

Written Statement of the Arab Republic of Egypt

THE 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 ARAB REPUBLIC OF EGYPT

28 February 2025

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I. Introduction

1. On 19 December 2024, the United Nations (hereinafter “UN”) General Assembly adopted resolution A/RES/79/232 titled “Request for an advisory opinion of the International Court of Justice on the obligations of Israel in relation to the presence and activities of the United Nations, other international organizations and third States” (hereinafter “**Resolution 79/232**”). In this resolution, the General Assembly decided, in accordance with Article 96 of the UN Charter, to request the International Court of Justice (hereinafter “**ICJ**” or the “**Court**”), pursuant to Article 65 of the Statute of the Court, “on a priority basis and with the utmost urgency”, to render an advisory opinion (hereinafter the “**Request**”) on the following question:

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

2. The Arab Republic of Egypt (“Egypt”) is unwaveringly committed to promoting the international rule of law and upholding the principles of justice and peace. Egypt also attaches the greatest importance to the ICJ’s role as the principal judicial organ of the United Nations. Based on these principled positions, Egypt wishes to avail itself of this opportunity to submit a written statement providing information to the Court and expressing its views in respect of the present advisory proceedings. Egypt believes that the Court’s advisory opinion will strengthen efforts to consolidate peace and stability in the Middle East.

3. Resolution 79/232 was adopted against the backdrop of a humanitarian tragedy of unprecedented proportions that has unfolded in the Occupied Palestinian Territory, especially the Gaza Strip. Israel’s conduct during military operations that it is undertaking in various areas of the Occupied Palestinian Territory, particularly during its onslaught on the Gaza Strip, has caused mass human suffering that constitutes serious violations of Israel’s obligations under, *inter alia*, the UN Charter, international humanitarian law, and international human rights law, and that also amounts to the perpetration of crimes that are prohibited under

international law.

4. The latest information and statistics published by the UN indicate that, during Israel's onslaught against the Gaza Strip, "at least 48,291 Palestinians have reportedly been killed in Gaza and 111,722 have been injured."¹ These fatalities include: "13,319 children, 7,216 women, 3,447 elderly, and 16,735 men."² Israel is also engaging in a large-scale military operation in the West Bank that has caused hundreds of deaths among Palestinian civilians and precipitated the displacement of tens of thousands of Palestinians from areas including the Jenin, Nur Shams, and Tulkarm refugees camps.³ This is now considered the largest wave of forced displacement of Palestinians since 1967.

5. Israel has also engaged in a policy of obstructing the operation of UN agencies and bodies that provide indispensable humanitarian assistance and essential supplies to the civilian population in the Occupied Palestinian Territory. This is especially pronounced in the case of the United Nations Relief and Works Agency for Palestine Refugees (hereinafter "UNRWA"). Israel has targeted UNRWA premises; attacked, detained, and killed UNRWA personnel; and has adopted legislative and administrative measures that are intended to undermine, and ultimately, terminate UNRWA's presence in the Occupied Palestinian Territory.⁴ Israel is also systematically hindering the efforts of third parties to deliver urgently needed supplies and development assistance to the Palestinian people.

6. Underlying this Israeli conduct is the broader policy objective of maintaining and entrenching its unlawful presence in the Occupied Palestinian Territory, annex further Palestinian territory, and to deprive the Palestinian people of their right to self-determination. The manner in which Israel is conducting hostilities and its obstruction of the activities of UN bodies and agencies in the Occupied Palestinian Territory, especially UNRWA, is also intended to precipitate the forced displacement of the Palestinian people from the Occupied Palestinian Territory. By impeding the provision of essential supplies and humanitarian assistance, Israel is seeking to make many areas of the Occupied Palestinian Territory,

¹ UNRWA Situation Report #160 on the Humanitarian Crisis in the Gaza Strip and the West Bank, including East Jerusalem. Friday, Feb. 21, 2025. Available online <https://www.unrwa.org/resources/reports/unrwa-situation-report-160-situation-gaza-strip-and-west-bank-including-east-jerusalem>

² *Ibid.*

³ *Ibid.*

⁴ *Ibid.* According to UNRWA, "as of 30 January 2025, 786 incidents impacting UNRWA premises and the people inside them have been reported since the beginning of the war. 310 UNRWA installations have been impacted by armed conflict-related incidents since the beginning of the war, some on multiple occasions. UNRWA estimates that, in total, at least 738 persons sheltering in UNRWA installations have been killed and at least 2,401 injured since the start of the war. UNRWA continues to verify and update the number of casualties caused by these incidents."

especially the Gaza Strip, entirely unlivable, thereby causing the displacement of the Palestinian people from their homeland. This conduct is both internationally wrongful and amounts to crimes prohibited under international law.

7. In its Advisory Opinion on *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem* of 19 July 2024, the Court considered that

[T]he realization of the right of the Palestinian people to self-determination, including its right to an independent and sovereign State, living side by side in peace with the State of Israel within secure and recognized borders for both States, as envisaged in resolutions of the Security Council and General Assembly, would contribute to regional stability and the security of all States in the Middle East.⁵

8. However, Israel's conduct in the Occupied Palestinian Territory, especially its onslaught against the Gaza Strip, is undermining attempts to achieve a just and comprehensive solution to the question of Palestine on the basis of the two-State solution, and is further destabilizing an already troubled region.

9. Accordingly, a core group of UN member States led by Norway and consisting of Chile, Egypt, Indonesia, Ireland, Jordan, Malaysia, Namibia, Qatar, Saudi Arabia, Slovenia, South Africa, and Spain submitted Resolution 79/232 to the General Assembly to initiate the present advisory proceedings before the Court. This initiative was predicated on the commitment of this core group of States to the purposes and principles of the UN and to the rule of law, and their belief that affirming Israel's international legal obligations as a member of the UN and as an occupying power will contribute to preventing further loss of life, suffering, forced displacement, and the dispossession of the Palestinian people.

10. Egypt is confident that the present advisory proceedings will complement the Court's previous Advisory Opinions on the *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem* of 19 July 2024 and on the *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory* of 9 July 2024. Egypt is hopeful that the Court will unequivocally affirm Israel's obligations to facilitate and not to impede the presence and activities of UN agencies and

⁵ *Advisory Opinion on the legal consequences arising from Israel's policies and practices in the Occupied Palestinian Territory, including East Jerusalem*, para 283.

bodies, especially UNRWA, in the Occupied Palestinian Territory; and its obligation to observe the privileges and immunities accorded to these UN agencies and bodies. Egypt is also hopeful that the Court will underscore Israel's obligations to ensure and facilitate the provision of essential supplies, humanitarian relief, and development assistance to the civilian population in the Occupied Palestinian Territory, including by UN agencies and bodies and third States. These findings would contribute to enabling the Palestinian people to exercise their inalienable right to self-determination, and to preventing further forced displacement of the Palestinian people.

11. The present Written Submission consists of 10 parts that address the following matters:
- The jurisdiction of the Court, the absence of any reasons that may compel the Court to decline to exercise its advisory competence in the present proceedings (Part II).
 - The elements of the question referred to the Court by the General Assembly (Part III).
 - A summary of the applicable law to the issues raised by the question referred to the Court by the General Assembly (Part IV)
 - The obligations of Israel 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 (Part V)
 - The obligations of Israel to ensure and facilitate the unhindered provision of supplies as well as of basic services to the Palestinian civilian population in the Occupied Palestinian Territory (Part VI)
 - The obligation of Israel not to impede the exercise of the inalienable right of the Palestinian people to self-determination (Part VII)
 - The Right of the Palestinian People to receive development assistance and the Obligation of Israel, as an Occupying Power, not to obstruct such assistance (Part VIII)
 - The obligations of Israel arising from the legal consequences of internationally wrongful acts attributable to Israel in respect of the obligations addressed in the present proceedings (Part IX)
 - Conclusions and Submissions (Part X)

12. In addressing these legal issues, it should be recalled that on 18 September 2024, the UN General Assembly adopted resolution ES-10/24, entitled “Advisory opinion of the International Court of Justice on the legal consequences arising from Israel’s policies and practices in the Occupied Palestinian Territory, including East Jerusalem, and from the illegality of Israel’s continued presence in the Occupied Palestinian Territory”. The resolution “demand[ed] that Israel bring to an end without delay its unlawful presence in the Occupied Palestinian Territory, which constitutes a wrongful act of a continuing character entailing its international responsibility, and do so no later than 12 months from the adoption of the present resolution”.⁶

13. It is also important to recall that this Court, in its *Advisory Opinion on the Legal Consequences Arising from Israel’s Policies and Practices in the Occupied Palestinian Territory, including East Jerusalem*, found that “the continued presence of Israel in the Occupied Palestinian Territory is illegal”,⁷ and held the following:

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. It is the effective control of a territory, regardless of its legal status under international law, which determines the basis of the responsibility of a State for its acts affecting the population of the territory or other States

272. The Court emphasizes that the obligations flowing from Israel’s internationally wrongful acts do not release it from its continuing duty to perform the international obligations which its conduct is in breach of. Specifically, Israel remains bound to comply with its obligation to respect the right of the Palestinian people to self-determination and its obligations under international humanitarian law and international human rights law.⁸

14. From the above, it flows that although Israel’s continued presence in the OPT is

⁶ General Assembly Resolution UN Doc A/RES/ES-10/24, adopted on 18 September 2024, operative paragraph 2.

⁷ *Advisory Opinion on the legal consequences arising from Israel’s policies and practices in the Occupied Palestinian Territory, including East Jerusalem*, para 266.

⁸ *Ibid.*, para 264, 272.

unlawful, Israel's obligations as an Occupying Power continue until such time as the occupation comes to an end, which has been designated by the General Assembly to take place on 18 September 2025. Until such time, Israel cannot evade its international obligations and must simultaneously empower the Palestinian Authority to fully assume its role in governing the independent Palestinian State, on 6 June 1967 lines, with East Jerusalem as its capital.

15. In conclusion, Egypt reaffirms that it is steadfastly committed to the objective of achieving a just and comprehensive solution to the question of Palestine in accordance with international law, including the Charter of the United Nations and the relevant UN resolutions. Egypt has been, and remains, at the forefront of efforts to achieve peace in the Middle East and it is working tirelessly to promote conditions conducive to viable and sustainable peace, based on justice and international law. The international community and the United Nations must also fulfil its responsibility in relation to the question of Palestine, including by enabling the Palestinian people to exercise their inalienable right to self-determination and to establish their fully sovereign state on lines of June 4, 1967, with East Jerusalem as its capital.

II. The Jurisdiction of the Court

16. When the Court is seized of a request for an advisory opinion, it must first consider whether it has jurisdiction to give the opinion requested and, if so whether there is any reason why the Court should, in the exercise of its discretion, decline to answer the request⁹.

17. Once the Court has established its jurisdiction, it will only exercise its discretion not to render an advisory opinion, where there are “compelling reasons” to do so¹⁰. To date, the International Court of Justice has never exercised that discretion.

18. Article 65, paragraph 1, of the ICJ’s Statute provides that:

“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.”¹¹

19. The court has indicated that:

“it is ... a precondition of the Court’s competence that the Advisory Opinion be requested by an organ duly authorized to seek it under the Charter, that it be requested on a legal question, and that, except in the case of the General Assembly or the Security Council, the question should be arising within the scope of the activities of the requesting organ.”¹²

20. Egypt submits that this Court has jurisdiction to render the advisory opinion requested pursuant to Resolution 79/232 as (a) the General Assembly has the competence to request for an advisory opinion; (b) the question posed is a legal question; and (c) the Court has no compelling reasons to decline to give the requested advisory opinion.

⁹ *Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion, I.C.J. Reports 1996*, p. 232, para. 10 [hereinafter “*The Nuclear Weapons Advisory Opinion*”]; *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, I.C.J. Reports 2004*, p. 144, para. 13 [hereinafter “*The Wall Advisory Opinion*”]; *Accordance with International Law of the Unilateral Declaration of Independence in Respect of Kosovo, Advisory Opinion, I.C.J. Reports 2010*, p. 412, para. 17 [hereinafter “*The Independence of Kosovo Advisory Opinion*”]; and *Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965, Advisory Opinion, I.C.J. Reports 2019*, p. 113, para. 54 [hereinafter “*The Separation of the Chagos Archipelago Advisory Opinion*”].

¹⁰ *The Wall Advisory Opinion, op. cit.*, p. 156, para. 44; *The Nuclear Weapons Advisory Opinion, op.cit.*, pp. 234- 235, para. 14.

¹¹ ICJ Statute Article 65 para 1

¹² Application for Review of Judgement No. 273 of the United Nations Administrative Tribunal, Advisory Opinion, I.C.J. Reports 1982, pp. 333-334, para. 21.

A. Resolution A/RES/79/232 is valid

21. The General Assembly adopted the Resolution 79/232 by a recorded vote of 137 votes in favor, 22 abstentions, and 12 votes against, in accordance with Rule 86 of the Assembly's Rules of Procedure.¹³ As such, this resolution has been properly adopted and is an effective expression of the legally valid will of the General Assembly.

B. The UNGA Has the Competence to Request Advisory Opinion

22. The General Assembly has the competence to request an advisory opinion. According to Article 96, paragraph 1, of the UN Charter, the General Assembly, "may request the International Court of Justice to give an advisory opinion on any legal question"¹⁴. Thus the General Assembly is formally authorized by the Charter to make a request 'on any legal question'.

23. The broad scope of this Article reflects the very broad competence of the General Assembly, under Chapter IV of the UN Charter (in particular articles 10, 11, and 13) and hence, the almost complete liberty of the Assembly in requesting an opinion of the Court. This position has been confirmed by the Court itself, in various advisory opinions¹⁵.

24. As indicated by paragraph 10 of Resolution 79/232, the question referred to the Court by the General Assembly raises legal issues arising from a broad range of rules and principles of international law, some of which are peremptory norms. These include the purposes and principles of the United Nations, international humanitarian law, international human rights law, the privileges and immunities of international organizations, the right to self-determination, the obligations of an occupying power to administer the occupied territory for the benefit of the local population, and the obligation of an occupying power not to exercise sovereignty or sovereign powers of an occupied territory.

25. The General Assembly has also been seized of the question of Palestine since 1947, and has previously requested two advisory opinions relating to this matter. This reflects the

¹³ Rules of Procedure of the General Assembly, document A/520/Rev.20, Rule 83, can be accessed through: <http://www.un.org/en/ga/about/ropga/>

¹⁴ Charter of the United Nations, entered into force on 24 October 1944, Article 96(1) [hereinafter the "*UN Charter*"], can be accessed through: <https://www.un.org/en/about-us/un-charter/full-text>

¹⁵ *The Nuclear Weapons Advisory Opinion*, *op. cit.*, p. 232, para. 11; *The Wall Advisory Opinion*, *op. cit.*, p. 144, para. 14

“permanent responsibility of the United Nations with regard to the question of Palestine until it is resolved in all its aspects in accordance with international law and relevant resolutions” Therefore, there is no doubt that the General Assembly is authorized to request the present advisory opinion.

C. The Question Posed is a Legal Question

26. Egypt considers that the question presented is a legal question within the meaning of Article 65 (1) of the Statute of the ICJ and Article 96 (1) of the UN Charter.

27. The Court, in the **present advisory proceedings**, is asked to identify the obligations of Israel in relation to the presence and activities of UN agencies and bodies, other international organizations and third States, in and in relation to the Occupied Palestinian Territory, including its obligations to ensure and facilitate the provision of humanitarian supplies, basic services and development assistance for the benefit of the Palestinian civilian population, and in support of their right to self-determination.

28. Accordingly, it is clear that the question referred to the Court pursuant to Resolution 79/232 is a legal question the answer to which must have regard to rules of international law. It is, necessarily, and by definition, a legal question within the meaning of the UN Charter, the Statute of the Court, and the Court’s own jurisprudence.

29. The question referred to the Court also involves the interpretation of rules and principles of international law, which is essentially a judicial task. The question submitted by the General Assembly is, therefore, to use the words of the Court “framed in terms of law and [raises] problems of international law ... [they are by their] very nature susceptible of a reply based on law”, hence it is a question of a legal character¹⁶.

