

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 ADVISORY OPINION)



WRITTEN STATEMENT OF
THE REPUBLIC OF NAMIBIA

28 February 2025

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I. INTRODUCTION

1. Pursuant to the Court's Order dated 23 December 2024, the Republic of Namibia ("**Namibia**") presents this written statement in relation to the request by the United Nations (the "**UN**") General Assembly, in resolution 79/232 adopted on 19 December 2024, for an advisory opinion on the following question (the "**Question**"):

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

What are the obligations of Israel, as an occupying Power and as a member of the United Nations, in relation to the presence and activities of the United Nations, including its agencies and bodies, other international organizations and third States, in and in relation to the Occupied Palestinian Territory, including to ensure and facilitate the unhindered provision of urgently needed supplies essential to the survival of the Palestinian civilian population as well as of basic services and humanitarian and development assistance, for the benefit of the Palestinian civilian population, and in support of the Palestinian people's right to self-determination?"¹

2. Namibia decided to co-sponsor resolution 79/232,² as well as to participate in these proceedings, in the belief that the Court's clarification of Israel's obligations regarding the provision of aid and assistance³ in, and in relation to, the Occupied Palestinian Territory (the "**OPT**") is of critical importance. The ongoing humanitarian situation in all parts of the OPT, notwithstanding the recent and fragile ceasefire agreement, demands the urgent attention of individual States as well as the international community as a whole. Namibia emphasizes that accountability for violations of international law and the protection of civilians remain a priority, and notes the wider importance of the Court's answer for situations of occupation in general.
3. Namibia itself endured decades of unlawful foreign occupation by the former South African apartheid regime, which entailed the imposition of an egregious set of exploitative and discriminatory practices. Given its own history, Namibia has a long-standing foreign policy commitment to addressing the injustices of Israel's unlawful

¹ Dossier No. 3, UN doc. A/RES/79/232, 19 December 2024 ("**resolution 79/232**"), para. 10.

² Dossier No. 1, UN doc. A/79/L.28/Rev.1, 12 December 2024, p. 1.

³ In this written statement, Namibia uses the term "**aid and assistance**" to refer to "urgently needed supplies essential to the survival of the Palestinian civilian population as well as of basic services and humanitarian and development assistance" as stated in the Question.

occupation of Palestine and its imposition of a regime of systemic racial discrimination and apartheid. Namibia remains firmly committed to the Palestinian people's right to self-determination, and seeks to contribute to its realization through participating in these proceedings.

4. Namibia reserves the right to address other issues in further stages of these advisory proceedings. That said, in this written statement, in light of the urgency of these proceedings and in order to assist the Court, Namibia has erred on the side of caution in addressing at least some potential arguments raised in Israel's communications with the United Nations.⁴
5. The rest of this written statement proceeds as follows:
 - (1) **Chapter II** briefly sets out the relevant background leading up to these proceedings.
 - (2) **Chapter III** examines three preliminary issues, namely jurisdiction and discretion, the meaning and scope of the Question, as well as the applicable law.
 - (3) **Chapter IV** addresses Israel's obligations, as the Occupying Power of the OPT and as a Member of the United Nations,⁵ to ensure and facilitate the provision of aid and assistance in and in relation to the OPT.
 - (4) **Chapter V** concludes.

⁴ See Dossier No. N302, Letter dated 3 November 2024 from the Director General of the Ministry of Foreign Affairs of Israel addressed to the President of the General Assembly; Dossier No. N67, Identical letters dated 18 December 2024 from the Permanent Representative of Israel to the United Nations addressed to the President of the General Assembly and the President of the Security Council, UN doc. A/79/710-S/2024/940; Dossier No. N307, Letter dated 24 January 2025 from the Permanent Representative of Israel to the United Nations addressed to the Secretary-General.

⁵ In this written statement, Namibia uses (i) the term "**Occupying Power**" in the sense under the Geneva Convention Relative to the Protection of Civilian Persons in Time of War of 12 August 1949 ("**GCIV**") specifically and international humanitarian law generally; and (ii) the term "**Member**" in the sense under the Charter of the United Nations.

II. BACKGROUND

6. In the interest of brevity, Namibia will set out only the factual context that is most relevant to these proceedings, rather than the broader background of Israel's occupation of, and conduct in, the OPT, which the Court has had occasion to consider.
- (1) As mentioned in the Question's chapeau, the Court has already addressed the situation in the OPT in its two Advisory Opinions dated 9 July 2004⁶ (the "**2004 Wall Opinion**") and 19 July 2024⁷ (the "**2024 OPT Opinion**").
- (2) In addition, the Court examined the conflict in Gaza from October 2023 in *South Africa v. Israel*, specifically in its Orders dated 26 January, 28 March, and 24 May 2024 (each, a "**Provisional Measures Order**").⁸
7. The present proceedings, as recited in resolution 79/232, arose in the context of "the dire humanitarian situation in the [OPT]" and "the emergency humanitarian needs, particularly in the Gaza Strip".⁹ Specifically, the request was triggered by:

"measures taken by Israel that impede assistance to the Palestinian people, including through measures that affect the presence, activities and immunities of the [UN], its agencies and bodies, and those of other international organizations, and the representation of third States in the [OPT], including East Jerusalem, aimed at providing, in accordance with international law, basic services and humanitarian assistance in the [OPT]"¹⁰

including, in particular:

"plans and measures, including legislation adopted, by Israel to interfere with or obstruct the presence and operations of the [UN] and [UN] entities and organizations, including the United Nations Relief and Works Agency for Palestine Refugees in the Near East ["UNRWA"], as mandated by the General Assembly".¹¹

8. Accordingly, this chapter sets out: (A) the history of aid and assistance to the Palestinian people, including the role, mandate and challenges of UNRWA; (B) the current dire humanitarian situation in the OPT and the urgent humanitarian needs; and (C) certain Israeli measures impeding aid and assistance.

⁶ *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Advisory Opinion, I.C.J. Reports 2004 (I), p. 136.

⁷ *Legal Consequences Arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, Including East Jerusalem*, Advisory Opinion, 19 July 2024.

⁸ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)*, Provisional Measures, Order of 26 January 2024, Order of 28 March 2024, Order of 24 May 2024.

⁹ Dossier No. 3, resolution 79/232, paras. 1, 4.

¹⁰ Dossier No. 3, resolution 79/232, p. 3.

¹¹ Dossier No. 3, resolution 79/232, p. 2.

A. History of Aid and Assistance to the Palestinian People

9. As the 2024 *OPT Opinion* confirmed, whereas the OPT refers to the Palestinian territory occupied since the Arab–Israeli war in 1967 (encompassing the West Bank, East Jerusalem, and Gaza),¹² facts predating the occupation are critical.¹³ Indeed, both the humanitarian situation in Palestine and the need for aid and assistance emerged in the aftermath of the 1948 Arab–Israeli war, which displaced hundreds of thousands of Palestinians. These Palestine refugees’ right to return,¹⁴ as well as their urgent humanitarian needs,¹⁵ were immediately recognized by the international community, then under the aegis of the newly formed United Nations. Against this backdrop, the UN General Assembly adopted resolution 302 (IV) on 8 December 1949, establishing UNRWA as a subsidiary organ.
10. UNRWA was given a specific mandate by the General Assembly to provide emergency relief to Palestine refugees,¹⁶ with the understanding that its operations were meant to be temporary until a final resolution of the Palestinian question could be achieved. In the next two decades, however, not only were the original Palestine refugees denied their right of return, but they were joined by other Palestinians displaced by the 1967 war.
11. On 14 June 1967, in the aftermath of the war, Israel and UNRWA exchanged letters constituting a provisional agreement concerning assistance to Palestinian refugees (the “1967 Agreement”), whereby “at the request of the Israel Government, UNRWA would continue its assistance to the Palestine refugees, with the full co-operation of the Israel authorities, in the West Bank and Gaza Strip areas”.¹⁷ As stated by Israel’s then Minister of Defence, Moshe Dayan, in internal discussions of the Israeli Security Cabinet on 19 June 1967, they were thankful that UNRWA continued to take care of the new refugees, so that they would not become Israel’s responsibility.¹⁸

¹² 2024 *OPT Opinion*, para. 78.

¹³ 2024 *OPT Opinion*, para. 80 (“However, the Court is not precluded from having regard to facts predating the occupation, to the extent that this is necessary for the proper discharge of its judicial function.”).

¹⁴ UN doc. A/RES/194(III), 11 December 1948, para. 11 (resolving that “the refugees wishing to return to their homes and live in peace with their neighbours should be permitted to do so at the earliest practicable date”).

¹⁵ UN doc. A/RES/212(III), 19 November 1948 (establishing UN Relief for Palestine Refugees in the Near East (UNRPR), the predecessor of UNRWA).

¹⁶ UN doc. A/RES/302(IV), 8 December 1949, paras. 5 (recognizing that “continued assistance for the relief of the Palestine refugees is necessary to prevent conditions of starvation and distress among them and to further conditions of peace and stability”) and 7 (establishing UNRWA to provide “direct relief and works programmes” to Palestine refugees).

¹⁷ Dossier No. N283, Exchange of letters constituting a provisional agreement between the United Nations Relief and Works Agency for Palestine Refugees in the Near East and Israel concerning assistance to Palestine refugees, 14 June 1967.

¹⁸ Transcript of meeting of the cabinet sub-committee of 19 June 1967 (afternoon), “מליל ועדת השרים לניסוח עמדה”, “הממשלה בענין עתיד השטחים”, 19 ביוני 1967, available in the Israel State Archives (<https://www.archives.gov.il/>) and the Jewish Settlements Archival Project of the NYU Taub Center for Israel Studies (<https://archive.nyu.edu/handle/2451/71774>), at p. 47 (Moshe Dayan) (“אם העניין יסתדר... כרגע עשינו מלחמה צבאית, ודאי שנצטרך לטפל בזה. אין אנו אומרים כלפי חוץ שום דבר בעניין הפליטים, אלא בינינו אנו מחליטים כך שכל הפליטים יהיו אצלנו, ודאי שנצטרך לטפל בזה. כל אמירה שלנו בעניין הפליטים ייהפך לבייבי שלנו”) (“We have just fought a military war, ... if the matter works out so that all the refugees are with us, of course we will have to deal with it. We do not say anything to the outside about the refugees, but among ourselves we decide that at this stage we are very happy about the fact that UNRWA continues to take care of the refugees. Every statement we make about the refugees will become our ‘baby’.”) (unofficial translation). For an English translation

12. Following the Oslo Accords between Israel and the Palestine Liberation Organization (the “PLO”) in 1993 and 1995 establishing the Palestinian Authority, the need for humanitarian assistance in the OPT—and UNRWA’s ongoing mandate—continued upon (i) the PLO’s request for UNRWA to continue its services in the areas under Palestinian self-rule, as recorded in their exchange of letters in 1994,¹⁹ as well as (ii) the agreement between UNRWA and the Palestinian Authority regarding the location of UNRWA Headquarters in the West Bank and Gaza in 1996.²⁰
13. The ongoing need for humanitarian assistance can only be understood in the context of Israel’s prolonged and unlawful practices and policies in the OPT. As the Court noted in its *2024 OPT Opinion* (quoting the UN Economic and Social Commission for Western Asia), those policies and practices “have caused the deterioration of the living conditions of the Palestinians, their forced displacement, ‘de-development’ of the [OPT], entrenchment of the Palestinian economy’s asymmetric dependence on Israel, and exacerbation of Palestinian institutional dependence on foreign aid”.²¹
14. As a result of the worsening humanitarian situation, the General Assembly has repeatedly renewed and expanded UNRWA’s mandate over the last seven-and-a-half decades, most recently in resolution 77/123 of 12 December 2022.²²
15. In resolution 79/232 (2024), the General Assembly “recognizes the vital role of the Agency in providing humanitarian and development assistance to the Palestinian people, notably Palestine refugees, and particularly in the Gaza Strip”, describing UNRWA as “the backbone of [UN] humanitarian relief operations”. Under UNRWA’s coordination, other UN agencies and bodies contributing to aid and assistance in the OPT include: (i) the UN Office for the Coordination of Humanitarian Affairs (OCHA); (ii) the UN Development Programme (UNDP); (iii) the UN Population Fund (UNFPA); (iv) the UN Children’s Fund (UNICEF); (v) the World Health Organization (WHO); and (vi) the World Food Programme (WFP).
16. Apart from the UN, other international organizations—both intergovernmental and non-governmental—have also contributed to humanitarian assistance in the OPT. Beyond multilateral assistance, third States have played a critical role in facilitating aid and assistance to the Palestinian people, including through their representation in the OPT, as further mentioned below.

of the minutes, see Ilan Pappé, *The Biggest Prison on Earth: A History of Gaza and the Occupied Territories*, Oneworld, 2017, pp. 66-67 (“It is not an issue now, let us not raise it. We shall deal with it later ... We should be thankful for the fact that UNRWA still takes care of them.”).

¹⁹ Dossier No. N286, Exchange of letters dated 24 June 1994 between the Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) and the Chairman of the Palestine Liberation Organization for the purpose of facilitating UNRWA to continue to provide its assistance to the Palestinian population in the Gaza Strip and the Jericho Area and in the remainder of the West Bank.

²⁰ Dossier No. N287, Agreement between the United Nations Relief and Works Agency for Palestine Refugees in the Near East and the Palestinian Authority regarding the location of UNRWA Headquarters in the West Bank and Gaza Strip Area, 5 July 1996.

²¹ *2024 OPT Opinion*, para. 242, quoting “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”, UN doc. A/78/127-E/2023/95, 30 June 2023, para. 130 (emphasis supplied).

²² Dossier No. N60, UN doc. A/RES/77/123, 12 December 2022.

