief and Works Agency for Palestine Refugees in Near East (UNRWA) (30 October 2024) SC/15874, available at <https://press.un.org/en/2024/sc15874.doc.htm> (accessed 7 January 2025).

¹⁸⁴ Statement of UNRWA Commissioner-General Philippe Lazzarini to the United Nations General Assembly (6 November 2024) available at <https://www.unrwa.org/newsroom/official-statements/statement-unrwa-commissioner-general-philippe-lazzarini-united-nations-general-assembly> (accessed 3 January 2024).

¹⁸⁵ *Ibid.*

“UNRWA’s collapse would deprive at least 50,00[0] children of education, and hundreds of thousands of Palestine Refugees of healthcare.”¹⁸⁶

141. In this regard, considering that UNRWA’s specific mandate as a subsidiary organ of the General Assembly is precisely to provide humanitarian aid to Palestinian refugees, it is Chile’s position that Israel, as an occupying Power, has an obligation to accept and facilitate the operation of UNRWA in the Gaza Strip and the West Bank, including East Jerusalem and “make all possible efforts to allow and facilitate rapid and unimpeded passage of humanitarian relief for the population of the occupied territory”,¹⁸⁷ whether it comes from UNRWA, third States or other humanitarian organizations.
142. This means that Israel not only has an obligation not to adopt any measures that could impede third States, and any humanitarian organization, such as UNRWA, to operate in any part of the Occupied Palestinian Territory, but also a positive obligation to adopt all necessary measures to ensure the adequate fulfilment of its mandate.

THE HAGUE, 19 February 2025

Jorge Carvajal San Martín
Ambassador of the Republic of Chile
to the Kingdom of The Netherlands

¹⁸⁶ *Ibid.*

¹⁸⁷ Declaration of 17 December 2014 (n 157), para. 5.