30. The General Assembly’s request also fulfills the elements of Article 65(1) of the Statute and Article 96(1) of the UN Charter, both *ratione personae* (the General Assembly has the competence to request an advisory opinion) and *ratione materiae* (the Request being for a legal question). Accordingly, the Court is invited to render the requested advisory opinion.

¹⁶*Western Sahara, Advisory Opinion, ICJ. Reports 1975* [hereinafter “*Western Sahara Advisory Opinion*”], p. 18, para. 15; *The Wall Advisory Opinion, op. cit.*, p. 153, para. 37

D. The Court has No Compelling Reasons to Decline to Give the Requested Advisory Opinion

31. The Court has stated that the “fact that the Court has jurisdiction does not mean, however, that it is obliged to exercise it”¹⁷. It recalled that Article 65 (1), of its Statute, which provides that “[t]he Court may give an advisory opinion...”, should be interpreted to mean that the Court has a “discretionary power to decline to give an advisory opinion even if the conditions of jurisdiction are met”¹⁸.

32. The discretion whether or not, to respond to a request for an advisory opinion exists so as to protect the integrity of the Court’s judicial function as the principal judicial organ of the United Nations.¹⁹

33. The Court has been mindful of the fact that its answer to a request for an advisory opinion “represents its participation in the activities of the Organization, and, in principle, should not be refused”²⁰. Thus, the consistent jurisprudence of the Court is that only “compelling reasons” may lead the Court to refuse its opinion in response to a request falling within its jurisdiction²¹. In this regard, Egypt does not find any compelling reason that will lead the Court to refuse to render the advisory opinion requested by the UNGA.

34. In the Wall Advisory Opinion, the Court stated that:

The present Court has never, in the exercise of the discretionary power, declined to respond to a request for an Advisory Opinion. Its decision not to give the Advisory Opinion on the *Legality of the Use by a state of Nuclear Weapons in Armed Conflict*, requested by the World Health Organization, was based on the Court’s lack of jurisdiction, and not on considerations of judicial propriety.²² Only on one occasion did the Court’s predecessor, the Permanent Court of International Justice, take the view that it should not reply to a

¹⁷ *The Separation of the Chagos Archipelago Advisory Opinion*, *op. cit.*, p. 113, para. 63.

¹⁸ *The Wall Advisory Opinion*, *op. cit.*, p. 156, para. 44; *The Independence of Kosovo Advisory Opinion*, *op. cit.*, pp. 415-416, para. 29.

¹⁹ *Ibid*; *The Wall Advisory Opinion*, *op. cit.*, pp. 156-157, paras. 44-45; *The Independence of Kosovo Advisory Opinion*, *op. cit.*, pp. 415-416, para. 29.

²⁰ *Interpretation of Peace Treaties with Bulgaria, Hungary and Romania, First Phase, Advisory Opinion*, *I.C.J. Reports 1950*, p. 71 [hereinafter “*The Interpretation of Peace Treaties Advisory Opinion*”]; *Difference Relating to Immunity from Legal Process of a Special Rapporteur of the Commission on Human Rights, Advisory Opinion*, *I.C.J. Reports 1999*, pp. 78-79, para. 29; *The Wall, Advisory Opinion*, *op. cit.*, p. 156, para. 44

²¹ *The Wall Advisory Opinion*, *op. cit.*, p. 156, para. 44; *The Independence of Kosovo Advisory Opinion*, *op. cit.*, p. 416, para. 30

²² *Cf.*, *I.C.J. Reports 1996(I)*, p. 235, para. 14; *The Wall Advisory Opinion*, *op. cit.*, p.156, para. 44.

question put to it,²³ but this was due to “the very particular circumstances, which were the question directly concerned an already existing dispute, one of the State parties to which was neither a party to the Statute of the Permanent Court, nor a member of the League of Nations, objected to the proceedings, and refused to take part in any way”.²⁴

35. Egypt takes note of some possible arguments that may be advanced in the present proceedings in the relation to the propriety of the exercise of the Court’s discretionary power. These include: (a) the question is of a political nature and not of a legal character; (b) “the lack of consent” to jurisdiction; (c) the subject matter of the request concerns a contentious bilateral matter in which the parties have not consented to the settlement of that dispute by the Court; (d) the Court’s answer will prejudice the negotiation process between the parties of the underlying dispute; (e) the advisory opinion would not assist the General Assembly in the performance of its functions and would be detrimental to the work of the Security Council; (f) the lack of fact finding, information and evidence; and (g) the question is unclear, vague or too abstract to be answered by the Court.

36. In its Advisory Opinion on *Certain Expenses of the United Nations*, the Court considered that even requests intertwined with political questions should not be declined as this Court “...cannot attribute a political character to a request which invites it to undertake an essentially judicial task...”.²⁵ Similarly, in the *Legality of the Threat or Use of Nuclear Weapons*, the Court confirmed that “[t]he fact that this question also has political aspects, as, in the nature of things, is the case with so many questions which arise in international life, does not suffice to deprive it of its character as a ‘legal question’ and to ‘deprive the Court of a competence expressly conferred on it by its Statute’²⁶. As affirmed in various cases,²⁷ the

²³ Status of Eastern Carelia, Advisory Opinion, 1923, P.C.I.J., Series B, No. 5.

²⁴ The Wall Advisory Opinion, op. cit., p.157, para. 46; The Nuclear Weapons Advisory Opinion, op. cit., pp. 235-236, para. 14.

²⁵ *Certain Expenses of the United Nations*, Advisory Opinion, I.C.J. Reports 1962, p. 155.

²⁶ The Nuclear Weapons Advisory Opinion, op. cit., p. 233-234, para. 13; The Application for Review of Judgement No. 158 of the United Nations Administrative Tribunal, Advisory Opinion, I.C.J. Reports 1973, p. 172, para. 14. This point was further reiterated by the Court when it stated: "Whatever its political aspects, the Court cannot refuse to admit the legal character of a question which invites it to discharge an essentially judicial task, namely, an assessment of the legality of the possible conduct of States with regard to the obligations imposed upon them by international law" (cf. Conditions of Admission of a State to Membership in the United Nations (Article 4 of Charter), Advisory Opinion, 1948, I.C.J. Reports 1947-1948, 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 (Article 17, paragraph 2, of the Charter), Advisory Opinion, I.C.J. Reports 1962, p. 155)." 16 Cf., Interpretation of the Agreement of 25 March 1951 between the WHO and Egypt, Advisory Opinion, ICJ, Reports 1980, p.87, para. 33.

²⁷ *Ibid* (certain expenses of the UN), p. 155; *Conditions of Admission of a State to Membership in the United Nations*, Advisory Opinion, I.C.J Reports 1948, p. 61; *Interpretation of the Agreement of 25 March 1951 between*

political history, motive or aspects of the request is irrelevant and shall not compromise Court's ability to render any advisory opinion. Therefore, the claim that the request for the advisory opinion involves political aspects is a compelling reason for the Court to decline the General Assembly's request.

37. Egypt also submits that claims regarding the lack of consent by parties that may be relevant to the question referred to the Court should be dismissed. The ICJ has affirmed, in the Advisory Opinion on the *Interpretation of Peace Treaties*, that the consent requirement “is different regarding advisory proceedings even where the request for an opinion relates to a legal question actually pending between States.... no State can prevent the giving of an Advisory Opinion which the United Nations considers to be desirable”²⁸. The Court reaffirmed this view in its Advisory Opinion on the *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, stating that “the lack of consent to the Court’s contentious jurisdiction by interested States has no bearing on the Court’s jurisdiction to give an advisory opinion”²⁹.

38. Egypt also highlights that the subject matter of the General Assembly's request cannot be regarded as a contentious bilateral matter between the State of Palestine and Israel. In the Advisory Opinion on the *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, the Court stated that it “did not consider that the subject-matter...can be regarded only a bilateral matter between Israel and Palestine” given the UN’s “permanent responsibility towards the question of Palestine” and that the Israeli practices affecting the Palestinian people “must be deemed to be directly of concern to the United Nations”.³⁰ The Court deemed that the question put to it was “located in a much broader frame of reference than a bilateral dispute”.³¹ Likewise, the question of the current advisory opinion has also been formulated in similar terms.

39. Egypt further submits that an advisory opinion from the Court would not obstruct the ongoing or future political, negotiated solution to the Palestinian-Israel Conflict. In the Advisory Opinion on the *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, the Court rejected that its advisory opinion might adversely impact the

the *WHO and Egypt*, Advisory Opinion, I.C.J. Reports 1980, p. 87, para 33; *Nuclear Weapons*, *supra n. 1*, p. 234, para 13.

²⁸ *Interpretation of Peace Treaties Advisory Opinion*, *op.cit.*, p.71

²⁹ *The Wall Advisory Opinion*, *op.cit.*, p. 157, para 47.

³⁰ *Ibid (Wall)*, p. 159, para 49.

³¹ *Ibid (Wall)*, p. 157-9, paras 47- 50.

ongoing negotiations and, thereby providing a compelling reason for the Court to decline to render the requested advisory opinion.³² This Court further emphasized that “no matter what might be its conclusions in any opinion it might give, they would have relevance for the continuing debate on the matter in the UNGA and would present an additional element in the negotiations on the matter ...”.³³

40. An opinion from the Court in the present proceedings will also assist the General Assembly in the performance of its functions and would not be detrimental to the work of the Security Council. As mentioned by the Court, advisory opinions could provide the requesting organs the elements of law and guidance necessary for it in its action to address issues before it.³⁴ The Court has also maintained that it cannot determine, or even concern itself with, what steps the General Assembly may wish to take after receiving the Court’s opinion, or what effect that opinion may have in relation to those steps and that “the Court does not therefore consider that there is a compelling reason that should lead it to decline to give its opinion on the ground that such an opinion would not assist the General Assembly in the performance of its function”.³⁵

41. In its Advisory Opinion on the *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, the Court restated the position it has observed in the Advisory Opinion on the *Legality of the Threat or Use of Nuclear Weapons* that “it is not for the Court itself 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”.³⁶

42. Similarly, the Court has affirmed that “whether the opinion of the Court would have an adverse effect on the negotiation framework is a matter of conjecture on which the Court should not speculate ...there is no compelling reason for the Court to decline to give the requested opinion”³⁷.

³² *Ibid (Wall)*., p. 159, para 53.

³³ *Ibid (Wall)*, p160, para. 51, *Legality of the Threat or Use of Nuclear Weapons*, (I.C.J Reports 1996 (1), p.237, para.17.

³⁴ *Ibid (Wall)*., p. 162-163, para 59-62.

³⁵ *The Advisory Opinion on Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*, p. 20, para 37.

³⁶ *Ibid (Legal Consequences)*., p. 20, para 37; *Legality of the Threat or Use of Nuclear Weapons*, Advisory Opinion, I.C.J. Reports 1996 (I), p. 237, para. 16.

³⁷ *The Advisory Opinion on Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*, p. 20, para 43.

43. Egypt also considers that, in the present proceedings, there is sufficient information before the Court to decide legal the question in a manner consistent with its judicial function. The subject matter of the request has been extensively examined and discussed by many UN organs, bodies, specialized agencies, and experts, and a wealth of information is available for the Court to consider. This is reflected in the voluminous dossier that has been submitted to the Court by the Secretariat.

44. Egypt also submits that the question referred to the Court is clearly and precisely formulated. The Court noted in its Advisory Opinion on the *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory* 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”³⁸. The Court has reiterated its position in the Advisory opinion on the *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory* noting that “the Court will interpret the questions put to it wherever clarification may be necessary”³⁹. Therefore, any arguments relating to the clarity of precision of the question referred to the Court do not constitute a compelling reason for the Court to decline to render the requested opinion.

45. In light of the above, Egypt respectfully submits that there are no compelling reasons which might prevent the Court from rendering this advisory opinion.

³⁸ *The Wall Advisory Opinion, op.cit.*, I.C.J. Reports 2004 (I), pp. 153-154, para. 38.

³⁹ *The Advisory Opinion on Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*, p. 16, para 29

III. Elements and Scope of the Question:

46. The question referred to the Court by the General Assembly in Resolution 79/232 reads as follows:

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

A. Elements of the Question:

47. Egypt submits that this question contains the following elements, each of which should be considered by the Court:

(a) The obligations of Israel in relation to the presence and activities of third parties in and in relation to the Occupied Palestinian Territory

- The parties referred to in the question are the United Nations, including specialized agencies, subsidiary bodies, and independent experts within the UN system operating in the Occupied Palestinian Territory; other international organizations, which includes inter-governmental and non-governmental organizations operating in the Occupied Palestinian Territory; and third States, which foreign diplomatic and consular representation, and agencies or entities providing humanitarian relief, development assistance, or basic services to the civilian population in the Occupied Palestinian Territory.
- Resolution 79/232 requests the Court to give special attention to the United Nations Relief and Works Agency for Palestinian Refugees in the Near East (UNRWA) and to identify Israel's obligations of Israel in relation to the presence and activities of UNRWA in the Occupied Palestinian Territory.⁴⁰

⁴⁰ Resolution 79/232 refers to UNRWA in six of its preambulatory paragraphs, and once in operative paragraph 5.

- The phrase “presence and activities” indicates that this element of the question is broad. It covers all relief operations or developmental assistance programs provided to the civilian population in the Occupied Palestinian Territory. It also includes the diplomatic and consular representation of third States in and in relation to the Occupied Palestinian Territory.⁴¹
- The areas of law under which Israel’s obligations arise in relation to this element of the question referred to the Court include United Nations law, especially the UN privileges and immunities, international humanitarian law, and international human rights law.

(b) The obligations of Israel in relation to the civilian population in the Occupied Palestinian Territory, especially Israel’s duties, as an occupying power, to ensure and facilitate the unhindered provision of urgently needed supplies essential to the survival of the civilian population in the Occupied Palestinian Territory.

- This element of the question invites the Court to consider Israel’s obligations, as an occupying power, to ensure and facilitate the provision of supplies to the civilian population in the Occupied Palestinian Territory.
- The areas of law under which Israel’s obligations arise in relation to this element of the question referred to the Court are primarily international humanitarian law and international human rights law.

(c) The obligation of Israel not to impede the exercise of the right to self-determination of the Palestinian people, and its obligation not to impede the efforts of the international community to support the realization of the right to self-determination by the Palestinian people.

- Both the question referred to the Court and resolution 79/232 refer to Israel’s obligation to respect the right to self-determination of the Palestinian people. These references to self-determination highlight the inter-connection between the presence and activities of

⁴¹ The question of foreign diplomatic and consular representation in and in relation to the Occupied Palestinian Territory appears in the preambulatory paragraph: *Expressing deep concern* at measures taken by Israel that impede assistance to the Palestinian people, including through measures that affect the presence, activities and immunities of the United Nations, its agencies and bodies, and those of other international organizations, *and the representation of third States in the Occupied Palestinian Territory* [emphasis added].

the United Nations, other international organizations, and third parties to support the Palestinian people's right to self-determination.⁴²

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

(d) The obligations of Israel arising from the consequences of its internationally wrongful conduct in relation to the subject-matter of the question referred to the Court by the General Assembly.

- The Court should consider the obligations arising for Israel under both primary and secondary rules of international law. As such, the Court should identify the obligations incumbent on Israel under the applicable rules of the responsibility of States for internationally wrongful acts that are attributable to Israel in relation to the following:
 - a. 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.
 - b. Its obligation 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.
 - c. Its obligation not to impede the exercise by the Palestinian people of their inalienable right to self-determination, and its obligation not to impede joint and separate action by third States and international organization in support of the exercise by the Palestinian people of their inalienable right to self-determination.

⁴² For example, operative paragraph 6 states: *Reiterates* its call to all States and the specialized agencies and organizations of the United Nations system to continue to support and assist the Palestinian people in the early realization of their right to self-determination. Similarly, operative paragraph 7 states: *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.

B. The Scope of the Question

48. Egypt notes that the question posed by the UNGA invites a definition of the material, territorial and temporal scope of the Court's enquiry.

(a) Material Scope of the question

49. The subject of the General Assembly's Request, set out in Resolution 79/232, concern a question by virtue of which the Court is expected to clearly identify "the obligations of Israel, as an occupying power and as a member of the United Nations", in relation to three interrelated issues.