17. It bears emphasis that UNRWA—as well as other international actors providing aid and assistance—has been operating in an extremely challenging environment. For one, UNRWA’s funding depends almost entirely on voluntary contributions from States.²³ Moreover, UNRWA’s operations inside the OPT also rely on the cooperation of Israel, as well as from armed groups.²⁴ Its personnel and property have been attacked on many occasions; and its premises have been subject to unlawful interference.²⁵ At the same time, in light of the challenges, UNRWA has also implemented internal accountability and transparency measures, as well as regular evaluations and oversight mechanisms to ensure neutrality in its operations.²⁶

B. Dire Humanitarian Situation and Urgent Needs for Aid and Assistance in the OPT

18. The already dire humanitarian situation in the OPT has become even more grave since 7 October 2023. As the Court noted in its January 2024 Order:

“the military operation being conducted by Israel following the attack of 7 October 2023 has resulted in a large number of deaths and injuries, as well as the massive destruction of homes, the forcible displacement of the vast majority of the population, and extensive damage to civilian infrastructure”.²⁷

19. According to the Court, the civilian population in Gaza was “extremely vulnerable”, and many had “no access to the most basic foodstuffs, potable water, electricity, essential medicines or heating”.²⁸ Having warned at the time that “the catastrophic humanitarian situation” was “at serious risk of deteriorating”,²⁹ the Court later observed that the situation had not only “deteriorated further, in particular in view of the prolonged and

²³ See, e.g., Dossier No. N31.1, Report of the Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East, Programme budget 2024–2025, UN doc. A/78/13/Add.1, 23 August 2023, paras. 28 and 34, tables 10–11.

²⁴ See, e.g., Dossier No. N32, Report of the Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East, 1 January–31 December 2023, UN doc. A/79/13, 14 August 2024, paras. 69–74.

²⁵ See, e.g., Dossier No. 1034, Report of the Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East, UN doc. A/57/13, 26 September 2002, pp. 37–38; Dossier No. 1036, Report of the Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East, UN doc. A/59/13, para. 171; Dossier No. 1040, Report of the Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East, 1 January–31 December 2007, UN doc. A/63/13, 2008, para. 32; Dossier No. 1041, Report of the Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East, 1 January–31 December 2008, UN doc. A/64/13, 2009, para. 11 (2008 attacks); Dossier No. 990, UN doc. A/RES/69/88, 5 December 2014 (deploring attacks against UNRWA installations in the conflict in Gaza in 2014); Dossier No. 992, UN doc. A/RES/71/93, 6 December 2016; Dossier No. 1368, Letter dated 27 April 2015 from the Secretary-General addressed to the President of the Security Council, UN doc. S/2015/286, annex (summary by the Secretary-General of the report of the Board of Inquiry); UN doc. A/HRC/29/52 (independent commission of inquiry established pursuant to Human Rights Council resolution S-21/1).

²⁶ See Dossier No. N297, Final Report for the United Nations Secretary-General on the Independent Review of Mechanisms and Procedures to Ensure Adherence by UNRWA to the Humanitarian Principle of Neutrality, 20 April 2024.

²⁷ *Provisional Measures Order of 26 January 2024*, para. 46; see also *ibid.*, paras. 13 and 70.

²⁸ *Provisional Measures Order of 26 January 2024*, para. 70, also quoted in *Provisional Measures Order of 28 March 2024*, para. 18.

²⁹ *Provisional Measures Order of 26 January 2024*, para. 72.

widespread deprivation of food and other basic necessities”,³⁰ but had “deteriorated [...] even further” by May 2024, when the Court “characterized [the situation] as disastrous”.³¹

20. The humanitarian situation has not only worsened in Gaza but spread out into the West Bank, including East Jerusalem. For instance, whereas Israel would collect tax for and transfer the revenue to the Palestinian Authority under the 1994 Paris Protocol and the Oslo II Accord,³² following the October 2023 attack, Israel had withheld part of the revenues, which worsened the humanitarian situation in the West Bank, including East Jerusalem.³³ Israeli security forces have also intensified their military operations in the West Bank, even after the ceasefire in Gaza. At the time of writing, the Israeli Minister of Defence has banned the residents of West Bank refugee camps, who had evacuated as a result of Israel’s security operations, from returning to their camps,³⁴ and Israeli tanks have entered the West Bank with orders to prepare for prolonged stay.³⁵
21. The dire humanitarian situation is exacerbated by the unprecedented challenges facing the international aid and assistance efforts. Amidst Israel’s military operations, UN and UNRWA humanitarian personnel, property and premises have been harmed, damaged and endangered.³⁶ As the UNRWA Commissioner-General noted in his letter dated 14 August 2024 transmitting his annual report to the General Assembly, by that time:

“More than 200 UNRWA personnel have been killed in Gaza. Some 190 UNRWA premises have been damaged or destroyed, while both the Israeli security forces and Palestinian armed groups, including Hamas, have used the Agency’s premises for military purposes. At least 560 displaced persons have been killed while sheltering inside UNRWA schools and other structures. The Israeli security forces have routinely detained UNRWA personnel in Gaza, who have reported torture and mistreatment. Aid convoys have been struck despite advance coordination with the authorities and have been looted amid a collapse of civil order. [...]

³⁰ *Provisional Measures Order of 28 March 2024*, para. 18.

³¹ *Provisional Measures Order of 24 May 2024*, para. 28.

³² Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip, 28 September 1995 (the “**Oslo II Accord**”), Art. XXIV (“The economic relations between the two sides are set out in the Protocol on Economic Relations, signed in Paris on April 29, 1994, and the Appendices thereto, and the Supplement to the Protocol on Economic Relations, all attached as Annex V, and will be governed by the relevant provisions of this Agreement and its Annexes.”).

³³ See Reuters, “Israel cuts Gaza funds from Palestinian tax transfer”, 2 November 2023; Reuters, “Palestinian Authority to pay reduced salaries as Israel blocks funds”, 6 February 2024. For Norway’s role as intermediary for the withheld fund, see further para. 28(1) below.

³⁴ BBC, “Israel expels residents of three West Bank refugee camps”, 23 February 2025.

³⁵ Reuters, “Israel sends tanks into West Bank, tells troops to ready for ‘extended’ stay”, 24 February 2025.

³⁶ Dossier No. N295, Letter dated 31 December 2023 from the Commissioner-General of UNRWA addressed to the Coordinator of Government Activities in the Territories of the Ministry of Defense of Israel; Dossier No. N296, Letter dated 29 January 2024 from the Director of UNRWA Affairs in the West Bank of UNRWA addressed to the Director of the Department of UN Political Affairs of the Ministry of Foreign Affairs of Israel; Dossier No. N298, Letter dated 28 August 2024 from the Director of UNRWA Affairs in the West Bank of UNRWA addressed to the Director of the Department of UN Political Affairs of the Ministry of Foreign Affairs of Israel.

The extraordinary challenges confronting UNRWA since October 2023 were compounded by the allegations of the Government of Israel that 19 of the Agency's 33,000 personnel were involved in the 7 October attacks."³⁷

22. Following these allegations made by Israel on 26 January 2024—the same day the Court issued its first Provisional Measures Order—the UN Secretary-General immediately tasked the UN Office of Internal Oversight Services with an independent investigation, which implicated nine personnel, who were then promptly dismissed.³⁸
23. In addition, as recalled in resolution 79/232, the UN Secretary-General also commissioned an Independent Review of Mechanisms and Procedures to Ensure Adherence by UNRWA to the Humanitarian Principle of Neutrality, leading to a report with 50 recommendations in April 2024 (the “**Colonna Report**”).³⁹ The Report found that “UNRWA has established a significant number of mechanisms and procedures to ensure compliance with the humanitarian principles, with emphasis on the principle of neutrality, and that it possesses a more developed approach to neutrality than other similar UN or NGO entities”.⁴⁰ Moreover, UNRWA immediately committed itself to the implementation of the Report’s recommendations,⁴¹ a process which commenced immediately and is ongoing.⁴²

C. Measures of Israel Impeding Aid and Assistance

24. Against this backdrop, the Israeli Knesset proposed two draft laws against the presence and operations of UNRWA and, despite requests from the UN urging Israel not to enact them,⁴³ proceeded to do so on 28 October 2024. They are:
 - (1) the Law to Cease UNRWA Operations, which provides for the expiration of the 1967 Agreement and prohibits all government authorities from having any contact with UNRWA;⁴⁴ and

³⁷ Dossier No. N32, Report of the Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East, UN doc. A/79/13, 14 August 2024, p. 4.

³⁸ Dossier No. N32, Report of the Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East, UN doc. A/79/13, 14 August 2024, p. 4.

³⁹ Dossier No. N297, Final Report for the United Nations Secretary-General on the Independent Review of Mechanisms and Procedures to Ensure Adherence by UNRWA to the Humanitarian Principle of Neutrality, 20 April 2024.

⁴⁰ Dossier No. N297, Final Report for the United Nations Secretary-General on the Independent Review of Mechanisms and Procedures to Ensure Adherence by UNRWA to the Humanitarian Principle of Neutrality, 20 April 2024.

⁴¹ Statement of Philippe Lazzarini, UNRWA Commissioner General, 22 April 2024.

⁴² UNRWA, High Level Action Plan, 13 May 2024; UNRWA, Implementation of Colonna Report: Quarterly Report, January 2025.

⁴³ Dossier No. N300, Letter dated 4 October 2024 from the Secretary-General addressed to the Prime Minister of Israel (requesting that Israel avoid enacting the draft legislation); Dossier No. N301, Letter dated 28 October 2024 from the Secretary-General addressed to the Prime Minister of Israel (renewing calls for Israel to allow and facilitate UNRWA’s mandated operations and to respect Israel’s international legal obligations). See also Dossier No. N66, Identical letters dated 9 December 2024 from the Secretary-General addressed to the President of the General Assembly and the President of the Security Council, UN doc. A/79/684-S/2024/892.

⁴⁴ See Dossier No. N66, Identical letters dated 9 December 2024 from the Secretary-General addressed to the President of the General Assembly and the President of the Security Council, UN doc. A/79/684-S/2024/892, p. 2.

- (2) the Law to Cease UNRWA Operations in the Territory of the State of Israel, which provides that UNRWA shall not operate any representative office, provide any services or carry out any activities, directly or indirectly, within the territory of Israel⁴⁵ (together, the “Anti-UNRWA Laws”).
25. The cessation of UNRWA’s operations in the OPT, including East Jerusalem, would create a detrimental gap in the provision of aid and assistance to the Palestinian civilian population, further worsening the already dire humanitarian situation. As emphasized in the Security Council press statement on UNRWA issued on 30 October 2024, “no organization can replace or substitute the UNRWA’s capacity and mandate to serve Palestine refugees and civilians in urgent need of life-saving humanitarian assistance”.⁴⁶
26. By letter dated 3 November 2024, the Israeli Ministry of Foreign Affairs informed the President of the General Assembly that Israel withdrew its request to UNRWA in the 1967 Agreement, and that the Anti-UNRWA Laws would take effect after a three-month period.⁴⁷ Following several rounds of correspondence between the UN and Israel to no avail,⁴⁸ the Anti-UNRWA Laws took effect at the end of January 2025.
27. Apart from the Anti-UNRWA Laws, Israel has also adopted other measures impeding international aid and assistance in the OPT, including through the denial of visas. In December 2023, for example, Israel purported to “revoke” the visa of a senior UN humanitarian coordinator for the OPT. According to the Israeli Foreign Minister, this was because the UN official condemned Israel but failed to condemn Hamas.⁴⁹ Similarly, Israel has also stopped issuing visas to international aid organizations.⁵⁰

⁴⁵ See *ibid.*, p. 3.

⁴⁶ Security Council Press Statement on United Nations Relief and Works Agency for Palestine Refugees in Near East (UNRWA), UN doc. SC/15874, 30 October 2024, also quoted in Dossier No. 3, resolution 79/232, p. 3.

⁴⁷ Dossier No. N302, Letter dated 3 November 2024 from the Director General of the Ministry of Foreign Affairs of Israel addressed to the President of the General Assembly.

⁴⁸ Dossier No. N303, Note verbale dated 18 November 2024 from the Office of Legal Affairs of the Secretariat of the United Nations addressed to the Ministry of Foreign Affairs of Israel; Dossier No. N304, Letter dated 19 November 2024 from the Secretary-General addressed to the Minister for Foreign Affairs of Israel; Dossier No. N305, Note verbale dated 4 December 2024 from the Office of Legal Affairs of the Secretariat of the United Nations addressed to the Ministry of Foreign Affairs of Israel; Dossier No. N67, Identical letters dated 18 December 2024 from the Permanent Representative of Israel to the United Nations addressed to the President of the General Assembly and the President of the Security Council, UN doc. A/79/710-S/2024/940; Dossier No. N306, Note verbale dated 8 January 2025 from the Office of Legal Affairs of the Secretariat of the United Nations addressed to the Ministry of Foreign Affairs of Israel; Dossier No. N307, Letter dated 24 January 2025 from the Permanent Representative of Israel to the United Nations addressed to the Secretary-General; Dossier No. N308, Letter dated 27 January 2025 from the Secretary-General addressed to the Permanent Representative of Israel to the United Nations.

⁴⁹ Post of Israel’s Foreign Minister, Eli Cohen, on X, formerly Twitter, 5 December 2023 (<https://x.com/elicohl/status/1732153434902524371>) (“I decided to revoke the residence visa to Israel of the UN “humanitarian” coordinator Lynn Hastings. Someone who did not condemn Hamas for the brutal massacre of 1,200 Israelis, for the kidnapping of babies and the elderly and for the horrific acts of abuse and rape, and for using the residents of Gaza as human shields, but instead condemns Israel, a democratic country that protects its citizens, cannot serve in the UN and cannot enter Israel!”). See Reuters, “UN says Israel will not renew visa for top aid official”, 1 December 2023.

⁵⁰ The Israeli Authorities have stopped giving visas to heads and staff of the international NGO community – Statement from Philippe Lazzarini, UNRWA Commissioner-General, 20 September 2024 (<https://www.un.org/unispal/document/unrwa-statement-20sep24/>).