50. The ambit of the term "**obligations**" of Israel, as an occupying power and as a member of the United Nations in the question indicates that the Court's judicial function will not be limited to delivering a general declaration illustrating the obligations of the State of Israel in relation to the presence and activities of the UN, other international organizations and third States in the OPT including ensuring and facilitating the humanitarian supplies and basic services to the Palestinian and in support of their right to self-determination. The Court, in line with its approach in the *Wall* advisory Opinion and the *Legal Consequences of the Policies and Practices of Israel* Advisory Opinion, should examine Israel's obligations as an occupying power and member of the UN through considering the main features of Israel's obligations, as identified in the request, and assess the conformity of Israel's conduct in the OPT with these obligations and other relevant rules and principles of international law. The Court should also examine the legal consequences of Israel's violation of its obligations.

(b) Geographical scope: The "Occupied Palestinian Territory"

51. In terms of the geographical scope, the question refers to "*the Occupied Palestinian Territory*", which encompasses the single territorial unit of the West Bank, including East Jerusalem and the Gaza Strip.⁴³ This is discussed in more detail in part VI para 188 below.

52. Moreover, the text of the Resolution 79/232 makes specific reference to East Jerusalem and the Gaza Strip several times, which reflects the UNGA's clear intention that the Court should address the entire Occupied Palestinian Territory (OPT).

53. In light of the above, the Court is, therefore, asked to advise the UNGA on the

⁴³ *The Advisory Opinion on Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*, p. 27, para 78.

obligations of Israel specifically related to its systematic and continuous violations including due to its war in Gaza, brutal crackdown in the West Bank, including East Jerusalem and its denial of the right of the Palestinian people to self-determination.

(c) Temporal scope of the question

54. In terms of the temporal scope, the question requests the Court to advise the General Assembly on “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 ... in *relation to the Occupied Palestinian Territory*”, without specifying an exact date or year that defines the temporal aspect of the request.

55. In this regard, Egypt submits that the Court should constitute the “Occupation of Palestinian Territory” since 1967 up to the present, and not to preclude having regard to predating facts and international resolutions adopted prior to that date, such as the UNGA Resolution A/RES/181(II) on 29 November 1947.

IV. Applicable Law

56. To answer the question submitted to the Court, Egypt submits that the entire corpus of international law relevant to the question should be considered by the Court, and this for the reasons outlined in the subsequent paragraphs.

57. First, the question submitted to the Court explicitly requires it to consider “*the rules and principles of international law*” in determining the obligations of Israel, in relation to the presence and activities of the UN, other international organizations and third States in the OTP including ensuring and facilitating the humanitarian supplies and basic services to the Palestinian civilians and in support of their right to self-determination.

58. Second, the chapeau of the question in the operative paragraph of Resolution 79/232 states: “*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*”.

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

**V. The Obligations of Israel in relation to the Presence and Activities of
the United Nations, including its agencies and bodies,
other international organizations and third States
in and in relation to the OPT**

60. As indicated in the introduction to the present submission, the question in General Assembly resolution 79/232 invites the Court to consider the obligations of Israel 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 East Jerusalem. This is the subject of the present chapter.

61. This chapter consists of two parts. The first part addresses the matter of the presence and activities of the United Nations, including its agencies and bodies, in the Occupied Palestinian Territory, while the second part relates to the presence and activities of third States and other international organizations.

62. The submissions presented in this chapter should be read in light of and in conjunction with the submission made in chapters VI and VII on Israel's obligations under the applicable rules of international humanitarian law and its obligations in relation to the inalienable right of the Palestinian people to self-determination.

63. Egypt's principal submission in this part is that Israel is under an obligation to actively facilitate and not to engage in conduct that prevents, impedes, or otherwise restricts the presence and activities of United Nations agencies and bodies operating in or in relation to the Occupied Palestinian Territory, including East Jerusalem. Egypt also submits that Israel is under an obligation to respect the privileges and immunities of these United Nations agencies and bodies, which principally arise from the Charter of the United Nations and the 1946 Convention on the Privileges and Immunities of the United Nations.

64. This part of the present submission consists of two sections. The first section addresses Israel's obligations in relation to presence and activities of UNRWA in the Occupied Palestinian Territory, including East Jerusalem. The second section discusses Israel's obligations in relation to the presence and activities of other United Nations specialized agencies, bodies, and programs that operate in the Occupied Palestinian Territory, including East Jerusalem.

A. The Presence and Activities of the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) in the Occupied Palestinian Territory, including East Jerusalem

65. The present section outlines Egypt's submissions relating to the presence and activities of UNRWA in the Occupied Palestinian Territory, including East Jerusalem. Dedicating a section of this written statement specifically to UNRWA is based on two considerations. From a policy perspective, UNRWA is irreplaceable. As the Secretary General stated in a letter dated 28 October 2024:

UNRWA is the principal means by which essential assistance is supplied to Palestine refugees in the Occupied Palestinian Territory. There is currently no realistic alternative to UNRWA which could adequately provide the services and assistance required, whether it be other United Nations entities, other international organizations, or any other entity. The cessation of or restrictions on its activities would leave Palestine refugees without the essential assistance that they require.⁴⁴

66. From a legal perspective, UNRWA has a unique mandate that relates to core aspects of the question of Palestine, including the right of return of Palestine refugees and the inalienable right of the Palestinian people to self-determination. As discussed below, the presence and activities of UNRWA in the Occupied Palestinian Territory, including East Jerusalem, are indispensable to preserving the right of return of Palestine refugees, and UNRWA's continued operation is invaluable to ensuring the survival of the Palestinian people and their ability to live on the territory in relation to which they are entitled to exercise their right to self-determination. Dismantling or debilitating UNRWA would facilitate plans to forcibly displace the Palestinian people and deport them from the Occupied Palestinian Territory thereby preventing the Palestinian people from exercising their right to self-determination.

67. In this section, Egypt submits that Israel is under an obligation, as an occupying power and as a member of the United Nations, to facilitate UNRWA's operations and not to engage in any conduct, including legislative, judicial, operational, or administrative measures, that prevents, impedes, or otherwise restricts the presence and activities of UNRWA in the Occupied Palestinian Territory, including East Jerusalem. Egypt will also submit that Israel is under an obligation to respect the privileges and immunities to which UNRWA is entitled, which include immunity from legal processes and the inviolability of its premises, property, funds, assets, and

⁴⁴ Letter of the Secretary General, dated October 28, 2024.

personnel. UNRWA's privileges and immunities are absolute, and as such, cannot be set aside on grounds such as the conduct of hostilities or the demands of military expediency.

68. These submissions are based on five principal grounds:

- a. The illegality of Israel's continued presence in the Occupied Palestinian Territory.
- b. Israel's obligation not to deprive the Palestinian people of their right to self-determination.
- c. Israel's obligations arising from the Charter of the United Nations
- d. Israel's obligations under the rules of international law relating to the privileges and immunities of UNRWA as a subsidiary organ of the United Nations, which principally arise from the 1946 Convention on the Privileges and Immunities of the United Nations.
- e. Israel's obligations under the law of armed conflict and international human rights law (discussed in Chapter VI).

(a) Factual Background: UNRWA's Establishment and Mandate

69. The General Assembly adopted resolution 181(II) on 29 November 29 1947. This resolution recommended the partition of Palestine into "[i]ndependent Arab and Jewish States and the Special International Regime for the City of Jerusalem."⁴⁵ After the outbreak of the armed conflict of 1948-1949, Israel executed a policy, the most important element of which was "*Plan Daler*", that was designed to forcibly transfer the Palestinian Arab population from their homelands in the territory of mandate Palestine.⁴⁶

70. This Israeli policy is the origin of the Palestine refugee problem. In the aftermath of the armed conflict of 1948-1949, the number of Palestine refugees expelled from the territories that came under Israeli control was estimated to be around 750,000.⁴⁷ In an effort to find a political solution to the question of Palestine and the tragedy of the Palestine refugees, the General Assembly adopted resolution 194 (III) on 11 December 1948, which established the UN Conciliation Commission for Palestine (UNCCP).

⁴⁵ General Assembly resolution 181 (II) – Future government of Palestine.

⁴⁶ See Ilan Pappé, *The 1948 Ethnic Cleansing of Palestine*, *Journal of Palestine Studies*, Vol. 36, Issue 1, pages 6-20 (2006).

⁴⁷ See Riccardo Bocco, *UNRWA & the Palestinian Refugees: A History within History*, *Refugee Survey Quarterly*, Vol. 28, No. 2&3, page 229 (2010).

71. Paragraph 11 of resolution 194 (III) is especially pertinent to the present proceedings. It states:

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

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

72. The records of the negotiations on General Assembly resolution 194 (III) confirm that this paragraph was intended to affirm two core principles. The first was the right of Palestinian refugees to return to their homelands that they left as a result of the armed conflict of 1948-1949, and the second was the right of those refugees who did not return to receive compensation for loss and damage to their property.⁴⁸

73. Paragraph 11 of General Assembly resolution 194 (III) did not establish the rights of return and compensation of Palestine refugees *de novo*. As the text suggests, this paragraph merely reaffirmed a principle that was already established in general international law in 1948, and that has been reaffirmed repeatedly by the United Nations.⁴⁹ Moreover, the exercise of the right of return by Palestine refugees was never viewed as being contingent on the achievement of a peaceful settlement to the question of Palestine.⁵⁰

⁴⁸ See Terry Rempel, *The Right to Return: Drafting Paragraph 11 of General Assembly Resolution 194 (III)*, December 11, 1948, *Palestine Yearbook of International Law*, Vol. 21, pages 77-197 (2020).

⁴⁹ See for example UN General Assembly resolution 3236 (XXIV) Nov. 22, 1974. In operative paragraph 2, this resolution states: “*Reaffirms also* the inalienable right of the Palestinians to return to their homes and property from which they were displaced and uprooted, and calls for their return”. See also Committee on the Exercise of the Inalienable Rights of the Palestinian People, *The Right of Return of the Palestinian People*, UN Doc. ST/SG/SER.F/2 (1978).

⁵⁰ See United Nations Conciliation Commission for Palestine, *Historical Survey of Efforts of the United Nations Conciliation Commission for Palestine to secure the Implementation of paragraph 11 of General Assembly resolution 194 (III) - Question of compensation* (Working paper prepared by the Secretariat) UN Doc. A/AC.25/W/81/Rev.2. For example, the representative of the United States in the United Nations, stated that “His delegation could not accept the proclamation of peace as a prerequisite for the return of refugees and hoped that the Assembly would not make this a condition. It was recognized that the bulk of the refugees could only

74. Pending the realization of the right of return of Palestine refugees, the General Assembly adopted resolution 302 (IV) on 9 December 1949 that established UNRWA to provide humanitarian and development assistance to the Palestine refugees, through “direct relief and works programmes”.⁵¹ UNRWA is a subsidiary organ of the General Assembly that was established under article 22 of the Charter of the United Nations.⁵² UNRWA’s mandate covers any person whose “normal place of residence was Palestine during the period 1 June 1946 to 15 May 1948 and who lost both home and means of livelihood as a result of the 1948 conflict”.⁵³

75. General Assembly resolution 302 (IV) refers to paragraph 11 of General Assembly resolution 194 (III) in its preamble and in operative paragraphs 5 and 20.⁵⁴ These paragraphs reaffirmed paragraph 11 of General Assembly resolution 194 (III) and underscored that UNRWA’s provision of relief and assistance is without prejudice to the right of return of Palestine refugees, pending the achievement of peace and stability. UNRWA was also directed to “consult with the United Nations Conciliation Commission for Palestine in the best interests of their respective tasks, with particular reference to paragraph 11 of General Assembly resolution 194 (III) of 11 December 1948”.⁵⁵

return in peaceful circumstances. However, they need not wait for the proclamation of peace before beginning. These unfortunate people should not be made pawns in the negotiations for a final settlement”. Similarly, the UK representative stated: “[t]he Committee must face the fact that it might be many years before a formal peace was established in Palestine. One of the possibilities, however, was that conditions of stability might be re-established in fact without any agreement on the terms of a formal peace and his delegation considered that as soon as such reasonable stability had been restored in Palestine, the problem of the return of those unfortunate people should be given urgent consideration”

See United Nations Conciliation Commission for Palestine, Analysis of Paragraph 11 of the General Assembly Resolution of 11 December 1948, Working Paper Compiled by the Secretariat.

⁵¹ General Assembly resolution 302(IV) – Assistance to Palestine Refugees.

⁵² Charter of the United Nations, Article 22. This provision permits the General Assembly to establish “such subsidiary organs as it deems necessary for the performance of its functions.”

⁵³ UNRWA, “Frequently Asked Questions” <https://www.unrwa.org/who-we-are/frequently-asked-questions>

⁵⁴ General Assembly resolution 302(IV) – Assistance to Palestine Refugees. The preamble of the resolution states:

Recalling its resolutions 212 (III) 2/ of 19 November 1948 and 194 (III) 3/ of 11 December 1948, affirming in particular the provisions of paragraph 11 of the latter resolutions, [emphasis added]

Paragraph 5 states:

5. Recognizes that, without prejudice to the provisions of paragraph 11 of General Assembly resolution 194 (III) of 11 December 1948, 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 that constructive measures should be undertaken at an early date with a view to the termination of international assistance for relief; [emphasis added]

⁵⁵ *Ibid.*

76. Egypt was instrumental in including these references to paragraph 11 of General Assembly resolution 194 (III) in General Assembly resolution 302 (IV).⁵⁶ During the negotiations on resolution 302 (IV), the representative of Egypt stated that:

[the] draft resolution should ... be amended so as to ... reaffirm the refugees' right to return home in accordance with the General Assembly resolution 194 (III). No assistance or employment could make the refugees forget their homes; all the inquiries made on the subject showed that they wanted to go home again and that nothing could alter that desire...

He recalled, moreover, that the General Assembly in its resolution 194 (III) had recognized that right and the United Nations was responsible for ensuring respect for it. The refugees hoped that the resolution would be implemented without delay. [...]

The Egyptian delegation considered, however, that the only solution that was humane and just and likely to restore peace and security in the Near East was to repatriate the refugees; if that solution were not applied, the prestige and influence of the United Nations and the value of the Universal Declaration of Human Rights as adopted in General Assembly resolution 217 (III) would be dangerously undermined.⁵⁷

77. This indicates that Egypt has consistently affirmed that, under international law, Palestine refugees are entitled to exercise their inalienable right of return, which is essential to achieving a just settlement to the question of Palestine and the exercise of the right of the Palestinian people to self-determination. Egypt has also consistently adopted the view that the international community, and especially the United Nations, bears a special responsibility to provide relief for Palestine refugees and to promote their welfare, without prejudice to their right of return.

78. The General Assembly has also recognized the linkage between preserving the right of return of Palestine refugees and assistance programs overseen by the United Nations. Resolution 79/88 of 12 December 2024 on UNRWA is an illustrative example. It notes with regret that paragraph 11 of Resolution 194 has not been effected and affirms the necessity for the continuation of UNRWA's work and its unimpeded operation pending a just resolution of the

⁵⁶ See generally Ardi Imseis, *The United Nations and the Question of Palestine*, (CUP 2023), p. 163.

⁵⁷ General Assembly, 4th session: Ad Hoc Political Committee, 52nd meeting, Wednesday, 30 November 1949, GAOR, UN Doc, A/AC.31/SR.52, pages 311-314.

question of Palestine refugees.⁵⁸ Numerous General Assembly resolutions have indicated that the humanitarian and developmental assistance provided by the United Nations to Palestine refugees, including through UNRWA, was intended to continue until they were able to exercise their inalienable right of return.⁵⁹ In other words, the international community recognized that as long as the right of return was not achieved, UNRWA would continue to discharge its mandate. By implication, UNRWA's continued existence, and the General Assembly's regular renewal of its mandate without prejudice to paragraph 11 of Resolution 194, became synonymous with preservation of the right to return for Palestinian refugees.

79. Initially, UNRWA's mandate was "to carry out in collaboration with local governments the direct relief and works programmes as recommended by the Economic Survey Mission," and to "consult with the interested Near Eastern Governments concerning measures to be taken by them preparatory to the time when international assistance for relief and works projects is no longer available."⁶⁰ A number of developments led to the evolution of UNRWA's mandate over time, primarily through UN General Assembly Resolutions. First, the 1967 war led to another wave of Palestinian refugees that fell under UNRWA's mandate. Second, the prolonged and indefinite nature of Israel's occupation of the OPT, and its obstruction of the Palestinian's right of return, meant that UNRWA's mandate had to evolve, to include longer-term development and protection, in addition to its original humanitarian relief and works mandate.