28. Israel has also taken other measures impeding the presence and activities of third States providing crucial humanitarian and development assistance in and in relation to the OPT, such as Norway.
- (1) As mentioned above, Israel had withheld transmitting part of the tax revenues to the Palestinian Authority. In January 2024, Norway negotiated an arrangement whereby it will act as an intermediary of the withheld funds.⁵¹ According to the Prime Minister of Norway, the released “funds are necessary to ensure that the Palestinian Authority does not collapse, that Palestinians receive vital services, and that teachers and health workers are getting their salaries”.⁵² However, in May 2024, Israel again withheld the Palestinian tax revenue to Norway as a punitive measure for Norway’s recognition of the State of Palestine.⁵³
 - (2) On 8 August 2024, Israel also revoked the diplomatic status of Norwegian diplomats working at Norway’s Representative Office to the Palestinian Authority in the OPT.⁵⁴ The Representative Office of Norway provided humanitarian and development assistance in the OPT in cooperation with the Palestinian Authority, international organizations, and civil society.⁵⁵ The decision resulted in the closure of the Representative Office, further impeding Norway’s transfer of aid to Palestinians in the West Bank.⁵⁶ It is common cause that this is not the first time Israel has obstructed third State representation in the OPT to “punish” their recognition of Palestinian statehood.⁵⁷
29. It is against the backdrop of these and other measures impeding international aid and assistance in the face of this dire humanitarian situation and urgent humanitarian needs in the OPT that the General Assembly has requested the Court’s advice.

⁵¹ Norwegian Ministry of Foreign Affairs, “Norway assists in scheme for crucial financial transfers from Israel to Palestine”, 18 February 2024 (<https://www.regjeringen.no/en/aktuelt/norway-assists-in-scheme-for-crucial-financial-transfers-from-israel-to-palestine/id3025994/>).

⁵² Norwegian Ministry of Foreign Affairs, “The Palestinian Authority has received crucial financial transfers from Israel”, 29 February 2024 (<https://www.regjeringen.no/en/aktuelt/the-palestinian-authority-has-received-crucial-financial-transfers-from-israel/id3027688/>).

⁵³ See, e.g., New York Times, “Israel Responds to Move to Recognize Palestinian State by Withholding Funds”, 22 May 2024.

⁵⁴ Norwegian Ministry of Foreign Affairs, “Norway’s Representative Office in Palestine is closed until further notice”, 16 August 2024 (<https://www.regjeringen.no/en/aktuelt/norways-representative-office-in-palestine-is-closed-until-further-notice/id3050105/>).

⁵⁵ Representative Office of Norway to the Palestinian Authority, “Bilateral Relations”, 28 February 2017 (<https://www.norway.no/en/palestine/norway-palestine/bilateral-relations/>) (“The main components of the development program of the Norwegian Representative Office (NRO) are institutional support to the Palestinian Authorities (PA) through budget support and other public insti[tu]tions, support to the civil society and multilateral organizations as well as humanitarian assistance. The main sectoral focus is on education, health and energy.”).

⁵⁶ Haaretz, “Israel Revokes Eight Norwegian Diplomats’ Status With the PA as Punishment for Recognizing Palestine”, 8 August 2024 (“The Norwegian government transfers a large amount of aid to Palestinians in the West Bank, and the Foreign Ministry’s decision is expected to make the transfer of this assistance more difficult.”).

⁵⁷ The Israeli Foreign Minister also ordered Spain’s consulate in East Jerusalem to stop providing consular services to Palestinians in the West Bank from 1 June 2024 as a response to Spain’s recognition of Palestinian statehood. Reuters, “Israel stops Spanish consulate from providing services to Palestinians”, 24 May 2024; Le Monde, “Israël annonce « couper le lien » entre le consulat d’Espagne à Jérusalem et les Palestiniens, après la reconnaissance par Madrid de l’Etat de Palestine”, 24 May 2024 (both quoting post of Israel’s Foreign Minister, Israel Katz, on X, formerly Twitter (https://x.com/Israel_katz/status/1793890817225949343))).

III. PRELIMINARY ISSUES

A. Jurisdiction and Discretion

30. Namibia submits that the Court has jurisdiction to issue the requested advisory opinion and that there are no compelling reasons of propriety preventing it from doing so.
31. As to the Court's jurisdiction, pursuant to Article 96(1) of the Charter of the United Nations⁵⁸ and Article 65(1) of the Statute of the Court,⁵⁹ the present request was duly made by the General Assembly⁶⁰ and transmitted to the Court.⁶¹ The request concerns a "legal question",⁶² worded in precise terms,⁶³ to clarify Israel's obligations under international law. Furthermore, the Court has reaffirmed its competence to determine the legal consequences of a situation with political dimensions, provided that the request concerns the interpretation and application of international law, and that it is not tasked with inquiring into the motives that inspired the request.⁶⁴ In the present proceedings, although the request relates to matters with significant political overtones,⁶⁵ the General Assembly has asked the Court to "discharge an essentially judicial task".⁶⁶
32. While the Court has the discretion to decline to give an advisory opinion in certain exceptional circumstances,⁶⁷ it has consistently held, including in the *2024 OPT Opinion*, that only "compelling reasons" may lead the Court to refuse to give its opinion.⁶⁸ In the present proceedings, there are no such compelling reasons in relation to the integrity of the Court's judicial function.

⁵⁸ UN Charter, Art. 96(1) ("The General Assembly [...] may request the International Court of Justice to give an advisory opinion on any legal question.").

⁵⁹ ICJ Statute, Art. 65(1) ("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.").

⁶⁰ Dossier No. 3, resolution 79/232.

⁶¹ *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*, Order of 23 December 2024.

⁶² ICJ Statute, Art. 65(1); UN Charter, Art. 96(1).

⁶³ See further *2024 OPT Opinion*, para. 29; *2004 Wall Opinion*, para. 38 (noting that "lack of clarity in the drafting of a question does not deprive the Court of jurisdiction. Rather, such uncertainty will require clarification in interpretation, and such necessary clarifications of interpretation have frequently been given by the Court").

⁶⁴ *Conditions of Admission of a State to Membership in the United Nations (Article 4 of the Charter)*, Advisory Opinion, I.C.J. Reports 1948, p. 57, at pp. 61-62; *Competence of the General Assembly for the Admission of a State to the United Nations*, Advisory Opinion, I.C.J. Reports 1950, pp. 6-7; *Certain Expenses of the United Nations*, Advisory Opinion, I.C.J. Reports 1962, p. 155.

⁶⁵ *Accordance with International Law of the Unilateral Declaration of Independence in Respect of Kosovo*, Advisory Opinion, I.C.J. Reports 2010, p. 403 (the "*Kosovo Advisory Opinion*"), para. 27 ("the fact that a question has political aspects does not suffice to deprive it of its character as a legal question"); *Application for Review of Judgement No. 158 of the United Nations Administrative Tribunal*, Advisory Opinion, I.C.J. Reports 1973, p. 172, para. 14.

⁶⁶ *Kosovo Advisory Opinion*, p. 403, para. 27.

⁶⁷ *2004 Wall Opinion*, p. 156, para. 44; *Kosovo Advisory Opinion*, pp. 415-416, para. 29; *Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965*, Advisory Opinion, I.C.J. Reports 2019, p. 95 (the "*Chagos Advisory Opinion*"), para. 63.

⁶⁸ *2004 Wall Opinion*, p. 156, para. 44; *Kosovo Advisory Opinion*, p. 416, para. 30; *Chagos Advisory Opinion*, p. 95, para. 65; *2024 OPT Opinion*, para. 31.



33. *First*, the request relates to matters of longstanding importance to the work of the General Assembly. At least since resolution 3236 (XXIX) of 1974, the question of Palestine and the right of its people to self-determination has been a central aspect of the General Assembly's work,⁶⁹ including through the Committee on the Exercise of the Inalienable Rights of the Palestinian People, established by resolution 3376 (XXX) of 1975.⁷⁰ This request furthers the General Assembly's consistent engagement with this question.
34. *Second*, providing an answer to the legal questions in the request will be of real value to the General Assembly in its continued performance of its work and functions, as well as to the realization of the Palestinian people's right to self-determination. There is no basis to argue that the Court should decline to give its opinion on the putative ground that it would not assist the Assembly.⁷¹ Moreover, and in any event, the Court has consistently held that it is not for it – the Court – “to purport to decide whether or not an advisory opinion is needed by the Assembly for the performance of its functions. The General Assembly has the right to decide for itself on the usefulness of an opinion in the light of its own needs”.⁷²
35. *Third*, there is no basis to argue that this matter constitutes merely a bilateral dispute between Israel and Palestine, and that the Court should thus decline to render its opinion. The question expressly concerns Israel's obligations as a Member of the United Nations, and, as noted above, implicates a “matter of particular interest and concern to the United Nations”.⁷³ Moreover, the request also concerns certain obligations owed by Israel *erga omnes* and *erga omnes partes* under international law; it therefore has a wider impact on the international community and on all Members of the United Nations. Consistent with the Court's jurisprudence, including in the *Chagos Advisory Opinion*⁷⁴ and the *2024 OPT Opinion*,⁷⁵ the Court should not decline the request on any such basis.
36. *Fourth*, the Question posed by the General Assembly raise no difficulties for the proper exercise of the Court's judicial function.⁷⁶ The factual aspects of Question relate to matters on which there is extensive material in the public domain. Moreover, the Court has received an extensive record from the UN Secretariat, and will also almost certainly receive relevant information from States and international organizations in the course of these proceedings.⁷⁷
37. *Finally*, that the Court recently delivered an Advisory Opinion on Israel's policies and practices in the OPT provides no basis for refusing to answer the General Assembly's subsequent questions in relation to related, but distinct, matters. The General Assembly has welcomed and taken further action in relation to the *2024 OPT Opinion*,⁷⁸ and in the

⁶⁹ UN doc. A/RES/3236 (XXIX), 22 November 1974.

⁷⁰ UN doc. A/RES/3376 (XXX), 10 November 1975.

⁷¹ See similarly *2024 OPT Opinion*, paras. 36-37.

⁷² *Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion, I.C.J. Reports 1996*, p. 226, para. 16; *Chagos Advisory Opinion*, p. 95, para. 76; *2024 OPT Opinion*, paras. 33-35.

⁷³ *2024 OPT Opinion*, para. 35.

⁷⁴ *Chagos Advisory Opinion*, paras. 83-91.

⁷⁵ *2024 OPT Opinion*, paras. 33-35.

⁷⁶ See similarly *2024 OPT Opinion*, para. 46.

⁷⁷ Similarly, *Chagos Advisory Opinion*, p. 95, para. 73.

⁷⁸ UN doc. A/RES/ES-10.24, 19 September 2024.

Question posed in the present proceedings specified its relevance as part of the applicable legal framework. The Court's preceding engagement with matters in the OPT is no reason not to respond to the General Assembly's request for further clarification of Israel's obligations.

38. In Namibia's view, it follows that the Court has jurisdiction to render the requested advisory opinion and that there are no compelling reasons preventing the Court from doing so.

B. Scope and Meaning of the Question

39. Namibia recalls the Court's "power to interpret and, where necessary, reformulate the questions put to it", and recognizes that it is "for the Court to appreciate and assess the appropriateness of the formulation of the questions".⁷⁹ Here, Namibia briefly examines three issues regarding the scope and meaning of the question.
40. *First*, as mentioned in Section A, the Question focuses on Israel's legal obligations. At the same time, resolution 79/232 makes it clear that the General Assembly is not looking for guidance on abstract legal obligations divorced from the context and factual circumstances in the OPT. In fact, the General Assembly expressly linked Israel's obligations (including those to be set out in these advisory proceedings) and the measures taken by Israel:

"Demands that Israel comply without delay with all of its legal obligations under international law, including as set out by the International Court of Justice;

[...]

Calls upon Israel to uphold and comply with its obligations not to impede the Palestinian people from exercising its right to self-determination, including by rescinding any measures that obstruct the provision of basic services and humanitarian and development assistance to the Palestinian people;

Also calls upon Israel to abide by the Charter of the United Nations and the Convention on the Privileges and Immunities of the United Nations in order to ensure the safety of the personnel of the United Nations, the protection of its institutions and the safeguarding of the security of its facilities in the [OPT], including East Jerusalem, at all times, as well as not to impede or impair the work of third States in the [OPT]".⁸⁰

41. In this light, the Court's advice on Israel's obligations should take into account the context and factual circumstances in the OPT, including the adoption and application of the Anti-UNRWA Laws. It would not suffice for the Court to simply restate the law, but it should clearly indicate whether and how Israel's legislation, policies and practices do or *would* violate its obligations, so as to assist the General Assembly in determining its course of action.

⁷⁹ *Interpretation of the Agreement of 25th March 1951 between WHO and Egypt, Advisory Opinion, I.C.J. Reports 1980*, p. 73 (the "*WHO-Egypt Advisory Opinion*"), para. 35; *2024 OPT Opinion*, para. 49.

⁸⁰ Dossier No. 3, resolution 79/232. paras. 2, 7, 8.