⁵⁸ General Assembly resolution 79/88 – Assistance to Palestine Refugees. Operative paragraphs 1 and 2 of this resolution state:

1. *Notes with regret* that repatriation or compensation of the refugees, as provided for in paragraph 11 of General Assembly resolution 194 (III), has not yet been effected, and that, therefore, the situation of the Palestine refugees continues to be a matter of grave concern and the Palestine refugees continue to require assistance to meet basic health, education and living needs;
2. *Also notes with regret* that the United Nations Conciliation Commission for Palestine has been unable to find a means of achieving progress in the implementation of paragraph 11 of General Assembly resolution 194 (III), and reaffirms its request to the Conciliation Commission to continue exerting efforts towards the implementation of that paragraph and to report to the Assembly on the efforts being exerted in this regard as appropriate, but no later than 1 September 2025;

⁵⁹ The following are illustrative examples of general assembly resolutions that have reaffirmed paragraph 11 of resolution 194 (III): General Assembly resolution 78/74; General Assembly resolution 77/123; General Assembly resolution 76/77; General Assembly resolution 75/93; General Assembly resolution 74/83; General Assembly resolution 73/92; General Assembly resolution 72/80; General Assembly resolution 71/91; General Assembly resolution 70/83; General Assembly resolution 69/86; General Assembly resolution 68/76; General Assembly resolution 67/114; General Assembly resolution 66/72; General Assembly resolution 65/98; General Assembly resolution 64/87; General Assembly resolution 63/91; General Assembly resolution 62/102; General Assembly resolution 61/112.

⁶⁰ General Assembly resolution 302(IV) – Assistance to Palestine Refugees, paragraph 7.

80. The following are excerpts from General Assembly resolutions that constitute milestones in the evolution of UNRWA's role.⁶¹

- General Assembly resolution 393(V) of 2 December 1950 instructed UNRWA "to establish a reintegration fund which shall be utilized ... for the permanent re-establishment of refugees and their removal from relief."
- General Assembly resolution 513 (VI) of 26 January 1952 requested UNRWA to "continue ... to provide assistance for the health, welfare and education programme."
- General Assembly resolution 1315 (XIII) of 12 December 1958 requested UNRWA "to plan and carry out projects capable of supporting substantial numbers of refugees and, in particular, programmes relating to education and vocational training."
- General Assembly resolution 2252 (ES-V) of 4 July 1967, endorsed the efforts of the Commissioner-General of UNRWA "to provide humanitarian assistance, as far as practicable, on an emergency basis and as a temporary measure, to other persons in the area who are at present displaced and are in serious need of immediate assistance as a result of the recent hostilities."
- General Assembly resolution 37/120 J of 16 December 1982, urged "the Secretary-General, in consultation with the UNRWA, and pending the withdrawal of Israeli forces from the Palestinian and other Arab territories occupied by Israel since 1967, including Jerusalem, to undertake effective measures to guarantee the safety and security and the legal and human rights of the Palestinian refugees in the occupied territories."
- Security Council resolution 605 of 22 December 1987, which called upon the Secretary-General to assess the situation and to present to the Security Council "recommendations on ways and means for ensuring the safety and protection of the Palestinian civilians under Israeli occupation." The Secretary-General submitted a report to the Security Council that outlined proposals on the protection of the Palestinian people in the Occupied Palestinian Territory, including: (1) physical

⁶¹ See generally Peter Hansen, Commissioner-General of UNRWA, From Humanitarian Crisis to Human Development – The Evolution of UNRWA's Mandate to the Palestine Refugees, Address to the American University of Cairo, 21 September 2003. Available online: <https://www.un.org/unispal/document/auto-insert-208942/>

protection; (2) legal protection; (3) protection by way of general assistance; (4) protection by publicity. This led to the establishment of UNRWA's Refugee Affairs Officer Programme.

- General Assembly resolution 48/40 A of 10 December 1993, which noted that “the new context created by the Declaration of Principles on Interim Self-Government ... will have major consequences for the activities of the Agency, which is henceforth called upon, within the framework of strengthened cooperation with the specialized agencies and the World Bank, to make a decisive contribution towards giving a fresh impetus to the economic and social stability of the occupied territories.”

81. Since the signing of the Declaration of Principles [hereinafter ‘DOP’] the Palestinian Authority has entered into undertakings that express its consent to UNRWA's presence and activities in the Occupied Palestinian Territory and that demonstrate its commitment to respect the privileges and immunities enjoyed by UNRWA as a subsidiary organ of the United Nations.⁶²

82. Almost 6 million Palestine refugees are now registered with UNRWA. The agency operates 58 refugee camps and 711 schools that are attended by 550,000 students. UNRWA operates 141 primary health-care facilities, and there are 6.9 annual patient visits to UNRWA clinics and 61,000 antenatal patients who receive medical care from UNRWA.⁶³ UNRWA also provides social safety net assistance to 332,763 persons, technical and vocational education and training to 7,811 youth, and microfinance loans to 27,199 clients.⁶⁴

83. In the Occupied Palestinian Territory, UNRWA provides quasi-governmental, public services that include: elementary and preparatory education; vocational and technical training; comprehensive primary health care, including family health; assistance towards hospitalization; environmental health services in refugee camps; relief assistance to needy households; developmental social services for women, youth and persons with disabilities; microfinance and microenterprise programs to develop income-generating capacities;

⁶² See Agreement between the United Nations Relief and Works Agency for Palestine Refugees in the Near East & the Palestinian Authority Regarding the Location of UNRWA Headquarters in the West Bank and Gaza Strip Area, 5 July 1996; 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.

⁶³ UNRWA in Action – July 2024. Available here:

https://www.unrwa.org/sites/default/files/unrwa_in_action_2024_eng_v3.pdf

⁶⁴ UNRWA Annual Operational Report 2023. Available here: <https://reliefweb.int/report/occupied-palestinian-territory/unrwa-annual-operational-report-2023>

infrastructure projects to improve living conditions.⁶⁵ UNRWA has thus, effectively, carried out what were supposed to be Israel's obligations, as an Occupying Power, to provide basic needs and services in the Occupied Palestinian Territory, in accordance with the relevant articles of the Fourth Geneva Convention (see section xx below). It filled the gap resulting from Israel's denial of the Palestinian people's right to self-determination and sovereignty in their land, and from Israel's constant suppression of the Palestinian Authority and its ability to fully assume its governmental functions throughout the Occupied Palestinian Territory.

84. This brief historical overview demonstrates the breadth of UNRWA's operations in the Occupied Palestinian Territory, including East Jerusalem, and confirms its indispensable role. . Once the indefinite character of the Israeli occupation became clear, as well as the extent of obstruction of Palestinian's self-determination and their "right of return", UNRWA's mandate could no longer be limited to providing temporary emergency relief and assistance. It became necessary for the Agency to step in provide basic needs and public services, including healthcare, education, livelihoods, infrastructure. As the Secretary General emphasized: "there is currently no realistic alternative to UNRWA which could adequately provide the services and assistance required by Palestine refugees in the Occupied Palestinian Territory, including East Jerusalem."⁶⁶ The General Assembly has also underscored that "no organization can replace or substitute the Agency's capacity and mandate to serve Palestine refugees and civilians in urgent need of life-saving humanitarian assistance."⁶⁷ There can be no substitute for UNRWA until such time as the right of return is achieved in accordance with General Assembly Resolution 194 and a sovereign Palestinian State with functioning and effective State institutions is capable of assuming UNRWA's functions.

85. Throughout its history, UNRWA has been the subject of an Israeli policy designed to impede the execution of its mandate. This policy took the form of a wide range of practices, including assaults against UNRWA personnel, attacks against UNRWA premises, attacks against Palestinians receiving services at UNRWA facilities, restricting the freedom of movement of UNRWA personnel throughout the Occupied Palestinian Territory, preventing UNRWA personnel from entering the Occupied Palestinian Territory, and engaging in acts of harassment and intimidation against UNRWA personnel. UNRWA's annual reports submitted to the General Assembly provide a wealth of information on Israel's policies and practices

⁶⁵ See General Assembly, Report of the Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East (1 July 2000-30 June 2001) UN Doc. A/56/13.

⁶⁶ See UNSG letters of Jan. 7, 2025; Dec. 9, 2024.

⁶⁷ General Assembly resolution E/S-10/25 of 11 December 2024.

against UNRWA. The following are illustrative examples that provide evidence of a long-standing Israeli policy of impeding UNRWA's work in the Occupied Palestinian Territory.

- 152. The Agency made strong protests to the Israeli Ministry of Foreign Affairs concerning incidents arising from disturbances in which trainees in residence at two training centres in the West Bank participated. Accounts differ, but it appears that sometime after a road block was erected (and removed) by some of the male trainees at the Agency's Teacher Training Centre at Ramallah, some trainees were beaten inside the centre and others who ran away were pursued and beaten at some distance from the centre, without reference to whether they had been involved in the road-block incident. After a demonstration by some of the trainees at the Women's Training Centre, also at Ramallah, tear gas bombs were exploded in the dormitories. The beating of the male trainees produced severe injuries, including fractures, and in the case of the women trainees, several of them suffered shock as well as injuries in both these incidents, the Israeli occupying authorities, disregarding the intervention of Agency staff, entered the training centres, which are United Nations premises, and took indiscriminate action both in and outside the centres.⁶⁸
- 39. Security measures imposed by the Israeli occupying authorities in the occupied territories affected UNRWA services. The Agency had to face difficulties affecting its schools and other installations in the West Bank in the year under review. On 9 April 1980 Israeli military forces entered the Men's Teacher Training Centre in Ramallah and beat some of the trainees. Demolition of refugee shelters on punitive grounds took place on two occasions in the West Bank and two in the Gaza Strip.⁶⁹
- 36. A large number of UNRWA area staff have been arrested, detained and released without charges being levelled against them or UNRWA being informed of the reasons for their detention. In addition, in many instances staff members, have complained of maltreatment at the hands of the authorities, both while in detention and elsewhere. The practice of summoning staff for interrogation during working hours has continued unabated. There has been interference in the freedom of staff to move around in the performance of their duties. In some instances, for example, an urgently required

⁶⁸ General Assembly, Report of the Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees, 1 July 1976 – 30 June 1977, GAOR 33rd Sess. UN Doc. A/32/13, para. 152, p. 37.

⁶⁹ General Assembly, Report of the Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees, 1 July 1979 – 30 June 1980, GAOR 35th Sess. UN Doc. A/35/13, para. 39, p. 9.

ambulance or medical services have been impeded. An increase has also been recorded in the violations of the privileges and immunities of the Agency and the misuse by Israeli authorities of UNRWA premises and property.⁷⁰

- 114. Unauthorized entry by the Israeli authorities into Agency premises increased. During the reporting period 555 intrusions into Agency premises were recorded in the Gaza Strip and 191 in the West Bank. In several cases such intrusions into Agency premises resulted in injury to staff or damage to property or both.⁷¹
- 137. *Arrest and detention of staff.* The number of UNRWA staff members arrested and/or detained increased from 22 in the previous reporting period to 92 in the current reporting period (see annex I, table 11). The number of staff members detained by the Israeli authorities increased from 8 to 64, one of whom was detained twice. Of those, 49 were arrested by the Israeli authorities in the course of Israeli military operations in the West Bank during the period from March to June 2002, and in most of those cases were released without charge or trial within a few days or weeks of their arrest [...]
- 141. Freedom of movement of West Bank and Gaza Strip staff. The Israeli authorities, citing security concerns, have imposed far-reaching restrictions on the freedom of movement of UNRWA personnel. The restrictions have included the external closure of the West Bank and the Gaza Strip, the imposition of curfews and internal closures, the setting up of checkpoints, and cumbersome procedures stipulating the use of permits and magnetic cards for local staff residing in the West Bank for their entry into, and driving in, Israel and East Jerusalem. [...]
- 160. Armed interference; interference with ambulances and medical teams. The Agency has been particularly concerned at the increased level of armed interference with UNRWA personnel and vehicles by members of the Israel Defense Forces during the reporting period. Staff members have had their UNRWA identification cards destroyed or confiscated and, in a number of cases, have been verbally abused, physically assaulted, shot at, and in one case killed.⁷²

⁷⁰ General Assembly, Report of the Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees, 1 July 1987 – 30 June 1988, GAOR 43rd Sess. UN Doc. A/43/13, para. 36, p. 11.

⁷¹ General Assembly, Report of the Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees, 1 July 1988 – 30 June 1990, GAOR 45th Sess. UN Doc. A/45/13, para. 114.

⁷² General Assembly, Report of the Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees, 1 July 2001 – 30 June 2002, GAOR 57th Sess. UN Doc. A/57/13, para. 137, 141, 160.

86. This information demonstrates that Israel's has a longstanding policy of impeding UNRWA's operations and preventing it from executing its mandate. This conduct is inconsistent with Israel's obligations, as an occupying power and as a member of the United Nations, to respect the privileges and immunities of the United Nations.

87. Israel's conduct in relation to UNRWA long predates the armed conflict that began in the Gaza Strip on 7 October 2023. Nonetheless, Israel's attacks against UNRWA during the armed conflict that began on 7 October 2023 remain unprecedented. Israel has attacked and destroyed UNRWA premises, property, and facilities, and has targeted, killed, and detained UNRWA personnel.

88. The 2024 Annual Report of UNRWA's Commissioner-General provides further detail on Israel's conduct in relation to UNRWA both during the armed conflict in Gaza and throughout the Occupied Palestinian Territory, including East Jerusalem, after 7 October 2023.⁷³ The following portions of the report are particularly noteworthy:

- 15. In 2023, UNRWA recorded 1,145 Israeli security forces operations in and around refugee camps in the West Bank, marked by new levels of intensity, the use of air strikes and widespread destruction. On 3 and 4 July, an Israeli security forces incursion into Jenin camp resulted in 12 Palestinian fatalities, hundreds of injuries and widespread destruction of infrastructure, severely impacting over 20,000 camp residents. Several UNRWA installations, including schools, sustained damage and one building in the health centre was destroyed. After 7 October, Israeli security forces incursions into refugee camps increased in frequency, size and duration, in particular in the northern West Bank camps of Jenin, Nur Shams, Tulkarm, Balata and Askar. These incursions also negatively impacted service delivery; for example, in Jenin camp, 24 school days were lost in the second half of 2023 due to the security situation.
- 16. In 2023, 1,227 incidents involving Israeli settlers (with or without the involvement of the Israeli security forces) were recorded across the West Bank – the highest number since record-keeping began in 2006.
- 17. Across the West Bank, Israeli restrictions on movement, including earth mounds, flying checkpoints, road gates and increased restrictions that separated communities

⁷³ General Assembly, 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.

from main roads and places of work, severely impacted the ability of UNRWA to deliver its services. That included the inability of over 470 area staff to access East Jerusalem-based duty stations, including the West Bank Field Office and the headquarters, after 7 October.

- 64. The freedom of movement of UNRWA personnel in the occupied Palestinian territory, including East Jerusalem, continued to be restricted by the Israeli authorities on security grounds and increased significantly following 7 October 2023. Restrictions included: (a) the prohibition of Agency area staff not resident in Jerusalem from travelling in United Nations vehicles across the Erez crossing (into and out of Gaza) and the Allenby Bridge (into and out of Jordan), or from driving in Israel and East Jerusalem; and (b) time-consuming and cumbersome procedures to obtain permits for area staff not resident in Jerusalem to enter Israel and East Jerusalem. Following 7 October 2023, Israel announced a closure of Israel and East Jerusalem for Palestinians resident in the West Bank (excluding East Jerusalem), and no permits for area staff were issued thereafter. UNRWA applied for permits, where required, for area staff to enter East Jerusalem to carry out the Agency's mandated operations and without prejudice to relevant United Nations resolutions, including resolutions relating to the status of Jerusalem. The Israeli authorities maintained that the restrictions were necessary for security reasons.

- 69. In Gaza, at least 135 Agency personnel were killed between 7 October and 31 December 2023. Staff movement across the Strip and access were severely restricted from 7 October 2023 onwards due to the intensity of hostilities between Israel and Hamas. On 13 October 2023, Israel issued an order for UNRWA to evacuate from its headquarters location in northern Gaza, and the Agency relocated its central operations to Rafah. Since then, the Agency's access to northern Gaza has required coordination with the Israeli authorities. Beginning in November 2023, access from Rafah to the north and, subsequently, other areas in the centre or south of Gaza, has been controlled through the establishment of Israeli military checkpoints, which has resulted in numerous denials of UNRWA humanitarian missions that require the crossing of those checkpoints. It has also resulted in five detentions of UNRWA staff and contractors and numerous other access-related incidents. [...]

- 79. The Israeli authorities continued to impose heavy restrictions on UNRWA shipments entering Gaza. Prior to 7 October 2023, Agency imports through Egypt were not allowed and Israel restricted the entry of UNRWA personnel and vehicles to the Erez crossing in the north of Gaza. For all other items entering Gaza, such as food, construction materials and medical devices, the Agency was required to use the Kerem Shalom crossing near the Egyptian border, entailing increased transportation costs. Karni crossing (in the middle of Gaza) remained closed. As previously reported, UNRWA continued to pay transit charges on shipments entering Gaza, obliging UNRWA to pay an estimated \$0.76 million up to the beginning of October 2023, which the Agency considers to be a direct tax, from which it is exempt under the Convention on the Privileges and Immunities of the United Nations. In the view of Israel, the charges are a fee for service, from which there is no exemption.
- 80. Until 7 October 2023, in order to import materials required for its construction projects in Gaza, the Agency continued to meet laborious and time-consuming approval, monitoring and coordination requirements introduced by the Israeli authorities due to the blockade imposed on Gaza. Cumbersome clearance procedures and frequent processing delays related to import requests for construction materials and equipment, some of which Israel classifies as dual-use items, continued to negatively affect UNRWA operations prior to 7 October 2023.
- 81. Following 7 October, severe restrictions were imposed on goods entering Gaza, with commercial goods completely prohibited. At the end of the reporting period, goods entering Gaza through Rafah crossing (since 21 October 2023) and Kerem Shalom crossing (since 17 December 2023) were subject to complex screening processes, adding to the working time of Agency personnel and preventing the timely delivery of aid at scale. Egypt has been the logistics lifeline for Gaza since October 21, 2023. The vast bulk of the life-sustaining aid has come through Bur Sa'id to Arish and eventually into Gaza. This complex and difficult endeavour was successful thanks to a positive partnership between the United Nations, the Government of Egypt and the Egyptian Red Crescent. Severe limitations, without clear definition, placed by the Israeli authorities on the entry of items into Gaza, including on communications equipment, satellite vehicle tracking systems, very high frequency devices, cables and armoured vehicles, further affected the coordination and distribution of assistance and impeded the Agency's ability to deliver on its mandate in Gaza.

89. The latest measures taken by Israel against UNRWA include enacting, on 28 October 2024, the Law to Cease UNRWA Operations and the Law to Cease UNRWA Operations in the Territory of the State of Israel.⁷⁴ The Law to Cease UNRWA Operations provided for the expiry of the Exchange of Letters concluded between Israel and UNRWA on 14 June 1967, and prohibits Israeli government authorities from establishing any contact with UNRWA. The law also allows for criminal proceedings against UNRWA employees.⁷⁵

90. The Law to Cease UNRWA operations in the territory of the State of Israel prevents UNRWA operations through any representative office, services or activities, directly or indirectly, “within the sovereign territory of the State of Israel”.⁷⁶

91. Furthermore, in a letter dated 24 January, 2025 from the Permanent Representative of Israel to the Secretary General, Israel requested UNRWA to “cease its operations in Jerusalem, and evacuate all premises in which it operates in the city, no later than 30 January 2025.” This request was issued “[i]n accordance with applicable Israeli law, including the said legislation” and included notices to UNRWA to evacuate properties in the neighborhoods of Maalot Dafna and Kfar Aqueb.⁷⁷ This amounts to an extension of Israeli law into occupied East Jerusalem, and a measure to further Israel’s annexation policy by considering East Jerusalem part of the “sovereign territory of the State of Israel”, which was already deemed by this Court to be contrary to international law.

92. In addition, according to the Secretary General, “[t]hese laws, if implemented, could prevent UNRWA from continuing its essential work in the Occupied Palestinian Territory, including East Jerusalem, as mandated by the General Assembly. The cessation of or restrictions on UNRWA activities in the Occupied Palestinian Territory would have devastating consequences for Palestine refugees, considering that there is currently no realistic alternative to UNRWA which could adequately provide the services and assistance required.”⁷⁸

⁷⁴ For an unofficial translation of these laws, *see*: Secretary General Identical letters dated 9 December 2024 from the Secretary-General addressed to the President of the General Assembly and the President of the Security Council, A/79/684 - S/2024/892, Dec. 9, 2024.

⁷⁵ Identical Letters of the United Nations Secretary General addressed to the President of the General Assembly and President of the Security Council, 9 December 2024; UN Doc. A/79/684, UN Doc. S/2024/892

⁷⁶ *Id.*

⁷⁷ Letter from Permanent Representative of Israel to the United Nations to the Secretary General of the UN on 24 January 2025

⁷⁸ *Id.*

93. In conclusion, the facts outlined in this section demonstrate the following: First, UNRWA is indispensable to the population of the Occupied Palestinian Territory, including East Jerusalem and provides essential public services and quasi-governmental functions in addition to humanitarian relief and assistance. Second, UNRWA's establishment and mandate are inextricably linked to the right of return of Palestine refugees and, therefore, UNRWA's continued operation is crucial to preserving the right of return of Palestine refugees.

94. Third, Israel has engaged in a purposeful and consistent policy of impeding UNRWA's operations in the Occupied Palestinian Territory, including East Jerusalem. This policy was executed through various practices, including attacks against UNRWA personnel and premises, forced entry and incursions into UNRWA facilities, preventing UNRWA personnel from entering the Occupied Palestinian Territory, restrictions on the movement of UNRWA personnel throughout the Occupied Palestinian Territory, and failing to protect UNRWA personnel and premises from attacks by Israeli settlers, in addition to preventing UNRWA from transporting humanitarian relief into the Occupied Palestinian Territory.

95. Fourth, Israel's Law to Cease UNRWA Operations and the Law to Cease UNRWA Operations in the Territory of the State of Israel impede UNRWA humanitarian, development, and public service operations conducted for the benefit of Palestinians in the OPT, and further Israel's policy of annexation of East Jerusalem in violation of international law.

(b) The International Legal Obligations of Israel, as an Occupying Power and as a Member of the United Nations, in relation to the Presence and Activities of UNRWA in the Occupied Palestinian Territory

96. Egypt submits that, as an occupying power and as a member of the United Nations, Israel's policy of impeding UNRWA's operations in the Occupied Palestinian Territory is unlawful. As noted in the introduction to the present Chapter, this submission is based on the following grounds:

- i. The illegality of Israel's continued presence in the Occupied Palestinian Territory.
- ii. Israel's obligation not to deprive the Palestinian people of their right to self-determination.
- iii. Israel's obligations in relation to the presence and activities of UNRWA in the Occupied Palestinian Territory arising from the Charter of the United Nations

- iv. Israel's obligations under the rules of international law relating to the privileges and immunities of UNRWA as a subsidiary organ of the United Nations, which principally arise from the 1946 Convention on the Privileges and Immunities of the United Nations.
 - v. Israel's obligations under the law of armed conflict and international human rights law (discussed in Chapter VI).
- i. The Illegality of Israel's Continued Presence in the Occupied Palestinian Territory*

97. In its Advisory Opinion of July 19, 2024 on the *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem* the Court determined that the policies and practices associated with Israel's illegal presence in the Occupied Palestinian Territory "manifest an intention to create a permanent and irreversible Israeli presence in the Occupied Palestinian Territory."⁷⁹ The Court also stated the following:

254. Israel's assertion of sovereignty over and its annexation of certain parts of the territory constitute, as shown above, a violation of the prohibition of the acquisition of territory by force [...] The Court considers 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. Nor can Israel's security concerns override the principle of the prohibition of the acquisition of territory by force.⁸⁰

98. Building on the Court's Advisory Opinion, in resolution ES-10/24 the General Assembly affirmed that the following Israeli policies and practices in the Occupied Palestinian Territory are unlawful:

- The extension of Israeli law to occupied territory.
- The proclamation of Jerusalem as Israel's capital.

⁷⁹ International Court of Justice, *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*, Advisory Opinion, July 19, 2024, ¶ 252.

⁸⁰ International Court of Justice, *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*, Advisory Opinion, July 19, 2024, ¶ 254.

- The comprehensive application of Israeli domestic law in East Jerusalem and its extensive application in the West Bank.
- The forced displacement of Palestinians and strict restrictions on their movement, which violates the integrity of the Occupied Palestinian Territory, undermined the integrity of the Palestinian people and the protection against acts aimed at dispersing it.
- Any actions that reduce the territory of the Gaza Strip, which constitutes an integral part of the Occupied Palestinian Territory
- Israel, as the occupying Power, has the obligation not to impede the Palestinian people from exercising its right to self-determination, including its right to an independent and sovereign State, over the entirety of the Occupied Palestinian Territory.⁸¹

99. Egypt views the adoption and implementation of the laws enacted by the Israeli Knesset on 28 October 2024 as amounting to an extension of Israeli law into the Occupied Palestinian Territory, including East Jerusalem, and an attempt by Israel to exercise of sovereign powers over the Occupied Palestinian Territory, including East Jerusalem. Israel's implementation of the "Law to Cease UNRWA operations in the territory of the State of Israel" in East Jerusalem purports to extend Israeli sovereignty over East Jerusalem by considering it part of the "sovereign territory of the State of Israel". This violates the principle of the prohibition of acquisition of territory through force, as already confirmed by this Court.

100. Accordingly, Egypt is of the view that this law should be deemed null and void. Egypt also submits that Israel is under an obligation to repeal this law and not to engage in any legislative or administrative measures to advance its implementation.

101. In addition, Israel's "Law to Cease UNRWA Operations" impedes UNRWA's presence and activities in the Occupied Palestinian Territory, including East Jerusalem. This presence is mandated by the UN General Assembly and intricately tied to the Palestinian people's right to self-determination and the right of return, which was recently reaffirmed by this Court by affirming Israel's obligation of restitution, including "allowing all Palestinians displaced during the occupation to return to their original place of residence".⁸²

⁸¹ General Assembly, Tenth Emergency Special Session UN Doc. A/RES/ES-10/24

⁸² See Advisory Opinion on the Policies and Practices of Israel in the Occupied Palestinian Territory, Including East Jerusalem, para 270.

102. This view was recently reconfirmed by the UN. On 18 February 2025, the UN Office of Legal Affairs directed a Note Verbale to the Permanent Mission of Israel to the UN on Israel’s international legal obligations in relation to the premises operated by UNRWA in occupied East Jerusalem. This Note Verbale reaffirmed that the adoption and implementation of the aforementioned Israeli legislation is unlawful. It notes 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,” and that accordingly “[t]he implementation of the referenced legislation and the requirements imposed on that basis in the Occupied Palestinian Territory, including East Jerusalem, are therefore inconsistent with Israel’s obligations under international law.”⁸³

ii. Israel’s Obligation not to Deprive the Palestinian People of their Right to Self-Determination

103. General Assembly resolution 302 (IV) and subsequent General Assembly resolutions that renewed mandate and expanded its role in the Occupied Palestinian Territory, including East Jerusalem, indicate that the General Assembly recognizes that, in addition to being an indispensable humanitarian relief agency, UNRWA’s role is essential to preserving right of return of Palestine refugees. This is expressed by the reference in General Assembly resolution 302 (IV) to paragraph 11 of General Assembly resolution 194 (III), and the numerous reaffirmations of this paragraph in subsequent resolutions.

104. Ensuring UNRWA’s continued existence and facilitating its operations should, therefore, be viewed as part of the fulfilment of the responsibility incumbent on the United Nations, and the broader international community, to uphold and preserve the ability of Palestine refugees to exercise their right of return.

105. Moreover, the right of return of Palestine refugees is intrinsically related to the inalienable right to self-determination of the Palestinian people. The right to self-determination, which is a peremptory norm of international law,⁸⁴ is predicated on two core elements: first, the existence of a people entitled to “freely determine their political status and freely pursue their

⁸³ United Nations, Office of Legal Affairs, Note Verbale Reference: 2024-OLC-000675, dated 18 February 2025.

⁸⁴ ILC, ‘Draft Conclusions on Identification and Legal Consequences of Peremptory Norms of General International Law (Jus Cogens), with commentaries’ (A/77/10 of 2022), p. 88.

economic, social and cultural development;”⁸⁵ and second, the existence of a specific territory in relation to which a peoples can exercise their right to self-determination.⁸⁶

106. Israel’s obstruction of UNRWA’s operations and provision of public services further drives Palestinian displacement and dispossession from their lands. Conduct that alters the demographic composition of a territory subjected to foreign occupation, such as the Occupied Palestinian Territory, including East Jerusalem, violates the right to self-determination of the peoples of the territory in question. Therefore, policies or practices designed to deny the Palestinian people access to their territories or to remove the Palestinian people from the Occupied Palestinian Territory, including East Jerusalem, such as resettling Palestine refugees in third States, or forcibly deporting or transferring the population of the Occupied Palestinian Territory, including East Jerusalem, to third States, violates both the right of return and the inalienable right of the Palestinian people to self-determination.

107. The General Assembly has affirmed that preserving the right of return is essential to enabling the Palestinian people to exercise their right to self-determination.⁸⁷ Moreover, in its Advisory Opinion on the *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*, the Court recognized that “by virtue of the right to self-determination, a people is protected against acts aimed at dispersing the population and undermining its integrity as a people.”⁸⁸ The Court also noted that measures that “contributed to the departure of Palestinian populations from certain areas, thus risking alterations to the demographic composition of the Occupied Palestinian Territory”

⁸⁵ International Covenant on Civil and Political Rights, article 1; International Covenant on Economic, Social, and Cultural Rights, article 1.

⁸⁶ See ‘Report of the Special Rapporteur of the Commission on Human Rights, John Dugard, on the situation of human rights in the Palestinian territories occupied by Israel since 1967, submitted in accordance with Commission resolution 1993/2 A’ (E/CN.4/2004/6 of September 2003), para. 15: “[t]he right to self-determination is closely linked to the notion of territorial sovereignty. A people can only exercise the right of self-determination within a territory.” See also Cherif Bassiouni, *Self-Determination and the Palestinians* 65 *American Journal of International Law* 31, 34 (1971): “[i]n the abstract, people determine their goals regardless of geographic limitations; however, realistically, it is exercisable only when it can be actuated within a given territory susceptible of acquiring the characteristics of sovereignty, which is a prerequisite for acquiring membership in the community of nations.”

⁸⁷ General Assembly resolution 3089 D (XXVIII), Dec. 7, 1973 - United Nations Relief and Works Agency for Palestine Refugees in the Near East stated:

[T]he enjoyment by the Palestine Arab refugees of their right to return to their homes and property, recognized by the General Assembly in resolution 194 (III) of 11 December 1948, which has been repeatedly reaffirmed by the Assembly since that date, is indispensable for the achievement of a just settlement of the refugee problem and for the exercise by the people of Palestine of its right to self-determination.

⁸⁸ International Court of Justice, *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*, Advisory Opinion, July 19, 2024, ¶ 239.

would have “severely impeded the exercise by the Palestinian people of its right to self-determination”⁸⁹

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

109. Accordingly, Egypt submits that, based on its “obligation to respect the right of the Palestinian people to self-determination,”⁹⁰ Israel is under an obligation not to prevent, impede, or otherwise restrict the presence and activities of UNRWA in or in relation to the Occupied Palestinian Territory, including East Jerusalem.

iii. Israel’s Obligations in Relation to the Presence and Activities of UNRWA in the OPT arising from the Charter of the United Nations

110. Articles 2(5), 100, 103, 104, and 105 of the Charter of the United Nations establish obligations on Israel in relation to the presence and activities of UNRWA in the Occupied Palestinian Territory. These obligations include the duty to cooperate with UNRWA and facilitate its activities, and the duty to uphold and respect the privileges and immunities that UNRWA is entitled to as a subsidiary organ of the United Nations.