42. *Second*, the Question concerns Israel's obligations "in relation to the presence and activities of" a range of international actors, specifically "the United Nations [...], other international organizations and third States". Namibia makes three observations.
- (1) To begin, this framing shows that, although UNRWA is a focus of the request given the centrality of its activities in the OPT, the question is not so limited; the Court is asked to clarify Israel's obligations on the presence and activities of other UN bodies and organs, other international organizations, and third States as well. The obligations owed by Israel in relation to these actors will persist even in the event that there are any changes to UNRWA's mandate through ordinary processes within the General Assembly.
 - (2) Moreover, the Question broadly concerns Israel's obligations regarding the "presence and activities" of these international actors, which includes issues relating to the immunities and privileges of third States and international organizations (including the UN) in and in relation to the OPT.
 - (3) At the same time, as a specific example of such obligations ("including"), the Question refers to Israel's obligations to both "ensure" and "facilitate" the provision of (i) essential supplies, (ii) basic services, (iii) humanitarian assistance and (iv) development assistance.⁸¹ Namibia notes the breadth of these terms, which extend beyond what might be understood simply as emergency humanitarian relief. Further, this shows that the Question not only focuses on *international* aid and assistance, but also concerns Israel's *own* obligation to ensure the provision of supplies and services, as explained in Chapter IV.A below.
43. *Third*, the Question concerns Israel's obligations regarding aid and assistance "in and in relation to the Occupied Palestinian Territory". Namibia notes that this concerns the OPT in its entirety, *including East Jerusalem and Gaza*. This also has implications for the applicable law.
44. As the Court held in its *2024 OPT Opinion*, the "Occupied Palestinian Territory constitutes a single territorial unit, the unity, contiguity and integrity of which are to be preserved and respected".⁸² This unit encompasses the West Bank, including East Jerusalem, and the Gaza Strip.⁸³
45. The Court further confirmed that Israel is the Occupying Power in the West Bank, including East Jerusalem.⁸⁴ As a corollary, Israel remains bound by the provisions of the Fourth Geneva Convention ("GCIV") as well as the customary international law of occupation.⁸⁵
46. In relation to Gaza, Israel asserts that "Israel does not in fact exercise effective control over Gaza and therefore is not an 'occupying Power' within the meaning of the term under

⁸¹ See note 3 above.

⁸² *2024 OPT Opinion*, para. 78.

⁸³ As further discussed below, the Court determined that this unity of the territory is also a core aspect of the right of the Palestinian people to self-determination. *2024 OPT Opinion*, para. 237.

⁸⁴ *2024 OPT Opinion*, paras. 86-87, 96.

⁸⁵ *2024 OPT Opinion*, para. 96.

international law”,⁸⁶ and thus “the law of belligerent occupation does not apply in respect of Gaza”.

47. This is not correct. In its *2024 OPT Opinion*, the Court held that Israel continues to bear “obligations under the law of occupation [...] commensurate with the degree of its effective control over the Gaza Strip”.⁸⁷ This degree of control is extensive, and, as the Court itself noted, includes “control of the land, sea and air borders, restrictions on movement of people and goods, collection of import and export taxes, and military control over the buffer zone.”⁸⁸ Israel’s continued influence over critical infrastructure and access to Gaza is a hallmark of occupation under international law. In accordance with the views of the International Committee of the Red Cross⁸⁹ and the Independent Commission of Inquiry on the Occupied Palestinian Territory,⁹⁰ including East Jerusalem, and Israel, Namibia takes the view that Gaza remains occupied by Israel.
48. Further, even if Israel is not an “occupying Power” in relation to Gaza, Israel remains bound by other obligations,⁹¹ as discussed in the following section.

C. Applicable Law

49. Namibia recalls that it is for the Court to determine the applicable law, including any relevant premises (such as the status of a territory).⁹² In this regard, the Question’s chapeau refers to, in particular:
- (1) specific rules or areas of law, namely (i) the Charter of the United Nations, (ii) international humanitarian law, (iii) international human rights law, (iv) privileges and immunities applicable under international law for international organizations and States; as well as
 - (2) certain sources of obligations and subsidiary means for the determination of rules of law, namely (i) relevant resolutions of the Security Council, General Assembly, and Human Rights Council, and (ii) the Court’s *2004 Wall Opinion* and *2024 OPT Opinion*.

⁸⁶ Dossier No. N67, Identical letters dated 18 December 2024 from the Permanent Representative of Israel to the United Nations addressed to the President of the General Assembly and the President of the Security Council, UN doc. A/79/710-S/2024/940, p. 5.

⁸⁷ *2024 OPT Opinion*, para. 94 (“the Court is of the view that Israel’s withdrawal from the Gaza Strip has not entirely released it of its obligations under the law of occupation. Israel’s obligations have remained commensurate with the degree of its effective control over the Gaza Strip.”).

⁸⁸ *2024 OPT Opinion*, para. 93.

⁸⁹ ICRC, “Frequently asked questions on the ICRC’s work in Israel and the occupied territories”, 10 January 2025.

⁹⁰ Report of the Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel, UN doc. A/77/328, 14 September 2022.

⁹¹ Even if Israel is not an “occupying Power” in relation to Gaza, Israel would remain bound by general obligations under the law of armed conflict, as well as obligations arising from its membership of the United Nations, particularly under Article 2(4) of the Charter. Israel is also bound by international human rights law, including the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR), both of which protect the rights of individuals under its control, irrespective of the status of the occupation. Israel’s obligations also arise from UN Security Council resolutions addressing its actions in the region, including resolution 242.

⁹² *2024 OPT Opinion*, paras. 84-85.

50. Given the Question's focus on Israel's obligations "as an occupying Power and as a member of the United Nations", both the law of occupation and the law of the United Nations are clearly crucial. However, as the chapeau rightly indicates, they are not the only bases from which Israel's obligations arise.
51. As the Court confirmed in its *2024 OPT Opinion*, despite its illegal occupation, Israel remains bound by its obligations under international law, including—but not limited to—the law of occupation.⁹³ Israel's actions must therefore be assessed in light of these established legal frameworks, which impose unequivocal duties upon it.
52. *First*, international humanitarian law—including under the GCIV—more generally applies. Indeed, while disputing the applicability of the law of occupation to Gaza specifically (as already addressed above), Israel holds that it "is committed to observing all the international legal obligations that are incumbent upon it, including those prescribed by the law of armed conflict".⁹⁴
53. *Second*, other relevant obligations include those arising from the law on the immunities and privileges of States and international organizations, as well as conventional and customary rules of international human rights law, particularly the International Covenant on Civil and Political Rights of 19 December 1966 (the "**ICCPR**") and the International Covenant on Economic, Social and Cultural Rights of 16 December 1966 (the "**ICESCR**"), which apply extraterritorially and in situations of occupation.⁹⁵
54. *Third*, above all, Israel is bound by all peremptory norms of international law, which includes, of specific relevance in the present proceedings, the right of the Palestinian people to self-determination.
55. *Finally*, regarding the law of the United Nations, apart from the Charter, Namibia observes that its wider legal framework—including the Convention on the Privileges and Immunities of the United Nations adopted by the General Assembly in 1946 (the "**General Convention**"), certain binding Security Council resolutions, and the Court's Provisional Measures Orders—are also applicable, as further set out in Chapter IV.

⁹³ *2024 OPT Opinion*, para. 264 ("The Court emphasizes that the conclusion that Israel's continued presence in the Occupied Palestinian Territory is illegal does not release it from its obligations and responsibilities under international law, particularly the law of occupation, towards the Palestinian population and towards other States in respect of the exercise of its powers in relation to the territory until such time as its presence is brought to an end.").

⁹⁴ Dossier No. N67, Identical letters dated 18 December 2024 from the Permanent Representative of Israel to the United Nations addressed to the President of the General Assembly and the President of the Security Council, UN doc. A/79/710-S/2024/940, p. 5.

⁹⁵ *2024 OPT Opinion*, para. 100; *2004 Wall Opinion*, pp. 180-181, paras. 111-112.

IV. ISRAEL'S OBLIGATIONS REGARDING AID AND ASSISTANCE IN AND IN RELATION TO THE OPT

56. In this chapter, Namibia first sets out (A) Israel's general obligations to ensure and facilitate the provision of aid and assistance⁹⁶ in and in relation to the OPT, before turning to Israel's specific obligations regarding the presence and activities of (B) the UN and (C) third States.

A. Israel's General Obligations to Ensure and Facilitate Aid and Assistance

57. Israel's general obligations in respect of the presence and activities of international actors—the UN, other international organizations, and third States—in and in relation to the OPT, including to ensure and facilitate aid and assistance, arise from (1) the Palestinian people's right to self-determination, as well as Israel's other obligations as (2) the Occupying Power and as (3) a Member of the United Nations.

1. Israel's Obligations to Respect the Palestinian People's Right to Self-determination

58. First and foremost, Namibia submits that, both as the Occupying Power and as a UN Member, Israel bears the responsibility to respect—including not to impede the exercise of—the Palestinian people's right to self-determination, as explicitly referenced in resolution 79/232 and the Question. Israel, as such, further has the responsibility to respect the fundamental rights of the Palestinian people, which stem from the relevant provisions of the Hague Regulations, relevant provisions of the GCIV, and international human rights law.

- (1) As the Court confirmed in its *2024 OPT Opinion*, “in cases of foreign occupation such as [of the OPT], the right to self-determination constitutes a peremptory norm of international law”.⁹⁷ The obligation arising from it is binding *erga omnes*, with the result that every State bears a duty to facilitate its implementation.
- (2) Moreover, as the Occupying Power, Israel has a duty to respect each element of the Palestinian people's right to self-determination.⁹⁸ The Court has emphasized the non-derogable nature of this right,⁹⁹ which puts an obligation on all States, including Israel, to refrain from actions that undermine the Palestinian people's ability to freely determine their political status and to pursue their economic, social, and cultural development.
- (3) Similarly, one of the “Purposes of the United Nations”, as defined in the Charter, is to develop “friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples”.¹⁰⁰

⁹⁶ As stated at note 3 above, Namibia uses the term “aid and assistance” to refer to “urgently needed supplies essential to the survival of the Palestinian civilian population as well as of basic services and humanitarian and development assistance”.

⁹⁷ *2024 OPT Opinion*, para. 233. See also *2004 Wall Opinion*, p. 183, para. 118.

⁹⁸ *2024 OPT Opinion*, paras. 230-243.

⁹⁹ *2024 OPT Opinion*, para. 257.

¹⁰⁰ UN Charter, Arts. 1(2) and 55.

59. To begin, denial of the Palestinian people's access to basic humanitarian needs and economic resources not only constitutes a breach of this right but also contravenes the general prohibition on the arbitrary deprivation of means of subsistence under customary international law.¹⁰¹
60. Moreover, Namibia notes that it is for the Palestinian people in the exercise of its right to self-determination to determine what forms and kinds of aid and assistance they will accept, on what terms, and by whom it is to be provided. This is a fundamental aspect of the right to self-determination, as defined by the Court in its *2024 OPT Opinion*.¹⁰²
61. On this basis, Namibia submits that as the Occupying Power, as well as a UN Member, Israel must not impede the Palestinian people in cooperating with the UN, other international organizations, and third States, especially in matters of aid and assistance in order to realize its right to self-determination. Any such impediment amounts to a violation of international law. This includes not only humanitarian but also development assistance, and wider forms of international cooperation. In this respect, in its *2024 OPT Opinion*, the Court further defined as a key element of self-determination the right of a people to "pursue its economic, social and cultural development."¹⁰³ The Palestinian people may pursue such development independently as well as in conjunction with, and with the support of, the UN, other international organizations, and other States.¹⁰⁴
62. Namibia stresses that, owing to the non-derogable character of this right, Israel has no permissible basis under international law for impeding the Palestinian peoples from exercising it.¹⁰⁵

2. Israel's Obligations as an Occupying Power to Ensure and Facilitate the Provision of Aid and Assistance

63. As the Occupying Power, Israel also bears further specific obligations, under international humanitarian law (including the law of occupation), as informed by international human rights law and the Palestinian people's right to self-determination, to (a) ensure the provision of essential supplies and basic services in the OPT, which inform and give rise to its obligations to (b) facilitate the presence and activities of other actors and their provision of aid and assistance.

¹⁰¹ ICESCR, Art. 1(2).

¹⁰² *2024 OPT Opinion*, paras. 230-243.

¹⁰³ *2024 OPT Opinion*, para. 241.

¹⁰⁴ See further *Customs Régime between Germany and Austria, Advisory Opinion, 1931, P.C.I.J., Series A/B, No. 41*, p. 37, at p. 45 (referring to the independence of Austria under the Treaty of Saint-Germain, emphasizing that independence of a State must entail "the sole right of decision in all matters economic, political, financial or other with the result that that independence is violated, as soon as there is any violation thereof, either in the economic, political, or any other field, these different aspects of independence being in practice one and indivisible.").

¹⁰⁵ *2024 OPT Opinion*, para. 233. See also ILC, Draft conclusions on identification and legal consequences of peremptory norms of general international law (*jus cogens*), 2022, Conclusion 3 (defining a peremptory norm as one "accepted and recognized by the international community of States as a whole as a norm from which no derogation is permitted" and only modifiable by another *jus cogens superveniens*).

a. Israel's Obligations to Ensure the Provision of Supplies and Services

64. As a starting point, as the Occupying Power, Israel is bound by the foundational rule reflected in Article 43 of the Hague Regulations, which is binding as a matter of customary international law.¹⁰⁶ In the original French text,¹⁰⁷ Article 43 provides:

« L'autorité du pouvoir légal ayant passé de fait entre les mains de l'occupant, celui-ci prendra toutes les mesures qui dépendent de lui en vue de rétablir et d'assurer, autant qu'il est possible, l'ordre et la vie publics en respectant, sauf empêchement absolu, les lois en vigueur dans le pays. »¹⁰⁸

65. This is a fundamental and demanding obligation binding Israel—to ensure, as far as possible, public order and public life in the Occupied Palestinian Territory, and to administer it for the benefit of the local population.¹⁰⁹ It entails an obligation to ensure not only security and order, but also to ensure the working of ordinary matters of economic and social activity and development.¹¹⁰ This encompasses a range of negative duties of restraint—non-interference—and a stringent set of positive duties.
66. With regard to the provision of supplies and services in particular, as the Occupying Power, Israel is also bound by a set of specific obligations arising under international humanitarian law.