111. Article 2(5) of the United Nations Charter establishes a “general obligation to collaborate with the organization in the fulfilment of its actions.”⁹¹ As a subsidiary organ of the United Nations, the activities of UNRWA in the Occupied Palestinian Territory are an “action” taken by the United Nations “in accordance with the present Charter” within the meaning of article 2(5) of the Charter.

112. In its Advisory Opinion on *Reparation for Injuries Suffered in the Service of the United Nations*, the Court stated the following:

⁸⁹ *Id.*

⁹⁰ *Id.*, ¶ 272.

⁹¹ Pierre d’Argent, Nadine Susani, United Nations, Purposes and Principles, Max Planck Encyclopedia of Public International Law.

[T]he Organization may find it necessary, and has in fact found it necessary, to entrust its agents with important missions to be performed in disturbed parts of the world [...] For this purpose, the Members of the Organization have entered into certain undertakings, some of which are in the Charter and others in complementary agreements. The content of these undertakings need not be described here; but the Court must stress the importance of the duty to render to the Organization “every assistance” which is accepted by the Members in Article 2, paragraph 5, of the Charter.⁹²

113. Similarly, in his letter dated 9 December 2024, the Secretary General noted the following on Israel’s obligations under article 2(5) of the Charter in relation to UNRWA:

I would like to further recall that, as a Member of the United Nations, Israel continues to be required, pursuant to Article 2, paragraph 5, of the Charter of the United Nations, to give UNRWA every assistance in any action it takes in accordance with the relevant decisions of the competent principal organs adopted pursuant to the provisions of the Charter, including General Assembly resolution 302 (IV) and subsequent General Assembly resolutions renewing UNRWA’s mandate.⁹³

114. Egypt is of the view that article 2(5) of the Charter constitutes a legal undertaking such as that referred to by the Court in its Advisory Opinion on *Reparation for Injuries Suffered in the Service of the United Nations*. This undertaking generates both negative and positive obligations on Israel.⁹⁴ The former includes Israel’s duty not to prevent, impede, or otherwise restrict the activities of UNRWA in the Occupied Palestinian Territory, including East Jerusalem. The positive obligation, which is encapsulated in the phrase “give the United Nations every assistance in any action,” requires Israel to actively facilitate the presence and activities of UNRWA in the Occupied Palestinian Territory, including East Jerusalem, and to assist UNRWA in the execution of its mandate.

⁹² International Court of Justice, *Reparation for Injuries Suffered in the Service of the United Nations*, Advisory Opinion, April 11, 1949, page 13.

⁹³ Letter of the Secretary General, dated December 9, 2024.

⁹⁴ Helmut Aust, Article 2(5), in *The Charter of the United Nations: A Commentary*, p. 236, (Bruno Simma et. al. eds. 3rd edition).

115. Israel is also under an obligation to respect the privileges and immunities enjoyed by UNRWA, which arise from article 105 of the Charter and the 1946 Convention on the Privileges and Immunities of the United Nations [hereinafter “the General Convention”].⁹⁵

116. Article 105(1) of the Charter of the United Nations states that “[t]he Organization shall enjoy in the territory of each of its Members such privileges and immunities as are necessary for the fulfilment of its purposes.”⁹⁶ Subsidiary organs of the United Nations, such as UNRWA, are covered by the term “organization” as it is used in article 2(5). Accordingly, Israel is under an obligation to accord UNRWA the full privileges and immunities enjoyed by the United Nations. The exact content of these privileges and immunities is established under the General Convention,⁹⁷ which is discussed below.

117. The applicability of Israel’s obligation to uphold the privileges and immunities of UNRWA is not dependent on the conclusion or continued validity of any special agreements or arrangements that Israel may have entered into with the United Nations. This view is consistent with the position of the United Nations. As the Office of Legal Affairs of the United Nations noted:

UNDP is entitled to the privileges and immunities of the United Nations by virtue of its status as a subsidiary body of the Organization, and this entitlement, therefore, subsists with respect to all Governments, whether or not they have entered into a basic agreement with UNDP stipulating that the Convention on the Privileges and Immunities of the United Nations shall apply to UNDP.⁹⁸

118. This view expressed by the Office of Legal Affairs on privileges and immunities of UNDP, including those arising from both the Charter of the United Nations and the General

⁹⁵ Convention on the Privileges and Immunities of the United Nations, New York, 13 February 1946; UNTS, Vol. 1, p. 15, and Vol. 90, p. 327.

The State of Israel acceded to the General Convention on September 21, 1949.

⁹⁶ Article 105, Charter of the United Nations.

⁹⁷ A legal opinion by the Secretariat of the United Nations dated July 23, 1990, stated: “In order to facilitate the fulfilment of this mandate, the Organization enjoys privileges and immunities as *stated in Article 105 of the Charter and specified* in the 1946 Convention on the Privileges and Immunities of the United Nations.” [emphasis added] *Quoted in*: Advisability of the United Nations Entering Into A Profit-Making Joint Venture With A Private Publishing Firm — Purpose Of The Current Commercially Oriented Activities Of The United Nations — Participation In A Profit-Oriented Commercial Joint Venture Could Put The Status And Character Of The Organization In Question, Legal Opinion Issued by the Office of Legal Affairs. United Nations Juridical Yearbook 1990, page 258.

⁹⁸ The Practice of the United Nations, the Specialized Agencies and the International Atomic Energy Agency concerning their Status, Privileges and Immunities, *Supplementary study prepared by the Secretariat*, UN Doc. A/CN.4/SER.A/1985/Add.1(Part1/Add.1), page 152.

Convention, applies to UNRWA. Accordingly, Israel’s decision to unilaterally rescind the Exchange of Letters Constituting a Provisional Agreement concerning Assistance to Palestine Refugees dated 14 June 1967 does not affect Israel’s established obligation to respect and uphold the privileges and immunities of UNRWA as a subsidiary organ of the United Nations.

119. Articles 100 and 104 of the United Nations Charter complement articles 2(5) and 105. These provisions protect what the Court called “the independent action of the Organization itself.”⁹⁹ Pursuant to article 100, States must “respect the exclusively international character of the responsibilities of the Secretary-General and the staff and not to seek to influence them in the discharge of their duties.”¹⁰⁰ This obligation reinforces the duty to respect the privileges and immunities of the United Nations, its organs, agencies, and staff members. Similarly, pursuant to article 104, the United Nations enjoys, within the territory of member States, “such legal capacity as may be necessary for the exercise of its functions and the fulfilment of its purposes.”¹⁰¹ As discussed below, the General Convention provides further content to the general obligations contained in articles 100 and 104.

120. Pursuant to article 103 of the Charter of the United Nations, the obligations enshrined in articles 2(5), 100, 104, and 105 prevail over other obligations arising from other international agreements to which Israel is a party.¹⁰² Accordingly, under article 103 of the United Nations Charter, Israel’s obligation to respect the privileges and immunities of UNRWA must prevail over any other obligations arising from other international agreements or other principles of international law.¹⁰³

121. Accordingly, Egypt submits the following:

- The adoption by the Knesset of Israel, on October 28, 2024, of the Law to Cease UNRWA Operations and the Law to Cease UNRWA Operations in the Territory of the State of Israel

⁹⁹ International Court of Justice, *Reparation for Injuries Suffered in the Service of the United Nations*, Advisory Opinion, April 11, 1949, page 13.

¹⁰⁰ UN Charter, article 100.

¹⁰¹ UN Charter, article 104.

¹⁰² Article 103 of the Charter stipulates that “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.”

¹⁰³ In its report on the fragmentation of international law, the International Law Commission observed: “It therefore seems sound to join the prevailing opinion that Article 103 should be read extensively, so as to affirm that Charter obligations also prevail over the customary law obligations of United Nations Member States.” Report of the Study Group of the International Law Commission on Fragmentation Of International Law: Difficulties Arising From The Diversification And Expansion Of International Law, UN Doc. A/CN.4/L.682, ¶¶ 345.

is inconsistent with Israel's obligations under articles 2(5), 100, 104, and 105 of the Charter of the United Nations.

- The request communicated by the Permanent Representative of the State of Israel to the United Nations to the Secretary General on 24 January 2025 for UNRWA to vacate two properties located in occupied East Jerusalem is inconsistent with Israel's obligations under articles 2(5), 100, 104, and 105 of the Charter of the United Nations.
- Under articles 2(5), 100, and 104 of the Charter of the United Nations, Israel is under an obligation to facilitate UNRWA's operations in the Occupied Palestinian Territory, including East Jerusalem.
- The aforementioned obligations prevail over other obligations incumbent on Israel arising under other international agreements or other principles of international law that may be applicable to Israel in relation to the Occupied Palestinian Territory, including East Jerusalem.

iv. Israel's obligation to uphold the privileges and immunities of UNRWA arising the Convention on the Privileges and Immunities of the United Nations

122. The following provisions of the General Convention are especially relevant to the present proceedings:

Article II: Property, Funds and Assets

Section 2. The United Nations, its property and assets wherever located and by whomsoever held, shall enjoy immunity from every form of legal process except insofar as in any particular case it has expressly waived its immunity. It is, however, understood that no waiver of immunity shall extend to any measure of execution.

Section 3. 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.¹⁰⁴

¹⁰⁴ The General Convention, Article II.

123. The Secretary General has affirmed that Israel is under an obligation to accord the privileges and immunities codified in the General Convention to UNRWA. In a letter dated 27 January 2025 sent to the Permanent Representative of Israel, the Secretary General stated:

Israel continues to be under an obligation to accord to UNRWA all the privileges and immunities, and facilities, including those set out in the Convention on the Privileges and Immunities of the United Nations (the “General Convention”), and action on the part of Israel is necessary to facilitate, rather than hinder, UNRWA’s operations in the Occupied Palestinian Territory.

These privileges and immunities include immunity of UNRWA from every form of legal process, the inviolability of UNRWA premises and archives, UNRWA’s right to maintain its assets, the immunity of UNRWA personnel from legal process, and the free movement of UNRWA personnel in the Occupied Palestinian Territory.

In particular, this includes the critical obligations of Israel to respect the absolute inviolability of all United Nations premises, including those of UNRWA, at all times. I also wish to emphasize that the properties referenced in your letter remain the property and assets of the United Nations and that Israel has an obligation to ensure that their inviolability is protected and that they are immune from any form of interference.¹⁰⁵

124. Domestic caselaw from United Nations member States in which UNRWA operates and from Israeli courts has affirmed that, as a subsidiary organ of the United Nations, UNRWA is entitled to the privileges and immunities codified in the General Convention.¹⁰⁶ In this regard, the United Nations and the domestic courts of many member States have also affirmed that the phrase “from every form of legal process” in Article II, Section 2 indicates that the United Nations and its subsidiary organs enjoy absolute immunity.¹⁰⁷ Israeli courts have upheld the principle of the absolute immunity of UNRWA.¹⁰⁸

¹⁰⁵ Letter of the Secretary General, dated January 27, 2025.

¹⁰⁶ August Reinisch, *Immunity of Property, Funds, and Assets*, (Article II Section 2, General Convention), in *The Conventions on the Privileges and Immunities of the United Nations and its Specialized Agencies*, page 81 (August Reinisch ed. OUP 2016).

¹⁰⁷ *Id.*, 86-89.

¹⁰⁸ *See for example* Yacoub Ayoub v. UNRWA, Regional Labour Court of Jerusalem, Case 24931-12-11, Jan. 24, 2013.

125. As a subsidiary organ of the United Nations, the absolute immunity enjoyed by UNRWA covers legislative, adjudicatory, and enforcement jurisdiction of United Nations Member States. This understanding of the phrase “from every legal process” was confirmed by the United Nations Secretariat, which observed that “[t]hese words have been broadly interpreted to include every form of legal process before national authorities, whether judicial, administrative, or executive functions according to national law.”¹⁰⁹ Israeli courts have upheld this position.¹¹⁰

126. The phrase “wherever located and by whomsoever held” in Article II, Section 2 of the General Convention has been interpreted to mean that, regardless of their actual location or possession, the movable and immovable property and assets, including bank accounts, of the United Nations enjoy also absolute immunity.¹¹¹

127. In addition to being under an obligation to respect the absolute immunity of UNRWA from legislative, adjudicatory, and enforcement jurisdiction, Israel is duty-bound to ensure that its domestic law recognizes and gives effect to UNRWA’s absolute immunity. This is reflective of the obligation in Section 34 of the General Convention that states the following: “It is understood that, when an instrument of accession is deposited on behalf of any Member, the Member will be in a position under its own law to give effect to the terms of this convention.”¹¹²

128. Article II, Section 3 relates to the inviolability of United Nations premises, property, and assets. The phrase “inviolable” in article II, Section 3 generates negative and positive obligations. The former includes an obligation on member States of the United Nations to ensure that their agents do not enter, act against, threaten, or disturb United Nations premises, property, or assets, while the latter includes an obligation to protect United Nations premises against third parties that may enter, act against, threaten, or disturb United Nations premises. In other words, Article II, Section 3 provides a general protection against any and all forms of

¹⁰⁹ The Practice of the United Nations, the Specialized Agencies and the International Atomic Energy Agency concerning their Status, Privileges and Immunities, Part Two: The Organizations - *Study prepared by the Secretariat*, UN Doc. A/CN.4/L.118/Add.1, page 55

¹¹⁰ An Israeli District Court stated that “the United Nations is immune against any ‘legal action’, including execution of judgment. The State of Israel is a party to the Convention and is bound to act in accordance with the provisions of it and to respect the status of the United Nations, and therefore, it is not possible to institute execution proceedings against the United Nations in the State of Israel” *See Mahalwas v United Nations Truce Supervision Organization and Attorney General (intervening)*, Appeal Decision, PLA 3093/07, ILDC 1070 (IL, District Court, 2007). *Quoted in* August Reinisch, *Immunity of Property, Funds, and Assets*, page 85.

¹¹¹ August Reinisch, *Immunity of Property, Funds, and Assets*, page 84.

¹¹² Convention on Privileges and Immunities, Final Article, Section 34.

interference with the operation of United Nations premises, property, or assets. This understanding of the scope and content of the inviolability of UN premises was confirmed by the United Nations Secretariat in a study in which it observed the following:

26. The inviolability of United Nations premises and of areas under United Nations control ... has been expressly provided for in the pertinent international agreements. The principle laid down, that United Nations premises may not be entered and that the United Nations must itself be permitted to control activities occurring on those premises unless it requests the local authorities to intervene, has in general been well observed.

32. The obligation imposed on host authorities to respect the inviolability of United Nations premises extends, firstly, to the possibility of direct interference through the acts of public officials. It also includes, however, the obligation of the host authorities to take reasonable steps to ensure that the inviolability of United Nations premises is respected by private individuals [...] it may be generally expressed as an obligation to allow the United Nations to perform its allotted functions without improper interference or interruption which, whilst not in itself an immediate violation of United Nations premises, may nevertheless achieve an effect within those premises. *Ex hypothesi*, the obligation in respect of private acts extends to the prevention of actual attacks on or unauthorized entry into United Nations premises on the part of private individuals, where such actions could and ought reasonably to have been foreseen by the authorities concerned.¹¹³

129. The Note Verbale dated 18 February 2025 sent to the Permanent Mission of Israel from the UN Office of Legal Affairs that relates to the premises operated by UNRWA in occupied East Jerusalem is relevant in this context. It confirms that the privileges and immunities enjoyed by UN agencies and bodies, including UNRWA, are absolute and applicable at all times. It also states:

The Office of Legal Affairs notes that UNRWA properties, including those located in occupied East Jerusalem, such as the Kalandia Training Centre and its schools in Sur Baher, Silwan and Wadi al-Joz, constitute

¹¹³ The Practice of the United Nations, the Specialized Agencies and the International Atomic Energy Agency concerning their Status, Privileges and Immunities, Part Two: The Organizations - *Study prepared by the Secretariat*, UN Doc. A/CN.4/L.118/Add.1, page 63, 66

property and assets of the United Nations in the sense of Article II, Section 3, of the General Convention and, as such, they are inviolable. Israel therefore has an obligation to ensure these UNRWA properties are immune from search, requisition, confiscation, expropriation and any other form of interference, whether by executive, administrative, judicial or legislative action.

In light of the foregoing, the actions taken by the authorities of Israel with respect to the Kalandia Training Centre and the schools in Sur Baher, Silwan and Wadi al-Joz, specifically, the entry into the premises without UNRWA's consent, demands to enter the premises, the orders to evacuate, to close and to handover the premises, the deploying of tear gas and sound bombs in the proximity of United Nations personnel and premises, and the disruption caused to UNRWA's mandated activities, are a violation of Israel's obligations under the General Convention to respect the inviolability of those premises and assets of the United Nations from any form of interference. The disruption caused to students and the interruption of their educational activities are also inconsistent with other obligations of Israel under international law.¹¹⁴

130. Egypt supports this view expressed by the Office of Legal Affairs, and submits that Israel is under an obligation to respect the absolute immunity and inviolability of all UNRWA facilities and premises in occupied East Jerusalem, and throughout the Occupied Palestinian Territory.

131. The inviolability of United Nations premises, property, or assets under the General Convention continues to apply during armed conflicts. As a legal opinion issued by the Office of Legal Affairs of the United Nations and dated July 11, 2003 explained:

The [General] Convention does not contain anything to the effect that the privileges and immunities for which it provides are subject to abridgement or qualification in times of internal unrest or even in times of armed conflict. Indeed, it has been the consistent position of the Organization that the General Convention

¹¹⁴ United Nations, Office of Legal Affairs, Note Verbale Reference: 2024-OLC-000675, dated 18 February 2025.

applies in such circumstances just as much as it does in times of peace and that the privileges and immunities for which it provides may not be qualified or overridden by any demands of military expediency or security.¹¹⁵

132. This view was reaffirmed by the Secretary General in circumstances that are especially relevant to the present proceedings. On May 4, 2009, the Secretary General addressed a letter to the President of the Security Council that released a summary of the report of the United Nations Headquarters Board of Inquiry established to review nine incidents that affected United Nations personnel, premises and operations during the conflict in the Gaza Strip during the period December 27, 2008-January 19, 2009. The report stated:

91. The Board recalled that United Nations premises were inviolable. That inviolability, it noted, could not be set aside by any Member State on the grounds that, in the special circumstances of hostilities, it must be qualified or overridden by demands of military expediency. The Board also recalled that the property and assets of the United Nations were immune from any form of interference and that that immunity also could not be overridden by such demands.¹¹⁶

133. On December 10, 2009, the General Assembly adopted resolution 64/89 titled Operations of the United Nations Relief and Works Agency for Palestine Refugees in the Near East that addressed the effects of the conflict in the Gaza Strip during the period December 27, 2008-January 19, 2009. In this resolution, the General Assembly stated the following:

Deploring the extensive damage and destruction of Agency facilities in the Gaza Strip caused during the military operations between December 2008 and January 2009, including to schools where civilians were sheltered and the Agency's main compound and warehouse, as reported in the summary by the Secretary-General of the report of the Board of Inquiry and in the report of the United Nations Fact-finding Mission on the Gaza Conflict,

¹¹⁵ United Nations Assistance Mission in Afghanistan (UNAMA)—Searches of United Nations vehicles—“Search” of or “interference” with property or an asset of the United Nations—Cooperation with the appropriate authorities—Article II, section 3, and article V, section 21, of the Convention on the Privileges and Immunities of the United Nations, 1946—*Mutatis mutandis* application of the Convention on the Privileges and Immunities of the Specialized Agencies, 1947—Effects of armed conflict on treaties, United Nations Juridical Yearbook 2003, page 521, paragraph 11.

¹¹⁶ Letter dated 4 May 2009 from the Secretary-General addressed to the President of the Security Council, Transmits summary of the report of the UN Headquarters Board of Inquiry into certain incidents in the Gaza Strip between 27 Dec. 2008 and 19 Jan. 2009. UN Doc. S/2009/250

Deploring also, in this regard, the breaches of the inviolability of United Nations premises, the failure to accord the property and assets of the Organization immunity from any form of interference and the failure to protect United Nations personnel, premises and property,

15. *Also calls upon* Israel to abide by Articles 100, 104 and 105 of 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 Agency, the protection of its institutions and the safeguarding of the security of its facilities in the Occupied Palestinian Territory, including East Jerusalem;¹¹⁷

134. Similarly, following the conflict in Gaza in July and August 2014, the General Assembly adopted resolution 69/88 that stated the following:

Recalling Articles 100, 104 and 105 of the Charter of the United Nations and the Convention on the Privileges and Immunities of the United Nations,

Deploring also attacks affecting United Nations installations, including Agency schools sheltering displaced civilians, and all other breaches of the inviolability of United Nations premises during the conflict in the Gaza Strip in July and August 2014,

Deploring the endangerment of the safety of the Agency's staff and the damage and destruction caused to the facilities and properties of the Agency during the period covered by the report of the Commissioner-General, and stressing the need to maintain the neutrality of and safeguard the inviolability of United Nations premises, installations and equipment at all times,

Deploring also the breaches of the inviolability of United Nations premises, the failure to accord the property and assets of the Organization immunity from any form of interference and the failure to protect United Nations personnel, premises and property,

Deploring the killing and injury of Agency staff members by the Israeli occupying forces in the Occupied Palestinian Territory since September 2000, including the

¹¹⁷ UN General Assembly resolution A/RES/64/89

11 Agency personnel killed during the military operations in the Gaza Strip in July and August 2014,

17. *Also calls upon* Israel to abide by Articles 100, 104 and 105 of 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 Agency, the protection of its institutions and the safeguarding of the security of its facilities in the Occupied Palestinian Territory, including East Jerusalem, at all times,¹¹⁸

135. Other General Assembly resolutions and reports by other United Nations bodies have affirmed that Israel is under an obligation to respect the inviolability of UNRWA premises, property and assets, and that attacks by Israel against UNRWA facilities constitute violations of the inviolability of United Nations premises.¹¹⁹

136. Accordingly, Egypt submits that General Assembly resolutions, the views of the Secretary General, and the positions of the Office of Legal Affairs of the United Nations all reflect a consensus that Israel is under an obligation to respect the privileges and immunities accorded to UNRWA pursuant to the General Convention. This includes the absolute immunity of UNRWA from all forms of legal process and the absolute inviolability of its premises, property, or assets, including during of hostilities.¹²⁰

¹¹⁸ A/RES/69/88

¹¹⁹ *See for example:* General Assembly resolution 78/73, which stated:

Deploring the endangerment of the safety of the Agency's staff and the damage and destruction caused to the facilities and properties of the Agency, and stressing the need to maintain the neutrality and safeguard the inviolability of United Nations premises, installations and equipment at all times,

Deploring also the breaches of the inviolability of United Nations premises, the failure to accord the property and assets of the Organization immunity from any form of interference, incursions or misuse, the failure to protect United Nations personnel, premises and property and any disruption caused to Agency operations by such violations,

Deploring further all attacks affecting United Nations installations, including Agency schools sheltering displaced civilians, and all other breaches of the inviolability of United Nations premises, including during the conflict in the Gaza Strip in July and August 2014, as reported in the summary by the Secretary-General of the report of the Board of Inquiry[12] and by the independent commission of inquiry established pursuant to Human Rights Council resolution S-21/1,[13] and stressing the imperative of ensuring accountability,

See also: Report of the United Nations High Commissioner for Human Rights on the implementation of Human Rights Council resolution S-21/1 on ensuring respect for international law in the Occupied Palestinian Territory, including East Jerusalem, UN Doc. HRC/27/76, para 24, which stated: "[...] attacks on schools, including the UNRWA schools that were used as shelters for internally displaced persons, in breach of the inviolability of United Nations premises"

¹²⁰ As the Under-Secretary-General for Legal Affairs and United Nations Legal Counsel emphasized, "[n]o elements of practice or *opinio juris* support the idea that the inviolability of the United Nations ceases in times of armed conflict."¹²⁰ Available here:

<https://www.un.org/ola/sites/www.un.org.ola/files/documents/2024/04/mss-nyu-ihls-20032024.pdf>

137. It is noteworthy that in the report of the United Nations Headquarters Board of Inquiry established to investigate nine incidents that affected United Nations personnel, premises and operations during the conflict in the Gaza Strip during the period December 27, 2008-January 19, 2009 concluded the following:

38. [...] Israel had breached the inviolability of United Nations premises and/or failed to respect the immunity of the Agency's property and assets from interference. It noted that such inviolability and immunity could not be overridden by demands of military expediency, and found Israel responsible for the deaths, injuries and property damage caused by its actions. The Board could not establish responsibility for the other incident related to UNRWA. Following the Board's report, the United Nations engaged an independent loss adjuster to value the losses suffered by the United Nations in respect of those incidents for which the Board had found responsibility.

39. [...] the United Nations submitted to the Ministry of Foreign Affairs of Israel a claim for reimbursement for the losses that the United Nations had sustained in a number of incidents, including the above incidents relating to UNRWA. In January 2010, Israel made a payment of \$10.5 million to the United Nations, of which the United Nations remitted \$10.27 million to the Agency.¹²¹

138. Based on this assessment, "in January 2010 Israel made a payment of \$10.5 million to the United Nations, of which \$10.27 million were remitted to the Agency. On 15 November, the Israeli authorities approved import of construction materials for the reconstruction of the UNRWA warehouse located on the UNRWA Field Office compound in Gaza City. All other UNRWA buildings damaged during the incidents for which the Board had found responsibility were repaired as at the end of 2010."¹²²

139. In summary, on the basis of the rules of international law outlined in the present section, Egypt submits the following:

¹²¹ Report of the Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East 1 January-31 December 2009 UN Doc. A/65/13

¹²² Report of the Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East 1 January-31 December 2010 UN Doc. A/66/13

- Israel is under an obligation to respect the absolute immunity of UNRWA, which covers all legal processes, including legislative, adjudicatory, and enforcement jurisdiction.
- Israel is under an obligation to respect the absolute inviolability of UNRWA premises, property, and assets in the Occupied Palestinian Territory, including East Jerusalem.
- Israel is, therefore, under an obligation not to enter, act against, threaten, or disturb UNRWA premises, property, personnel, or assets in the Occupied Palestinian Territory, including East Jerusalem. Israel is also under an obligation to protect UNRWA premises, property, personnel and assets against any infringement by third parties on UNRWA's immunity and inviolability.
- Israel is under an obligation to ensure that its domestic law gives effect to UNRWA's absolute immunity and inviolability.
- Israel obligation to uphold absolute immunity and inviolability of UNRWA cannot be overridden by considerations of military necessity or expediency.
- The adoption, on 28 October 2024, by the Knesset of Israel, of the Law to Cease UNRWA Operations and the Law to Cease UNRWA Operations in the Territory of the State of Israel cannot be justified by considerations of military necessity or expediency.
- Israel is under an obligation to provide reparation, including compensation, to UNRWA for loss and damage suffered by the Agency and its personnel as a result of internationally wrongful acts attributable to Israel in relation to UNRWA's presence and activities in the Occupied Palestinian Territory, including East Jerusalem.

B. Israel's Obligations in Relation to the Presence and Activities of other United Nations Agencies and Bodies in the Occupied Palestinian Territory, including East Jerusalem

140. This section addresses Israel's obligations in relation to the presence and activities of other United Nations agencies and bodies in the Occupied Palestinian Territory, including East Jerusalem.

(a) Factual Background: Overview of the Presence and Activities of other United Nations Agencies and Bodies in the Occupied Palestinian Territory, including East Jerusalem

141. While UNRWA remains the principal United Nations organ that provides humanitarian relief, development assistance, and essential services to the population of the Occupied Palestinian Territory, including East Jerusalem, many other United Nations specialized agencies, bodies, and programs operate in the Occupied Palestinian Territory, including East Jerusalem. These include: UNDP, UNESCO; UNEP, UN-Habitat, UNIDO, UNICEF, UNODC, UNFPA, UNCTAD, UNOPS, UNRoD, OHCHR, OCHA, FAO, IFAD, ILO, UN Women, WFP, and WHO.¹²³

142. United Nations agencies and bodies provide a broad range of services that are essential to the population of the OPT, including East Jerusalem. These services and development assistance programs cover areas such as education, healthcare, food security, water and sanitation, agriculture, housing and urban development, employment and private sector support, environmental protection, women's rights, crime prevention, social security, electoral support, counter-narcotics, and cultural preservation.¹²⁴ It is unnecessary to provide a comprehensive account of these operations undertaken by United Nations agencies and bodies. Some illustrative examples will suffice to demonstrate their invaluable contribution to promoting the welfare of the population of the Occupied Palestinian Territory, including East Jerusalem.

143. For example, a report by the Secretary General outlined the following activities of United Nations agencies and bodies that provided assistance to the Palestinian people in the field of education:

103. Between 1986 and 1993, the education sector received special attention from UNDP, focusing on building governmental and non-governmental schools in cities and in assisting some private schools at different levels. In 1992, the programme policy shifted to focus on classrooms for girls in rural areas [...] Current educational activities are focused mainly on provision or rehabilitation of infrastructures, such as construction of additional classrooms in villages, rehabilitation of two agricultural school buildings in the West Bank and Gaza Strip, rehabilitation of a school complex in Jericho and others.

¹²³ See UN Entities in Palestine. Available online: <https://palestine.un.org/en/about/un-entities-in-country>

¹²⁴ See for example General Assembly, Economic and Social Council, Report of the Secretary-General, Assistance to the Palestinian People, UN Doc. A/77/93 – E/2022/67, June 8, 2022, ¶ 32-143.

104. For more than four decades, UNESCO assistance has included promoting a Palestinian cultural identity, providing senior educational advisers to UNRWA, assisting in the development of an open learning system, granting fellowships to Palestinians studying abroad and providing equipment and furniture for the education institutions. Missions have been organized by UNESCO, in coordination with UNRWA, the World Bank, UNDP, UNICEF, ILO, UNIDO and WHO, aimed at reviewing the situation of education and identifying the needs associated with the reconstruction and development process. A Programme of Assistance to the Palestinian People, including 12 project proposals for education (basic and secondary education, management of the education system and higher education) was agreed to in May 1995 by the Palestinian Authority and UNESCO. A Plan of Action has been adopted by the PLO/UNESCO Joint Coordination Committee comprising 26 activities.¹²⁵

144. In the area of healthcare, another report by the Secretary General identified the following forms of assistance provided to the Palestinian people:

41. The World Health Organization (WHO) continued to promote universal health coverage and the right to health by strengthening the health-care system, monitoring barriers to health-care access and monitoring attacks against health care and policies and practices that affect health rights.

43. WHO, UNICEF and the United Nations Population Fund (UNFPA) supported the Ministry of Health in scaling up sexual, reproductive, maternal, neonatal and child health-care services. WHO and UNFPA also supported the implementation of a system to strengthen maternal, neonatal and early childhood health in Gaza.

46. UNICEF undertook infrastructure rehabilitation for three primary health-care facilities in Hebron Governorate, covering 55,000 people in Bayt Kahil, Dura and Ayn Sarah.¹²⁶

¹²⁵ General Assembly, Economic and Social Council, Report of the Secretary-General, Assistance to the Palestinian People, UN Doc. A/50/286, July 13, 1995, ¶ 103.

Commission on the Status of Women, Report of the Secretary-General, Situation of and Assistance to Palestinian Women, UN Doc. E/CN.6/2019/6, Jan. 8, 2019, ¶ 14.

¹²⁶ General Assembly, Economic and Social Council, Report of the Secretary-General, Assistance to the Palestinian People, UN Doc. A/79/85 – E/2024/60, May 20, 2024, ¶ 41, 43, 46.

145. The following are examples of the support and assistance provided by United Nations agencies and bodies to the Palestinian people in the areas of food security and agriculture:

45. The programmes of the Food and Agriculture Organization of the United Nations (FAO) improved the livelihoods of over 12,900 persons in the West Bank and Gaza through interventions aimed at mitigating the effects of rural poverty and food insecurity, water scarcity, lack of access to agricultural areas and inputs, and high cost of production through the delivery of inputs and technical support.

46. UNDP is implementing several projects in Gaza and the West Bank, including a comprehensive emergency response programme for rehabilitation of agricultural lands, irrigation infrastructure, the fishery sector and livestock production in the Gaza Strip. The UNDP agricultural development programme also includes a major land reclamation and irrigation infrastructure rehabilitation component in the West Bank which has benefited approximately 2,700 rural households dependent on the agricultural sector.¹²⁷

146. In the area of employment, UN agencies and bodies provided the following forms of assistance:

45. United Nations agencies continued to support income-generating and self-employment opportunities for vulnerable Palestinians. UNDP targeted around 3,500 families throughout the West Bank and Gaza and focused on income-generating activities in microenterprise and small enterprise development. The United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women), through 62 women's centres, focused on job opportunities in food processing and marketing. The programme directly benefited 761 women workers, and more than 43,400 women benefited from the psychosocial counselling, legal counselling, training and other services provided at the centres. Forty centres have reached financial sustainability.