67. Article 55 of the Fourth Geneva Convention provides:

“To the fullest extent of the means available to it, the Occupying Power has the duty of ensuring the food and medical supplies of the population; it should, in particular, bring in the necessary foodstuffs, medical stores and other articles if the resources of the occupied territory are inadequate.”¹¹¹

68. This obligation is supplemented by Article 69 of Additional Protocol I (“API”), which in Namibia’s view constitutes a rule of customary international law, thus binding Israel:

“In addition to the duties specified in Article 55 of the Fourth Convention concerning food and medical supplies, the Occupying Power shall, to the fullest extent of the means available to it and without any adverse distinction, also ensure the provision of clothing, bedding, means of shelter, other supplies essential to the survival of the civilian population of the occupied territory and objects necessary for religious worship.”¹¹²

¹⁰⁶ 2024 OPT Opinion, para. 96.

¹⁰⁷ Dinstein, *The International Law of Belligerent Occupation*, 2nd ed., 2019, p. 99, para. 270.

¹⁰⁸ Hague Regulations, Art. 43. The ICRC’s English translation provides: “The authority of the legitimate power having in fact passed into the hands of the occupant, the latter shall take all the measures in his 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.” As has been widely noted in the scholarship, the extent of the obligation is properly captured by the French text: “l’ordre et la vie public” – see, e.g., Dinstein, 2019, p. 99, para. 270.

¹⁰⁹ 2024 OPT Opinion, para. 105.

¹¹⁰ Dinstein, 2019, p. 104, paras. 287-288.

¹¹¹ GCIV, Art. 56.

¹¹² API, Art. 69.



69. Moreover, Articles 50 and 56 of GCIV are of particular relevance to the present context. Article 50 imposes an obligation on Israel, with the cooperation of national and local authorities, to “facilitate the proper working of all institutions devoted to the care and education of children”. This includes a range of schools and other facilities operated by UNRWA and other international actors for the benefit of Palestinian children in the OPT. At absolute *minimum*, it requires Israel not to frustrate the ongoing provision of these services. Similarly, Article 56 of GCIV imposes a duty on Israel, as the Occupying Power, to ensure and maintain, with the cooperation of national and local authorities, the medical and hospital establishments and services, public health and hygiene in the occupied territory.¹¹³ This is a demanding duty—one that requires Israel to use “the fullest extent of the means available to it” to secure these protections.¹¹⁴ Moreover, it includes the obligation not to impede existing provision of health services, such as those provided by UNRWA in the OPT.
70. Furthermore, both the general and the specific duties are supplemented and informed by the application of international human rights law, in particular economic and social rights under the ICESCR, which requires Israel to take positive measures to ensure the enjoyment of the rights protected therein.¹¹⁵ Moreover, Namibia draws the Court’s attention to the demanding obligations that Israel has assumed under both the Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination against Women.¹¹⁶

b. Israel’s Obligations to Allow, Facilitate and Protect the Provision of Aid and Assistance

71. In addition to—and in the light of—Israel’s own obligations to ensure the provision of supplies and services, Israel also has obligations to allow, facilitate and protect the provision of international aid and assistance to the Palestinian people. For the avoidance of doubt, Namibia emphasizes, as set out in Article 60 of GCIV, that the existence of any relief consignments in no way relieves Israel of its *own* responsibilities of supply.¹¹⁷
72. In the first instance, under Article 23 of GCIV—which binds Israel irrespective of whether it is the Occupying Power in Gaza—Israel bears the duty to allow free passage of medical supplies, food, and other items for the civilian population, especially for children under fifteen, expectant and new mothers, subject to its right of control.¹¹⁸ This

¹¹³ GCIV, Art. 56.

¹¹⁴ GCIV, Art. 56.

¹¹⁵ See Section III.C, para. 53 above; 2024 OPT Opinion, para. 100.

¹¹⁶ Convention on the Rights of the Child, 1577 UNTS 3; Convention on the Elimination of All Forms of Discrimination against Women, 1249 UNTS 13.

¹¹⁷ GCIV, Art. 60 (“Relief consignments shall in no way relieve the Occupying Power of any of its responsibilities under Articles 55, 56 and 59. The Occupying Power shall in no way whatsoever divert relief consignments from the purpose for which they are intended, except in cases of urgent necessity, in the interests of the population of the occupied territory and with the consent of the Protecting Power.”). See also ICRC, Commentary of 1958, p. 323 (“The Conference insisted that the Occupying Power would continue at all times to be responsible for supplying the population”).

¹¹⁸ See also ICRC, *Customary International Humanitarian Law, Volume 1. Rules*, Cambridge, 2005 (the “ICRC CIHL Rules”), Rule 55 (“The parties to the conflict must allow and facilitate rapid and unimpeded passage of humanitarian relief for civilians in need, which is impartial in character and conducted without any adverse distinction, subject to their right of control.”).

obligation is supplemented by Article 70(2) of API,¹¹⁹ which in Namibia's view also constitutes a rule of customary international law binding on Israel.¹²⁰

73. In addition, as the Occupying Power, Israel bears obligations to agree and facilitate relief schemes for the benefit of the civilian population under occupation. In this respect, Article 59 of GCIV provides:

“If the whole or part of the population of an occupied territory is inadequately supplied, the Occupying Power shall agree to relief schemes on behalf of the said population, and shall facilitate them by all the means at its disposal.”¹²¹

74. The schemes, as set out in the second paragraph of Article 59, may be “undertaken either by States or by impartial humanitarian organizations”.¹²²
75. Namibia draws the Court's attention to the categorical and demanding terms of Article 59 of GCIV: the Occupying Power “shall agree” to relief schemes and “shall facilitate them by all the means at its disposal”.¹²³ In the first instance, the occupant has no basis to withhold its agreement where the population is inadequately supplied. As to the duty of facilitation, this is a stringent obligation, which reflects the vulnerability of the civilian population in situations of occupation and the imperative need for unhindered humanitarian relief. As noted in the Commentary to Article 59 GCIV, the occupant must “co-operate wholeheartedly in the rapid and scrupulous execution of these schemes”.¹²⁴ This covers entry into the territory, as well as the unimpeded and safe passage of goods and personnel. Furthermore, any technical measures of control in relation to relief schemes must be applied in good faith and must be necessary and proportionate to a legitimate aim.¹²⁵
76. Moreover, Namibia notes the rule set out in Article 71(2) of API, which requires that “humanitarian personnel shall be respected and protected” and which codified pre-existing customary international law, thus binding Israel.¹²⁶ Israel's obligations under this rule extend to all personnel from the UN, other international organizations, and third States engaged in humanitarian operations. Moreover, Israel is under a duty to ensure that their work is not obstructed or endangered.

¹¹⁹ API, Art. 70(2) (“The Parties to the conflict and each High Contracting Party shall allow and facilitate rapid and unimpeded passage of all relief consignments, equipment and personnel provided in accordance with this Section, even if such assistance is destined for the civilian population of the adverse Party.”).

¹²⁰ See ICRC, Commentary to Rule 55 (“Additional Protocol I broadens this obligation [in Article 23 of GCIV] to cover ‘rapid and unimpeded passage of all relief consignments, equipment and personnel’. This broadening is generally accepted, including by States not, or not at the time, party to Additional Protocol I.”).

¹²¹ GCIV, Art. 59.

¹²² GCIV, Art. 59.

¹²³ GCIV, Art. 59.

¹²⁴ ICRC, *Commentary on the Fourth Geneva Convention*, 1958, p. 320. Namibia also notes that the war crime of starvation may be committed through “wilfully impeding relief supplies as provided for under the Geneva Conventions” – see Article 8(2)(b)(xxv) of the Rome Statute, which is also a war crime under customary international law.

¹²⁵ Oxford Guidance on the Law Relating to Humanitarian Relief Operations in Situations of Armed Conflict, 2016, para. 71.

¹²⁶ See further ICRC CIHL Rules 31 and 33, which explicitly protect humanitarian personnel and facilities.

77. Namibia submits that given the catastrophic humanitarian situation and damage in Gaza today,¹²⁷ the civilian population is in desperate need of the supply of extremely wide-ranging forms of relief. That is to say, the obligation in Article 59 of GCIV is engaged and captures an extensive range of humanitarian aid and activity. In addition, beyond the scope of relief schemes falling within the terms of Article 59 of GCIV and arising in relation to the entire OPT, Israel is obligated to allow, facilitate and protect a wider category of humanitarian and development aid that secures the fundamental protection of the rights of the Palestinian civilian population.
78. Finally, Namibia submits that Israel's obligations as the Occupying Power to facilitate the provision of aid and assistance by international organizations and third States in and in relation to the OPT are closely related to—indeed, would be illusory without—Israel's obligations to respect their privileges and immunities.¹²⁸

3. Israel's Obligations as a UN Member to Permit, Facilitate and Protect the Provision of Aid and Assistance

79. As a Member of the United Nations, Israel bears further obligations to allow, facilitate and protect the provision of aid and assistance in relation to the OPT. These obligations arise on four bases.
80. *First*, as a UN Member, Israel is under an obligation to cooperate with the UN as well as with third States, including in international organizations, in relation to the provision of aid and assistance. Under Article 56 of the Charter, Israel is bound to “take joint and separate action in co-operation with the Organization for the achievement of the purposes set forth in Article 55”, including to promote “conditions of economic and social progress and development” and “universal respect for, and observance of, human rights and fundamental freedoms.”¹²⁹ All UN Member States are required to cooperate in good faith and, at minimum, refrain from any obstruction to its activities.¹³⁰ By obstructing humanitarian aid, and engaging in practices contrary to the rights of the Palestinian people, Israel is in violation of this obligation that is central to the purposes of the United Nations.
81. *Second*, Namibia recalls the fundamental obligation of all Member States to fulfil in good faith the obligations assumed by them in accordance with the Charter of the United Nations, including to accept and carry out the decisions of the Security Council.¹³¹ As the Court confirmed in the *Namibia Advisory Opinion*, Security Council decisions may have binding effect pursuant to Article 25, even if explicit reference is not made to the

¹²⁷ See Section II.B above.

¹²⁸ See also Dossier No. 3, resolution 79/232, p. 3 (recalling, in the context of UNRWA, that “the provision of such essential assistance to the civilian population in the [OPT] is dependent upon the continued presence of the [UN] [...], together with the facilitation of its operations and respect for its privileges and immunities, and that *this presence, facilitation and respect for privileges and immunities are closely related*”). Section IV.B.3.b below addresses in more detail Israel's obligations to respect the privileges and immunities of the UN.

¹²⁹ UN Charter, Art. 55, paras. (a), (c).

¹³⁰ Stoll, “Article 56”, in Simma *et al.* (eds.), *The Charter of the United Nations: A Commentary*, 3rd ed., 2012, p. 2102. See also Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, 1970, UN doc. A/RES/2625(XXV) (the duty of States to cooperate with one another in furtherance of peace and security, including on the welfare of nations). See also ICESCR, Art. 2(1); CESCR, General Comment No. 3: The Nature of States Parties' Obligations (Art. 2, Para. 1, of the Covenant), 14 December 1990, in UN doc. E/1991/23.

¹³¹ UN Charter, Art. 25.

Council's Chapter VII power.¹³² As a Member of the United Nations, Israel is bound to comply with these decisions and to refrain from actions that undermine the work of the Organization, especially in situations where it has been called upon to act in accordance with international law.

82. In the present case, the Security Council has not only consistently *confirmed* all parties' obligations to ensure and facilitate aid and assistance in the OPT, but have also "*demand[ed]*" that they do so. For example, in resolution 2720 (2023), the Security Council:

- "1. *Reiterates* its demand that all parties to the conflict comply with their obligations under international law, including international humanitarian law, including with regard to the conduct of hostilities and the protection of civilians and civilian objects, humanitarian access, and the protection of humanitarian personnel and their freedom of movement, and the duty, as applicable, of ensuring the food and medical supplies, among others, of the population, *recalls* that civilian and humanitarian facilities, including hospitals, medical facilities, schools, places of worship, and facilities of the UN, as well as humanitarian personnel, and medical personnel, and their means of transport, must be respected and protected, according to international humanitarian law, and *affirms* that nothing in this resolution absolves the parties of these obligations;
2. *Reaffirms* the obligations of the parties to the conflict under international humanitarian law regarding the provision of humanitarian assistance, ***demands that they allow, facilitate and enable the immediate, safe and unhindered delivery of humanitarian assistance at scale directly to the Palestinian civilian population throughout the Gaza Strip [...]***;
3. *Demands* that the parties to the conflict allow and facilitate the use of all available routes to and throughout the entire Gaza Strip [...] for the provision of humanitarian assistance in order to ensure that humanitarian personnel and humanitarian assistance [...] reaches the civilian population in need throughout the Gaza Strip without diversion and through the most direct routes, as well as for material and equipment to repair and ensure the functioning of critical infrastructure and to provide essential services, without prejudice to the obligations of the parties to the conflict under international humanitarian law".¹³³

83. *Third*, Israel's obligations as a UN Member to ensure and facilitate aid and assistance in the OPT also arise from the Court's Provisional Measures Orders.

¹³² *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, paras. 111-114.

¹³³ Dossier No. N226, UN doc. S/RES/2720, 22 December 2023 (**emphasis added**). See also UN doc. S/RES/1296 (calling upon all parties to an armed conflict, including non-State actors "to ensure the safety, security and freedom of movement of humanitarian relief personnel").

- (1) In its Order dated 26 January 2024, the Court indicated that:

“The State of Israel shall take immediate and effective measures to enable the provision of urgently needed basic services and humanitarian assistance to address the adverse conditions of life faced by Palestinians in the Gaza Strip”.¹³⁴

- (2) In addition to “reaffirm[ing]” these provisional measures,¹³⁵ in its Order dated 28 March 2024, the Court further ordered that:

“The State of Israel shall, in conformity with its obligations under the Convention on the Prevention and Punishment of the Crime of Genocide, and in view of the worsening conditions of life faced by Palestinians in Gaza, in particular the spread of famine and starvation:

(a) Take all necessary and effective measures to ensure, without delay, in full co-operation with the United Nations, the unhindered provision at scale by all concerned of urgently needed basic services and humanitarian assistance, including food, water, electricity, fuel, shelter, clothing, hygiene and sanitation requirements, as well as medical supplies 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;

(b) Ensure with immediate effect that its military does not commit acts which constitute a violation of any of the rights of the Palestinians in Gaza as a protected group under the Convention on the Prevention and Punishment of the Crime of Genocide, including by preventing, through any action, the delivery of urgently needed humanitarian assistance”.¹³⁶

- (3) The Court further clarified measure (a) above in its Order dated 24 May 2024, emphasizing that it “necessitate[d]”¹³⁷ that Israel “Maintain open the Rafah crossing for unhindered provision at scale of urgently needed basic services and humanitarian assistance”.¹³⁸

84. Indeed, Israel itself acknowledged that “the international legal obligations that are incumbent upon it” include “those reflected in the provisional measures indicated by the

¹³⁴ *Provisional Measures Order of 26 January 2024*, para. 86(4).

¹³⁵ *Provisional Measures Order of 28 March 2024*, para. 51(1).

¹³⁶ *Ibid.*, para. 51(2).

¹³⁷ *Provisional Measures Order of 24 May 2024*, para. 52 (“In these circumstances, the Court finds it necessary to reaffirm the measures indicated in those Orders. In so doing, the Court wishes to emphasize that the measure indicated in paragraph 51 (2) (a) of its Order of 28 March 2024, requiring the ‘unhindered provision at scale by all concerned of urgently needed basic services and humanitarian assistance’, necessitates that the Respondent maintain open land crossing points, and in particular the Rafah crossing.”).

¹³⁸ *Ibid.*, para. 57(2)(b).

International Court of Justice”.¹³⁹ For the avoidance of doubt, Namibia submits that the provisional measures not only “reflect” or confirm Israel’s existing obligations under the Genocide Convention, but also constitute an independent basis of obligations binding upon Israel, as a UN Member, to ensure and facilitate aid and assistance in the OPT.

85. *Finally*, UN law also sets out a set of “privileges and immunities that provide particular support for the UN’s delivery of humanitarian assistance”,¹⁴⁰ including by UNRWA. These are analysed in detail in the following section.

B. Israel’s Obligations regarding the Presence and Activities of the United Nations

86. In the previous section of this written statement, Namibia set out the range of obligations binding Israel relating to aid and assistance in and in relation to the OPT. This section further concretizes these obligations insofar as they relate to the presence and activities of the United Nations, with a focus on the activities of UNRWA.

87. As mentioned in Chapter III above, the Court is requested to clarify not only the content and scope of Israel’s obligations, but also to take into account Israeli legislation and practices, including the Anti-UNRWA Laws and Israel’s other actions against UN humanitarian efforts and personnel.

88. Apart from Israel’s (1) obligations as the Occupying Power to ensure and facilitate UN aid and assistance (particularly by UNRWA), there are further specific obligations as a matter of UN law, specifically (2) obligations to cooperate with the UN in good faith and to respect the lawfully established mandate of UNRWA; (3) obligations to respect the UN’s legal personality and capacity, and privileges and immunities ; and (4) obligations under its 1967 Agreement with UNRWA, as well as obligations of consultation and negotiation in good faith and reasonable notice concerning its variation or termination.

1. Israel’s Obligations as the Occupying Power regarding the UN’s Presence and Activities in relation to Aid and Assistance

89. Israel bears obligations to ensure and facilitate the provision of aid and assistance by the UN, in particular UNRWA, arising from its responsibilities to respect the Palestinian people’s right to self-determination, as well as its obligations as the Occupying Power, as set out in Section A above. Israel’s arguments to the contrary have no merit.
90. In Israel’s correspondence with the UN defending the Anti-UNRWA Laws, Israel has argued that “the provisions of the Hague Regulations and the Fourth Geneva Convention do not entail an obligation to authorize or permit the activities of any specific organization (international or local)”,¹⁴¹ further proposing that “replacing UNRWA with relief

¹³⁹ Dossier No. N67, Identical letters dated 18 December 2024 from the Permanent Representative of Israel to the United Nations addressed to the President of the General Assembly and the President of the Security Council, UN doc. A/79/710-S/2024/940, p. 5.

¹⁴⁰ Lance Bartholomeusz, “The Legal Framework for Protection of United Nations Humanitarian Premises during Armed Conflict”, in *Max Planck Yearbook of United Nations Law*, vol. 18, no. 1, 2015, p. 73.

¹⁴¹ Dossier No. N67, Identical letters dated 18 December 2024 from the Permanent Representative of Israel to the United Nations addressed to the President of the General Assembly and the President of the Security Council, UN doc. A/79/710-S/2024/940, p. 5.

schemes that will adequately provide essential assistance to Palestinian civilians is not at all impossible”.¹⁴²

91. Israel’s assertions fail to appreciate the indispensability of the UN’s operations in general, and UNRWA’s operations in particular, to the system of relief and support in the OPT. As set out previously, UNRWA is responsible for the delivery of extensive and critical assistance to the Palestinian people,¹⁴³ and “remains the backbone of all humanitarian response in Gaza”.¹⁴⁴ It has contextual knowledge and expertise, built on the basis of decades of work in the OPT. More widely, UNRWA’s operations are essential to the ongoing protection of the rights of Palestinians living under occupation, including as a fundamental element of the right to self-determination. Moreover, in the short and medium term, there is no practical and plausible alternative for the realization of these rights.
92. This is to say that there is already in place a humanitarian organization—UNRWA—which, despite the catastrophic effects of the armed conflict and at great risk to its personnel, infrastructure and property, is delivering essential assistance to the civilian population. This is not a situation where the Occupying Power is in receipt of an abundance of plausible offers of assistance which would immediately and without any interruption in provision meet the needs of the population. In this respect, Israel’s claim that the replacement of UNRWA’s services “is not at all impossible” has no basis in fact and remains unsubstantiated.
93. In consequence of this indispensable role and the absence of a practical alternative, to prohibit all of UNRWA’s activities and to refuse all cooperation with UNRWA would be to leave these fundamental rights of the Palestinian people unprotected. It is an interference with the ongoing realization of a critical aspect of the right of self-determination, as well as these fundamental rights. Further, as a matter of practical inevitability, this places Israel in breach of its own obligations in relation to ensuring and facilitating the supply and provision of services in the OPT, as well as its obligations in relation to relief operations. At the very least, Israel, as the Occupying Power, is under a duty to ensure that the basic needs for food and shelter for the Palestinian people are satisfied.
94. In its letter of 18 December 2024, Israel also argued that “the provisions of the Hague Regulations and the Fourth Geneva Convention do not [...] preclude the adoption of measures for the purpose of mitigating security threats posed by compromised and partial entities”.¹⁴⁵ More broadly, Israel asserted that “international law does not require any State to assist and cooperate with an entity that jeopardizes and impairs its national security”.¹⁴⁶

¹⁴² Dossier No. N67, Identical letters dated 18 December 2024 from the Permanent Representative of Israel to the United Nations addressed to the President of the General Assembly and the President of the Security Council, UN doc. A/79/710-S/2024/940, p. 3.

¹⁴³ See Section II.A above.

¹⁴⁴ UN doc. A/RES/ES-10/25, para. 7.

¹⁴⁵ Dossier No. N67, Identical letters dated 18 December 2024 from the Permanent Representative of Israel to the United Nations addressed to the President of the General Assembly and the President of the Security Council, UN doc. A/79/710-S/2024/940, p. 5.

¹⁴⁶ *Ibid.*

95. Israel's claims in relation to UNRWA's impartiality are not convincing and do not properly consider the UN's rigorous response to Israel's previous allegations. This response includes the independent investigation by the UN Office of Internal Oversight Services, as well as the findings and recommendations of the Colonna Report. As set out in Section II.B above, the Colonna Report found that "UNRWA has established a significant number of mechanisms and procedures to ensure compliance with the humanitarian principles, with emphasis on the principle of neutrality, and that it possesses a more developed approach to neutrality than other similar UN or NGO entities".¹⁴⁷ The UN has responded promptly and rigorously to the Report's recommendations. Moreover, any isolated breaches cannot justify Israel's blanket prohibition of the agency's activities.
96. Finally, and for the sake of comprehensiveness, Namibia notes that Israel's conduct in relation to the UN and UNRWA cannot be justified as a technical measure of control under humanitarian law in relation to the provision of relief.¹⁴⁸ As set out above, the Law to Cease UNRWA Operations imposes a comprehensive and exceptionless prohibition on contact by all government authorities with UNRWA.¹⁴⁹ The Law to Cease UNRWA Operations in the Sovereign Territory of the State of Israel prohibits the provision of *all* services and activities by UNRWA within East Jerusalem.¹⁵⁰ These measures are unnecessary and disproportionate in relation to any putative security interests that may arise in a particular instance. As such, these cannot constitute permissible measures of control concerning the facilitation of aid provision or, indeed, a justified limitation on any right binding Israel under international human rights law.
97. In any event, the measures are categorically impermissible as an infringement of the right to self-determination and a further act of annexation of the OPT. As the Court noted in the *2024 OPT Opinion*, Israel has for decades treated East Jerusalem as its own sovereign territory, which constitutes an act of annexation prohibited by international law.¹⁵¹ The Law to Cease UNRWA Operations in the Territory of the State of Israel, in its purported application to East Jerusalem—that is, an integral part of the OPT—is yet another wrongful act in a long series constituting the annexation of the territory of the Palestinian people.
98. In consequence, the Anti-UNRWA Laws and Israel's related conduct entail a breach of Israel's obligations to agree, facilitate and protect the provision of aid and assistance to the Palestinian civilian population by the United Nations.

¹⁴⁷ Dossier No. N297, Final Report for the United Nations Secretary-General on the Independent Review of Mechanisms and Procedures to Ensure Adherence by UNRWA to the Humanitarian Principle of Neutrality, 20 April 2024.

¹⁴⁸ See API, Art. 70(3).

¹⁴⁹ Dossier No. N66, Identical letters dated 9 December 2024 from the Secretary-General addressed to the President of the General Assembly and the President of the Security Council, UN doc. A/79/684-S/2024/892, pp. 1-2.

¹⁵⁰ *Ibid.*, p. 2.

¹⁵¹ *2024 OPT Opinion*, paras. 162-165, 173 and 179 (noting that "to seek to acquire sovereignty over an occupied territory, as shown by the policies and practices adopted by Israel in East Jerusalem and the West Bank, is contrary to the prohibition of the use of force in international relations and its corollary principle of the non-acquisition of territory by force").

2. Israel's Obligation to Cooperate with the United Nations in Good Faith and to Respect the Mandate of UNRWA

99. Israel's obligations relating to the presence and activities of the United Nations in the OPT (including regarding the provision of aid and assistance) also arise from Israel's obligations, as a UN Member, to cooperate with the United Nations and to respect the mandate of UNRWA.
100. As stated previously, Article 56 of the Charter requires States "to take joint and separate action in co-operation with the Organization" in order to achieve the purposes in Article 55, which include both respect for human rights and fundamental freedoms and solutions to economic and social problems.¹⁵² As noted by the Committee on Economic, Social and Cultural Rights, this obligation is "particularly incumbent upon those States which are in a position to assist others".¹⁵³ Moreover, as set out in Article 2(5) of the Charter, all Members are required to "give the United Nations every assistance in any action it takes in accordance with the present Charter".¹⁵⁴
101. In the matter at hand, UNRWA is the primary means through which the General Assembly—and the United Nations—has sought, and is seeking, to realize these fundamental purposes for the benefit of the Palestinian people. UNRWA is a lawfully established subsidiary organ of the UN, whose mandate has been renewed on multiple occasions and which has provided assistance to the Palestinian people in discharge of that mandate for almost 75 years.
102. That mandate encompasses essential humanitarian functions, in line with the UN's broader goals of maintaining international peace and security and promoting human rights and social development, including essential services such as education, healthcare, and food aid to Palestinian refugees.¹⁵⁵ The General Assembly has consistently reaffirmed UNRWA's mandate, and its operations remain vital to the realization of the right to self-determination and the rights of Palestinian civilians under international law. Most recently, in its Emergency Session in December 2024, the General Assembly deplored Israel's adoption of the Anti-UNRWA Laws and affirmed "its full support for the mandate of the United Nations Relief and Works Agency for Palestine refugees in the Near East in all of its fields of operation, namely Jordan, Lebanon, the Syrian Arabic Republic and the Occupied Palestinian Territory".¹⁵⁶
103. All Member States—including Israel, not least because it is the State with the greatest material capacity to frustrate the UN's operations in this context—are under an obligation to cooperate with the UN and UNRWA in the exercise of its functions and to respect UNRWA's mandate. Moreover, and fundamentally, Israel has no possible lawful basis to unilaterally terminate this mandate and UNRWA's operations.
104. The Anti-UNRWA Laws, as well as Israel's wider conduct relating to UNRWA, are inconsistent with these obligations. The prohibition on UNRWA operations on the territory of the State of Israel, which Israel wrongly understands to include East

¹⁵² UN Charter, Art. 55.

¹⁵³ CESCR, General Comment 3, UN doc. E/1991/23, 14 December 1990, para. 16

¹⁵⁴ UN Charter, Art. 2(5).

¹⁵⁵ UN doc. A/RES/302(IV), 8 December 1949.

¹⁵⁶ UN doc. A/RES/ES-10/25, para. 1 (adopted by 159 votes to 9, with 11 abstentions).

Jerusalem, plainly infringes its obligations. This is a comprehensive and blatant refusal to cooperate with the UN and to respect UNRWA's mandate. In addition, the prohibition on contact by all State authorities with UNRWA makes it impossible, in practice, for Israel to discharge its obligations of cooperation with the United Nations and to respect UNRWA's lawfully established mandate. This prohibition renders unlawful as a matter of domestic law everyday practices of coordination in the delivery of aid and assistance, and puts lives at risk in preventing deconfliction for ensuring the safety of aid personnel. Furthermore, Israel's restrictions on UNRWA's operations, including limitations on staff mobility, obstruction of aid delivery, and other administrative barriers, undermine the agency's ability to provide essential services to Palestinian refugees in violation of its obligations.

105. Moreover, Israel's attempts to impede UNRWA's activities must be viewed against the backdrop of the bespoke legal regime established for the protection of Palestinian refugees. As set out above, UNRWA was established in 1949 and granted a specific mandate to provide protection and humanitarian assistance to Palestinian refugees displaced in 1948, pending final resolution of the question of Palestine. By contrast, under Article 1D of the 1951 Refugee Convention, Palestinian refugees receiving protection from UNRWA are automatically excluded from the general scheme of protection under international refugee law.¹⁵⁷
106. As a matter of practical reality, preventing UNRWA's continued activities would frustrate the actual delivery of essential humanitarian assistance and wider aid to Palestinian refugees. Today, Palestinian refugees under UNRWA's protection depend on the agency for many aspects of their daily life, including the operation of schools, hospitals, relief efforts, and other social services. As a matter of law, the frustration of UNRWA's activities would push Palestinian refugees into the general regime of protection.¹⁵⁸ In this respect, subsuming the entire class of Palestinian refugees in the OPT within the general regime of protection contradicts the transitional nature of the Palestinian refugee question, undermines the integrity of the Palestinian people in requiring them to leave their country to seek protection, and is inconsistent with the fundamental premises of the UN's approach to Palestinian self-determination and the establishment of a two-state solution.
107. In conclusion, Israel is obligated to cooperate with the United Nations and to respect UNRWA's mandate. It has no right to unilaterally revise, frustrate or terminate that mandate. Any revisions to UNRWA's mandate and activities must occur through a consultative, multilateral process under the auspices of the General Assembly—not through unilateral government action conducted under the guise of national security concerns.¹⁵⁹

3. Israel's Obligations to Respect the Legal Personality and Capacity, and Privileges and Immunities of the UN (including UNRWA)

108. Israel's obligations relating to the presence and activities of the United Nations in the OPT (including regarding the provision of aid and assistance) also arise from the law of

¹⁵⁷ Refugee Convention, Art. 1D, para. 1; see further Statute of the Office of the United Nations High Commissioner for Refugees, Art. 7(c).

¹⁵⁸ Refugee Convention, Art. 1D, para. 2.

¹⁵⁹ See also *WHO-Egypt Advisory Opinion*, para. 49.

the UN concerning (a) its legal personality and capacity, and (b) privileges and immunities.

109. This includes, in particular, obligations arising under the General Convention adopted by the General Assembly in 1946, which lies at the heart of these proceedings. As recited in resolution 79/232, preceding the Question:

“a difference has arisen between the United Nations and the State of Israel regarding, among other things, the interpretation or application of the Convention on the Privileges and Immunities of the United Nations, to which Israel is a party”.¹⁶⁰

Indeed, while Israel has asserted that the Anti-UNRWA Laws are “*without prejudice to the applicability of the 1946 Convention*”,¹⁶¹ it appears that Israel has not denied the *applicability* of the General Convention itself.

a. Legal Personality and Capacity

110. Article 104 of the UN Charter provides: “The Organization shall enjoy in the territory of each of its Members such legal capacity as may be necessary for the exercise of its functions and the fulfilment of its purposes.”¹⁶² As set out in Article 1 of the Charter, and of particular relevance in the present context, these purposes include the development of “friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples”, as well as the achievement of “international co-operation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion”.¹⁶³

111. The obligation under Article 104 of the Charter is drawn out in more detail in Article I, Section 1 of the General Convention,¹⁶⁴ which provides:

“The United Nations shall possess juridical personality. It shall have the capacity:

- (a) To contract;
- (b) To acquire and dispose of immovable and movable property;
- (c) To institute legal proceedings.”¹⁶⁵

112. Importantly, Article 104 of the Charter covers the personality and capacity of the UN as a whole: in addition to its six principal organs, this also encompasses its subsidiary organs

¹⁶⁰ Dossier No. 3, resolution 79/232, p. 1.

¹⁶¹ Dossier No. N67, Identical letters dated 18 December 2024 from the Permanent Representative of Israel to the United Nations addressed to the President of the General Assembly and the President of the Security Council, UN doc. A/79/710-S/2024/940, p. 5.

¹⁶² UN Charter, Art. 104.

¹⁶³ UN Charter, Art. 1, paras. 2-3.

¹⁶⁴ Blocker, “Juridical Personality (Article I Section 1 General Convention)”, in Reinisch (ed.), *The Conventions on the Privileges and Immunities of the United Nations and its Specialized Agencies: A Commentary*, 2016, p. 49.

¹⁶⁵ General Convention, Section 1.

established under the Charter,¹⁶⁶ including by the General Assembly.¹⁶⁷ Israel has the obligation to respect the legal capacity of the UN and its subsidiary organs within its territory.

113. In this regard, UNRWA was duly established by resolution of the General Assembly in December 1949.¹⁶⁸ It is a subsidiary organ of the General Assembly.¹⁶⁹ On this basis, its acts are performed and obligations incurred “in right of the UN as a whole”,¹⁷⁰ and it enjoys the status and protections accorded to the UN under the Charter and the General Convention.
114. Measures that diminish the UN’s personality or legal capacity in domestic law are inconsistent with Israel’s obligations under Article 104 of the Charter and the General Convention. The Law to Cease UNRWA Operations, by prohibiting any contact between governing authorities and UNRWA, severely diminishes the ordinary incidences of the UN’s legal capacity in domestic law and its powers to engage in operational activities within the scope of its mandate. Moreover, the Law to Cease UNRWA Operations in the Territory of the State of Israel, by prohibiting all operations of UNRWA within Israeli territory as well as in East Jerusalem, deprives the United Nations of legal capacity and the power to pursue activities within the scope of its mandate.
115. Consequently, Israel—in breach of its obligations under the Charter and the General Convention—has deprived the United Nations of the legal capacity necessary for the exercise of its functions and the fulfilment of its purposes.

b. Privileges and Immunities

116. In addition to its legal personality and capacity, the UN’s aid and assistance operations in the OPT are protected by its privileges and immunities.
117. Article 105 of the Charter provides:

- “(1) The Organization shall enjoy in the territory of each of its Members such privileges and immunities as are necessary for the fulfilment of its purposes.
- (2) Representatives of the Members of the United Nations and officials of the Organization shall similarly enjoy such privileges and immunities

¹⁶⁶ Ziegler, “Article 104”, in Simma *et al.* (eds.), *The Charter of the United Nations: A Commentary*, 3rd ed., 2012, p. 2147.

¹⁶⁷ UN Charter, Art. 22 (“The General Assembly may establish such subsidiary organs as it deems necessary for the performance of its functions.”).

¹⁶⁸ UN doc. A/RES/302(IV), 8 December 1949.

¹⁶⁹ See UN doc. A/RES/513(VI), 26 January 1952, para. 3 (“Urges the governments of the countries in the area to assist. with due regard to their constitutional processes, in the carrying out of this programme and to extend to the United Nations Relief and Works Agency, a subsidiary organ established by the General Assembly, their co-operation in the elaboration of specific projects and in the general performance of its functions.”) (emphasis supplied). See further Higgins *et al.*, *Oppenheim’s International Law*, p. 189; *Application for Review of Judgment No 158 of the United Nations Administrative Tribunal*, I.C.J. Reports 1973, p. 172, para. 16. See further Lalive, “Le Statut Juridique de l’office de secours et de travaux des Nations Unies pour les Réfugiés de Palestine”, in *Revue de Droit International pour le Moyen-Orient*, 1954, pp. 304, 311-312.

¹⁷⁰ Higgins *et al.*, *Oppenheim’s International Law*, p. 400.

as are necessary for the independent exercise of their functions in connection with the Organization.

- (3) The General Assembly may make recommendations with a view to determining the details of the application of paragraphs 1 and 2 of this Article or may propose conventions to the Members of the United Nations for this purpose.”¹⁷¹

118. The term Organization in Article 105 encompasses all principal and subsidiary organs of the UN,¹⁷² which includes UNRWA.¹⁷³ Moreover, as foreseen by Article 105(3), the UNGA adopted the General Convention, to which Israel is a Party.
119. In this regard, Article II, Section 2 of the General Convention grants the United Nations and its property and assets “immunity from every form of legal process.” Article V, Section 18 grants certain privileges and immunities to officials of the United Nations. These privileges and immunities must be respected by Israel at *all* times, and would be infringed not only by judicial or administrative processes but also by national legislation that seeks to restrict the full enjoyment of privileges and immunities of the UN.
120. Namibia notes that Article V, Section 18(d) of the General Convention imposes on Israel an obligation to accord officials of the UN immunity from immigration restrictions.¹⁷⁴ This guarantees officials freedom “to enter and reside” in the OPT in the exercise of their lawfully mandated functions.¹⁷⁵ In this respect, Israel’s refusal to renew the visas of UNRWA’s international staff, as set out by UNRWA in its Situation Report of 7 February 2025,¹⁷⁶ violates its obligations under the Charter and the General Convention.
121. In addition, Article II, Section 3 of the General Convention provides:
- “The 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.”
122. Namibia makes three principal points regarding the obligation in Article II, Section 3 of the General Convention.

¹⁷¹ UN Charter, Art. 105; *Reparation for Injuries Suffered in the Service of the United Nations*, Advisory Opinion, *I.C.J. Reports* 1949, pp. 178-179.

¹⁷² Ziegler, “Article 105”, in Simma *et al.* (eds.), *The Charter of the United Nations: A Commentary*, 3rd ed., 2012, p. 2165; Reinisch, “Immunity of Property, Funds, and Assets (Article II Section 2 General Convention)”, in Reinisch (ed.), *The Conventions on the Privileges and Immunities of the United Nations and its Specialized Agencies: A Commentary*, 2016, p. 79.

¹⁷³ UN doc. A/RES/513(VI), 26 January 1952, para. 3; Higgins *et al.*, *Oppenheim’s International Law*, p. 189; Lalive, “Le Statut Juridique de l’office de secours et de travaux des Nations Unies pour les Réfugiés de Palestine” in *Revue de Droit International pour le Moyen-Orient*, 1954, pp. 304, 311-312.

¹⁷⁴ General Convention, Section 5, Art. 18(d).

¹⁷⁵ UN OLA, Memorandum to the Technical Assistance Board, 1967 (II) *YILC* p. 275, UN doc. A/CN.4/L.118 and Add. 1 and 2.

¹⁷⁶ UNRWA, Situation Report #158 on the Humanitarian Crisis in the Gaza Strip and the West Bank, including East Jerusalem, 7 February 2025.

- (1) *First*, the General Convention is to be regarded as the implementation of Article 105(3) of the Charter.¹⁷⁷ As noted in *Oppenheim*, it “fleshes out the obligation to accord privileges and immunities under Article 105 of the Charter.”¹⁷⁸ It follows, in Namibia’s view, that obligations under the General Convention are also covered by the conflict rule in Article 103 of the Charter, as discussed below.
- (2) *Second*, the obligation set out in Article II, Section 3 of the General Convention is comprehensive. It provides for inviolability in *all* circumstances and prohibits *any* form of interference with the property and assets of the United Nations, *wherever located and by whomsoever held*.
- (3) *Third*, leaving aside the possibility of consent and waiver by the United Nations, the obligation is absolute.¹⁷⁹ As is clear on the face of the text, it provides for no exceptions and admits no justified limitation. Moreover, the obligation applies in times of peace and in times of armed conflict.¹⁸⁰

123. This final point bears further emphasis. In seeking to defend its conduct, Israel has simply asserted—without argument—that the Anti-UNRWA Laws are “without prejudice to the applicability of the 1946 Convention on the Privileges and Immunities of the United Nations”. At another point, it has proposed that UNRWA’s conduct reflects “a clear abuse of UNRWA’s immunities and disregard for local laws and regulations, contrary to its obligations under Article 21” of the General Convention¹⁸¹ and has also suggested that certain security concerns somehow justify its conduct in relation to the UN’s immunities.¹⁸²

124. These assertions are incorrect. To start with the narrower point, Article 21 of the General Convention provides no conceivable legal basis to justify Israel’s conduct. Rather, Article 21 places a duty on the UN to co-operate with the local authorities to facilitate the proper administration of justice and to prevent the occurrence of any abuse in connection with the privileges, immunities and facilities of officials of the UN.¹⁸³ Even if there were a failure by the UN to comply with this obligation—or its wider obligations under the General Convention—this would simply give rise to its responsibility under international law in the ordinary way. It would not justify the violation by Israel of its immunity.

125. More widely, as noted above, these obligations are unqualified, and admit no justified limitation for security or any other ends. The absolute nature of the UN’s privileges and immunities is further underscored by the absence of any derogation clause in the General

¹⁷⁷ Higgins *et al.*, *Oppenheim’s International Law*, p. 546.

¹⁷⁸ Higgins *et al.*, *Oppenheim’s International Law*, p. 548. See further *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, para. 40.

¹⁷⁹ Ziegler, “Article 105”, in Simma *et al.* (eds.), *The Charter of the United Nations: A Commentary*, 3rd ed., 2012, p. 2165.

¹⁸⁰ UN Juridical Yearbook (2003), p. 522, para. 11.

¹⁸¹ Dossier No. N307, Letter dated 24 January 2025 from the Permanent Representative of Israel to the United Nations addressed to the Secretary-General, p. 3.

¹⁸² Dossier No. N67, Identical letters dated 18 December 2024 from the Permanent Representative of Israel to the United Nations addressed to the President of the General Assembly and the President of the Security Council, UN doc. A/79/710-S/2024/940. Section IV.B.1 above already addressed aspects of UN’s response to Israel’s allegations, including through the Colonna Report and UNRWA’s response thereto.

¹⁸³ General Convention, Art. 21.

Convention similar to that found in Article 4 of the ICCPR, which permits exceptional measures in situations of armed conflict or public emergency. To put this point in practical terms, a State cannot qualify its obligations under the General Convention and infringe the UN's immunity on the basis of a unilaterally determined security justification. As the Office of Legal Affairs and United Nations have repeatedly emphasized,¹⁸⁴ there is no permissible exception under the Convention allowing a State to renege on its obligations on the basis of a subjective evaluation of its security concerns or military expediency.

126. In addition, the General Convention is intended to be applied uniformly across all Member States. A unilateral qualification of the scope of its obligations is inconsistent with this principle of uniformity. Moreover, it is a fundamental principle of international law that a State cannot rely on provisions of its domestic law to justify its failure to perform its obligations.¹⁸⁵ Israel cannot rely on its domestic law—or on a unilateral interpretation of security concerns under such law—to evade its international obligations.
127. In consequence, Namibia submits that the Anti-UNRWA Laws, as well as Israel's related conduct, entail a serious breach of Israel's obligations under Article 105 of the Charter and the General Convention. More specifically, by requiring UNRWA "to cease its operations in Jerusalem, and evacuate all premises in which it operates in the city, no later than 30 January 2025",¹⁸⁶ Israel has infringed its obligation to respect the inviolability of UN premises and to accord its property and assets immunity from all forms of interference.¹⁸⁷
128. Moreover, and fundamentally, insofar as Israel seeks to apply its law within the actual sovereign territory of Israel *as well as* in East Jerusalem, this conduct constitutes not only a breach of the UN's privileges and immunities, but also an act of annexation, as set out above.¹⁸⁸
129. In addition, Namibia submits that Israel's operations in the course of the armed conflict directed at, and causing damage to, UN and UNRWA personnel, property, and premises, as set out in Section II.B above, entail a further violation of Israel's obligations under the Charter and the General Convention. As stated, these premises and property are protected at all times and in all circumstances—Israel's obligations in this respect are absolute. Similarly, Israel's operations that harm or endanger UN and UNRWA personnel likewise violate Israel's obligations under the Charter and General Convention.

¹⁸⁴ See, e.g., UN OLA, Note to the Under-Secretary-General of the Department of Peacekeeping Operations, in *United Nations Juridical Yearbook*, 2003, ST/LEG/SER.C/41, p. 522, para. 11; Dossier No. N295, Letter dated 31 December 2023 from the Commissioner-General of UNRWA addressed to the Coordinator of Government Activities in the Territories of the Ministry of Defense of Israel.

¹⁸⁵ Vienna Convention on the Law of Treaties, 1969, Art. 27; ILC, Draft articles on Responsibility of States for Internationally Wrongful Acts, Art. 32. See also *LaGrand (Germany v. United States of America)*, Judgment, I.C.J. Reports 2001, p. 466; *Avena and Other Mexican Nationals (Mexico v. United States of America)*, Judgment, I.C.J. Reports 2004, p. 12.

¹⁸⁶ Dossier No. N307, Letter dated 24 January 2025 from the Permanent Representative of Israel to the United Nations addressed to the Secretary-General, p. 2.

¹⁸⁷ As noted previously, any allegations by Israel as to wrongful conduct by the United Nations under the General Convention should be taken up in line with the ordinary processes of international responsibility.

¹⁸⁸ See Section IV.B.1, para. 97 above.

130. Finally, Namibia notes the potential relevance of Article 103 of the UN Charter, which provides: “In the event of a conflict between the obligations of the Members of the United Nations under the present Charter and their obligations under any other international agreement, their obligations under the present Charter shall prevail”. In Namibia’s view, this provision applies in relation to both Israel’s obligations under Article 105 of the Charter and under the General Convention adopted pursuant to Article 105(3). Without conceding that any such conflict actually arises, Namibia notes that in any event Israel’s obligations under the Charter and the General Convention would prevail.

4. Israel’s Obligations under the 1967 Agreement and of Consultation, Negotiation and Reasonable Notice

131. Finally, Namibia submits that Israel’s conduct, as previously described, also constitutes a violation of its 1967 Agreement with UNRWA. Moreover, Israel has sought to terminate that Agreement in violation of its obligations of consultation, negotiation and reasonable notice.
132. In this regard, Israel asserted that UNRWA had been given adequate time and had failed to comply with the new laws, essentially treating the three-month notice period given in Israel’s letter dated 3 November 2024 (as set out in Section II.C above) as reasonable.¹⁸⁹
133. Namibia makes two points in relation to Israel’s conduct and purported termination of the 1967 Agreement. *First*, and fundamentally, Israel appears to treat the 1967 Agreement as the legal basis for UNRWA’s activities in the OPT, and appears to assume that Israel may unilaterally vary or terminate its mandate. These assumptions are incorrect. UNRWA’s mandate—and the legal basis of its operations—is established by the authority of the General Assembly acting lawfully under the Charter. As set out previously, Israel cannot unilaterally vary or terminate its mandate. Moreover, the Agreement reiterates and concretizes obligations already binding Israel under the law of the United Nations and the law of occupation. These obligations are not subject to unilateral variation or termination.
134. *Second*, in relation to the 1967 Agreement specifically, Israel is bound by a set of procedural obligations concerning possible revision of its terms or its termination. Even if it is the case the 1967 Agreement—specifically—includes a right of denunciation, that right is subject to procedural obligations binding Israel. As established by the Court in the *WHO-Egypt Advisory Opinion*, revision or termination of this kind entails a mutual obligation of consultation in good faith.¹⁹⁰ It also entails a mutual obligation to negotiate in order to ensure minimum prejudice to UNRWA’s work,¹⁹¹ which is of even heightened importance in the light of the humanitarian catastrophe in the OPT. As a matter of general international law, and stemming from a principle of good faith, even when an agreement contains no notice period, a party seeking unilateral termination is required to provide

¹⁸⁹ Dossier No. N67, Identical letters dated 18 December 2024 from the Permanent Representative of Israel to the United Nations addressed to the President of the General Assembly and the President of the Security Council, UN doc. A/79/710-S/2024/940.

¹⁹⁰ *WHO-Egypt Advisory Opinion*, paras. 44, 49.

¹⁹¹ *WHO-Egypt Advisory Opinion*, para. 49.

sufficient and reasonable notice to allow the other parties to adjust and respond appropriately.¹⁹²

135. In the present circumstances, Namibia submits that a three-month period is neither reasonable nor adequate for withdrawing from an agreement that makes practical arrangements for the provision of essential humanitarian assistance to the Palestinian people, and which has been in place for nearly 60 years. In the context of the current crisis in Gaza, UNRWA remains indispensable and is the backbone of a complex set of UN operations facilitating the delivery of humanitarian aid to the population.¹⁹³ As noted previously, there is currently no realistic alternative to UNRWA that could adequately provide the services and assistance required to meet the needs of Palestinian refugees—whether through other United Nations entities, international organizations, or any other entity. Additionally, the catastrophic situation on the ground, the complexities around the delivery of assistance, and the urgency of the Palestinian people’s needs further establish that the putative three-month notice period is wholly unreasonable.

C. Israel’s Obligations regarding the Presence and Activities of Third States

136. As stated in resolution 79/232, Israel bears obligations “not to impede or impair the work of third States in the [OPT]” in providing aid and assistance,¹⁹⁴ “including through measures that affect the presence, activities and immunities of [...] the representation of third States in the [OPT], including East Jerusalem”.¹⁹⁵ The general obligations set out in Section A above extend to the presence and activities of third States operating in the OPT.
137. In addition, Namibia draws specific attention to an issue relating to the presence and activities of third states—that of diplomatic representation. In the light of the international law of self-determination, Palestine has not renounced any aspect of its sovereignty, including its right to determine the nature and forms of its bilateral relations. It is pertinent to note that Article XXXI (6) of the Oslo II Accord stipulates that “neither party shall be deemed by virtue of having entered into this agreement to have renounced or waived any of its existing rights, claims or positions”.¹⁹⁶ The rights referenced here necessarily include the Palestinian right to self-determination, a peremptory norm of general international law. Moreover, as the Court held in the *2024 OPT Opinion*, “the Oslo Accords cannot be understood to detract from Israel’s obligations under the pertinent rules of international law applicable in the Occupied Palestinian Territory”.¹⁹⁷
138. Israel’s revocation prevented the continued undertaking of the essential work done by Norway, thereby depriving the Palestinian Authority—and Palestinian people—of essential resources needed to address a humanitarian catastrophe. The humanitarian impact that followed from the frustration of Norway’s activities was severe. Norway not

¹⁹² *WHO-Egypt Advisory Opinion*, para. 49. See further Vienna Convention on the Law of Treaties, 1969, Art. 56; Vienna Convention on the Law of Treaties Between States and International Organizations or Between International Organizations, 1986, Art. 56; *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America)*, Jurisdiction and Admissibility, Judgment, I.C.J. Reports 1984, p. 392, para. 63.

¹⁹³ UN doc. A/RES/ES-10/25. See similarly *WHO-Egypt Advisory Opinion*, para. 43.

¹⁹⁴ Dossier No. 3, resolution 79/232, para. 8.

¹⁹⁵ Dossier No. 3, resolution 79/232, p. 3.

¹⁹⁶ Oslo II Accord, annex, Art. XXXI (6).

¹⁹⁷ *2024 OPT Opinion*, para. 102 and further GCIV, Art. 47.

only acts as the custodian of the Oslo Accords but also has served as an intermediary for the disbursement of funds collected by Israel on behalf of the Palestinian authorities. Israel, whose very presence in the OPT is unlawful,¹⁹⁸ is obligated not to arbitrarily restrict the access of third-State representatives with diplomatic accreditation to the Palestinian Authority, or to impede their bilateral engagements. These measures infringe a fundamental element of the right to self-determination of the Palestinian people—to freely determine their political status and to pursue their economic, social and cultural development,¹⁹⁹ including through interactions and relations with third States.

139. Moreover, a hallmark of statehood is the right to conduct diplomatic relations independently, free from the authority or control by another State.²⁰⁰ As of June 2024, the State of Palestine has been recognised by 146 of the 193 UN Member States, including Namibia, and was granted non-member observer status at the United Nations in 2012. Although Palestine has not yet been admitted as a full UN Member, non-admission is not, in itself, evidence of a lack of legitimacy or of statehood.²⁰¹ The unilateral attempt by Israel to control a fundamental attribute of sovereignty—the State of Palestine’s relations with third States—is likewise incompatible with the principle of self-determination and Palestine’s statehood, and violates principles of diplomatic law.

¹⁹⁸ 2024 OPT Opinion, para. 261.

¹⁹⁹ 2024 OPT Opinion, para. 241.

²⁰⁰ See further *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America)*, Merits, Judgment. I.C.J. Reports 1986, p. 14, para. 265 (“it is sufficient to say that State sovereignty evidently extends to the area of its foreign policy, and that there is no rule of customary international law to prevent a State from choosing and conducting a foreign policy in co-ordination with that of another State”).

²⁰¹ UN Charter, Art. 4. See also Memorandum on the Legal Aspects of Problems of Representation in the United Nations, February 1950, in UN doc. S/1466, 9 March 1950.

V. CONCLUSION

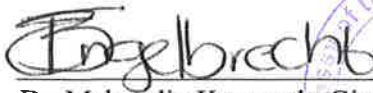
140. To conclude, Namibia reaffirms its unwavering support for the Palestinian people and its right to self-determination, as well as the long-standing work of the international community—particularly UNRWA—in providing humanitarian and development assistance to the Palestinian people in the OPT. Namibia welcomes the recent ceasefire agreement in the hope that it will not only address urgent humanitarian needs but become permanent, creating a foundation for lasting peace in the region. Namibia unequivocally opposes any proposal that would displace Palestinians, in violation of the Palestinian people's right of self-determination and other fundamental rights under international law. Namibia urges the international community to assist the people of Palestine in rebuilding the Gaza Strip and for all Palestinian communities to have access to much needed humanitarian assistance, which is to be provided without impediment.

* * *

141. In view of the foregoing, the Republic of Namibia respectfully submits that:

- (1) The Court has jurisdiction to give the advisory opinion requested and there are no reasons to decline to do so.
- (2) As the Occupying Power of the OPT and as a Member of the United Nations, Israel is under obligations:
 - (a) to ensure, allow, facilitate, and enable the unhindered provision of essential supplies, basic services, and humanitarian and development assistance, to the Palestinian civilian population in the OPT (including East Jerusalem and Gaza), in full cooperation with the UN (including UNRWA), other international organizations, and third States;
 - (b) to respect the Palestinian people's right to self-determination, and not to impede its exercise;
 - (c) not to impede or impair the presence and activities of the UN (including UNRWA), other international organizations, and third States in or in relation to the OPT;
 - (d) to respect the mandate of the UN (including UNRWA and other agencies and bodies);
 - (e) to respect the legal personality and capacity of the UN (including UNRWA), as well as its privileges and immunities;
 - (f) to ensure the safety and security of the personnel, property and premises of the UN (including UNRWA) in the OPT at all times; and
 - (g) to respect the rights of third States to establish diplomatic relations with the State of Palestine and to remove any barriers to effective representation.
- (3) As such, Israel is under an obligation to cease all conduct inconsistent with the foregoing obligations, including but not limited to rescinding the Anti-UNRWA Laws.

Respectfully submitted,

A 

Dr. Mekondjo Kaapanda-Girrus

Ambassador of the Republic of Namibia to
the Kingdom of Belgium,
the Kingdom of the Netherlands and
the Grand Duchy of Luxembourg

on behalf of
THE REPUBLIC OF NAMIBIA

28 February 2025