46. The International Labour Organization continued to implement a programme to support livelihoods and job opportunities in the fishery sector in Gaza, which facilitated the development of a recovery plan and provided management training to cooperative

¹²⁷ General Assembly, Economic and Social Council, Report of the Secretary-General, Assistance to the Palestinian People, UN Doc. A/65/77 – E/2010/56, May 5, 2010, ¶ 45-46.

members.¹²⁸

147. These examples of relief and developmental assistance programs implemented by United Nations agencies and bodies for the benefit of the Palestinian population demonstrate the importance of the presence and activities of these United Nations agencies and bodies in the OPT, including East Jerusalem including to achieve development, economic and political self-determination.

148. The Palestinian Authority has entered into undertakings with the United Nations to regulate the operations of some of its agencies and bodies in the Occupied Palestinian Territory.¹²⁹

(b) Israel's Obligations in Relation to the Presence and Activities of other United Nations Agencies and Bodies in the Occupied Palestinian Territory, including East Jerusalem

149. Egypt submits that Israel is under an obligation to actively facilitate and not to prevent, impede, or otherwise restrict the presence and activities of United Nations agencies and bodies operating in or in relation to the Occupied Palestinian Territory, including East Jerusalem. Moreover, Israel is under an obligation to respect the privileges and immunities of United Nations agencies and bodies, which principally arise from the Charter of the United Nations and the 1946 Convention on the Privileges and Immunities of the United Nations.

150. These submissions are based on the following grounds:

- i. The illegality of Israel's continued presence in the Occupied Palestinian Territory.
- ii. Israel's obligation not to deprive the Palestinian people of their right to self-determination.
- iii. Israel's obligations arising from the Charter of the United Nations
- iv. Israel's obligations under the rules of international law arise from the 1946 Convention on the Privileges and Immunities of the United Nations.

¹²⁸ General Assembly, Economic and Social Council, Report of the Secretary-General, Assistance to the Palestinian People, UN Doc. A/70/76 – E/2015/57, April 1, 2005, ¶ 45-46.

¹²⁹ See the documents provided to the Court in Dossier No. N278, N279, N288, N289, N290, N290, N293.

- v. Israel's obligations under the law of armed conflict and international human rights law (discussed in Chapter VI)

151. Given that these grounds were discussed in detail above in the context of addressing Israel's obligations in relation to the presence and activities of UNRWA in the Occupied Palestinian Territory, including East Jerusalem, it is unnecessary to provide a detailed account of the basis in international law for these submissions. Instead, this section should be read in conjunction with and should be viewed as complementary to the previous section on UNRWA's presence and activities in the Occupied Palestinian Territory, including East Jerusalem.

i. The Illegality of Israel's Continued Presence in the Occupied Palestinian Territory

152. This Court's decision in the Advisory Opinion on the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem, has already been discussed at length above, including the Court's finding that Israel's continued presence in the OPT constituted a continuing wrongful act, and that any measures or legislation maintaining the unlawful situation must be repealed. As noted above, any Israeli legislative or administrative measures that entail the application of Israeli law in the OPT are thus null and void.

153. Egypt submits that any Israeli legislative or administrative measures that prevent, impede, or otherwise restrict the presence and activities of United Nations agencies and bodies in or in relation to the OPT perpetuates Israel's unlawful presence, including by obstructing the economic, social and cultural development of the Palestinian people, exercising regulatory authority in contravention to Article 43 of the Hague Regulations and Article 64 of the Fourth Geneva Convention,¹³⁰ creating an inhospitable environment for Palestinians including exerting pressure on Palestinians in East Jerusalem to leave the city,¹³¹ and interfering with the Palestinian people's access and enjoyment of their natural wealth and resources, divesting them of their means of subsistence and inducing their departure from their homelands.

154. Israeli conduct that prevents, impedes, or otherwise restricts the presence and activities of United Nations agencies and bodies in or in relation to the Occupied Palestinian Territory, including East Jerusalem, perpetuates the violations of the rights of the Palestinian people arising

¹³⁰ *Id.*, ¶ 141.

¹³¹ *Id.*, ¶ 165.

from the policies and practices associated with its unlawful occupation. Indeed, the continued operation of United Nations agencies and bodies is necessary to enable the Palestinian people to withstand the effects of Israel's unlawful policies and practices in the Occupied Palestinian Territory, including East Jerusalem. Moreover, preventing, impeding, or otherwise restricting the presence and activities of United Nations agencies and bodies in or in relation to the Occupied Palestinian Territory would be a further manifestation of Israel's "intention to create a permanent and irreversible Israeli presence in the Occupied Palestinian Territory."¹³²

155. Egypt therefore submits that Israel is under an obligation not to prevent, impede, or otherwise restrict the presence and activities of United Nations agencies and bodies in or in relation to the Occupied Palestinian Territory, including East Jerusalem.

ii. Israel's obligation not to deprive the Palestinian people of their right to self-determination

156. As previously discussed, the Court noted in its Advisory Opinion on the *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*, "[t]he sustained abuse by Israel of its position as an occupying Power, through annexation and an assertion of permanent control over the Occupied Palestinian Territory and continued frustration of the right of the Palestinian people to self-determination, violates fundamental principles of international law and renders Israel's presence in the Occupied Palestinian Territory unlawful."¹³³

157. Egypt submits that conduct by Israel that prevents, impedes, or otherwise restricts the presence and activities of United Nations agencies and bodies in or in relation to the Occupied Palestinian Territory, including East Jerusalem, amounts to "an abuse of its position as an occupying power" and would contribute to the "continued frustration of the right of the Palestinian people to self-determination."

158. This is because the presence and activities of United Nations agencies and bodies in or in relation to the Occupied Palestinian Territory, including East Jerusalem, contribute to protecting the Palestinian people against the effects of Israel's unlawful policies and practices that are

¹³² *Id.*, ¶ 252.

¹³³ *Id.*, ¶ 261.

designed to disperse the Palestinians and undermine their integrity as a people, thereby significantly impeding the exercise of its right to self-determination.

iii. Israel's Obligations in Relation to the Presence and Activities of other United Nations Agencies and Bodies in the Occupied Palestinian Territory, including East Jerusalem, arising from the Charter of the United Nations

159. Articles 2(5), 100, 103, 104, and 105 of the Charter of the United Nations establish obligations on Israel in relation to the presence and activities of other United Nations bodies and agencies in the Occupied Palestinian Territory, including East Jerusalem.

160. As discussed above, pursuant to paragraph 5 of article 2 of the Charter of the United Nations, member States are under an obligation to give the United Nations “every assistance in any action it takes in accordance with the present Charter.”¹³⁴ As the Court explained, in its Advisory Opinion on *Reparation for Injuries Suffered in the Service of the United Nations*, article 2(5) is a legal duty incumbent on member States to assist the United Nations in its actions.¹³⁵

161. In Egypt's view, the provision of humanitarian relief, development assistance, and basic services by United Nations agencies and bodies to the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem, constitutes “action” by the United Nations. Accordingly, pursuant to article 2(5), Israel is under both a positive obligation to actively facilitate the presence and activities of United Nations agencies and bodies, and a negative obligation not to prevent, impede, or otherwise restrict the presence and activities of United Nations agencies and bodies operating in or in relation to the Occupied Palestinian Territory, including East Jerusalem.

162. As discussed above, article 105 of the Charter of the United Nations generates an obligation on Israel to respect the privileges and immunities of the United Nations. This obligation applies to the Organization's specialized agencies, bodies, and programs operating in the Occupied Palestinian Territory, including East Jerusalem. The full content of these privileges and immunities is established under the General Convention. Articles 100 and 104 of the Charter of the United Nations are complementary to articles 2(5) and 105. These

¹³⁴ Charter of the United Nations, article 2(5).

¹³⁵ International Court of Justice, *Reparation for Injuries Suffered in the Service of the United Nations*, Advisory Opinion, April 11, 1949, page 13.

provisions require Israel to refrain from seeking to influence the conduct of agencies, bodies, and programs operating in the Occupied Palestinian Territory, including East Jerusalem, and ensure that the United Nations and its bodies enjoy the legal capacity that is necessary for the execution of their mandates. Under article 103, these obligations arising from the Charter of the United Nations prevail over other obligations arising from other international agreements to which Israel is a party.

iv. Israel's Obligations under the Rules of International Law relating to the 1946 Convention on the Privileges and Immunities of the United Nations

163. As discussed above, under Article II Sections 2 and 3 of the General Convention, the United Nations, including its specialized agencies, bodies, and programs, are entitled to absolute immunity from legal processes and absolute inviolability of their premises, property and assets.

164. The United Nations has consistently affirmed that all United Nations agencies and bodies, such as those operating in the Occupied Palestinian Territory, including East Jerusalem, are entitled to the privileges and immunities codified in the General Convention. As the United Nations Office of Legal Affairs stated:

The Legal Counsel wishes to recall that both UNDP and UNFPA are an integral part of the United Nations. Thus, UNDP and UNFPA, as well as its officials, enjoy the privileges and immunities provided for in the Convention on the Privileges and Immunities of the United Nations (hereinafter referred to as the General Convention) adopted by the General Assembly of the United Nations on 13 February 1946, to which [State] has been a party since [date]. Pursuant to article II, section 2 of the General Convention, “[t]he United Nations, its property and assets wherever located and by whomsoever held, shall enjoy immunity from every form of legal process except insofar as in any particular case, it has expressly waived its immunity. It is, however, understood that no waiver of immunity shall extend to any measure of execution.”¹³⁶

¹³⁶ Note verbale to the Permanent Representative of a Member State to the United Nations regarding a civil suit instituted in the Conciliation and Arbitration Board, United Nations Juridical Yearbook 2008, page 406.

165. As discussed above, the immunities and privileges of the United Nations cannot be set aside or overridden by considerations of military necessity or the conduct of hostilities.

166. Egypt also submits that, pursuant to the General Convention, Israel is under an obligation to respect and uphold the privileges and immunities owed to United Nations experts on mission. Israel is also under an obligation to facilitate the execution of the mandates of United Nations experts on mission in and in relation to the Occupied Palestinian Territory, including East Jerusalem. In this regard, Egypt recalls that Article 6, Section 22 of the General Convention states:

Experts (other than officials coming within the scope of Article V) performing missions for the United Nations shall be accorded such privileges and immunities as are necessary for the independent exercise of their functions during the period of their missions, including the time spent on journeys in connection with their missions.

167. In this regard, Egypt recalls that in its Advisory Opinion on the *Applicability of Article VI, Section 22, of the Convention on the Privileges and Immunities of the United Nations*, the Court affirmed that Section 22 is intended to:

[...] enable the United Nations to entrust missions to persons who do not have the status of an official of the Organization, and to guarantee them ‘such privileges and immunities as are necessary for the independent exercise of their functions’. The experts thus appointed or elected may or may not be remunerated, may or may not have a contract, may be given a task requiring work over a lengthy period or a short time. The essence of the matter lies not in their administrative position but in the nature of their mission.

In all these cases, the practice of the United Nations shows that the persons so appointed, and in particular the members of these committees and commissions, have been regarded as experts on missions within the meaning of Section 22.

To sum up, the Court takes the view that Section 22 of the General Convention is applicable to persons (other than United Nations officials) to whom a mission has been entrusted by the Organization and who are therefore entitled to enjoy the privileges and immunities provided for in this Section with a view to the independent exercise of their

functions.¹³⁷

168. Egypt submits that the full privileges and immunities codified in article 6, Section 22 of the General Convention apply to United Nations experts on mission including Special Rapporteurs, Commissions of Inquiry, Fact-Finding Mission, Special Representatives of the Secretary General, and other holders of mandates that relate to the Occupied Palestinian Territory, including East Jerusalem.¹³⁸ Moreover, Israel is under an obligation to facilitate the execution of United Nations experts on mission, including by ensuring their freedom of access to and freedom of movement throughout the Occupied Palestinian Territory, including East Jerusalem.¹³⁹

For their part, experts on missions should also be afforded the same freedom of movement—a privilege that is undisputedly “necessary for the independent exercise of their functions during the period of their missions, including the time spent on journeys in connection with their missions” in accordance with Section 22 of the 1946 Convention

169. Accordingly, Egypt submits:

- Israel is under an obligation to respect the absolute immunity of all United Nations agencies and bodies in the Occupied Palestinian Territory, including East Jerusalem. This covers immunity from all legal processes, including legislative, adjudicatory, and enforcement jurisdiction.
- Israel is under an obligation to respect the absolute inviolability of the premises, property, and assets of all United Nations agencies and bodies in the Occupied Palestinian Territory, including East Jerusalem.
- Israel is under an obligation not to enter, act against, threaten, or disturb the premises, property, personnel, or assets of United Nations agencies and bodies in the Occupied Palestinian Territory, including East Jerusalem. Israel is also under an obligation to

¹³⁷ International Court of Justice, *Applicability of Article VI, Section 22, of the Convention on the Privileges and Immunities of the United Nation*, Advisory Opinion. Dec. 15, 1989.

¹³⁸ *See also* International Court of Justice, *Difference Relating to Immunity from Legal Process of a Special Rapporteur of the Commission on Human Rights*, Advisory Opinion. Apr. 29, 1999.

¹³⁹ Ronja Bandyopadhyay and Tomko Iwata, *Experts on mission (Article VI Sections 22-23, General Convention)*, in *The Conventions on the Privileges and Immunities of the United Nations and its Specialized Agencies*, page 81 (August Reinisch ed. OUP 2016).

protect premises, property, personnel and assets of United Nations agencies and bodies against any infringement by third parties.

- Israel is under an obligation to ensure that its domestic law gives effect to the absolute immunity and inviolability of United Nations agencies and bodies in the Occupied Palestinian Territory, including East Jerusalem.
- Israel obligation to uphold absolute immunity and inviolability of United Nations agencies and bodies in the Occupied Palestinian Territory, including East Jerusalem cannot be overridden by considerations of military necessity or expediency.
- Israel is under an obligation to provide reparation, including compensation, to the United Nations for loss and damage suffered by its agencies, bodies, or personnel as a result of internationally wrongful acts attributable to Israel in relation to the presence and activities of United Nations agencies and bodies in the Occupied Palestinian Territory, including East Jerusalem.

C. The Obligations of Israel in relation to the Presence and Activities of third States and other international organizations in and in relation to the Occupied Palestinian Territory

170. This part of the present submission addresses the question of Israel's obligations in relation to the presence and activities of third States and other international organizations, in and in relation to the Occupied Palestinian Territory. The "presence and activities" referred to in the question referred to the Court by the General Assembly include the following:

- The provision, by third States, other international organizations, or non-governmental organizations of supplies essential to the survival of the Palestinian civilian population, as well as basic services and humanitarian and development assistance for the benefit of the Palestinian civilian population and in support of the Palestinian people's right to self-determination.
- Official government representation (including diplomatic and consular representation) of third States.

171. Egypt submits that Israel is under an obligation to facilitate and not to prevent, impede, or otherwise restrict the provision, by third States, other international organizations, or non-governmental organizations, of supplies essential to the survival of the Palestinian civilian

population, as well as basic services and humanitarian and development assistance for the benefit of the Palestinian civilian population and in support of the Palestinian people's right to self-determination.

172. Egypt also submits that Israel is under an obligation not to prevent, impede, or otherwise restrict the establishment and maintenance of official government representation, such as diplomatic and consular representation, between third States and the State of Palestine.

(a) Factual Background: Overview of the Presence and Activities of third States in and in relation to the Occupied Palestinian Territory, including East Jerusalem

173. Numerous third parties, including States, international financial institutions, and non-governmental organizations are active in the provision of supplies essential to the survival of the Palestinian civilian population, as well as basic services and humanitarian and development assistance for the benefit of the Palestinian civilian population. The scale of assistance provided by third parties to the State of Palestine and the Palestinian people is demonstrated in Annex 1.¹⁴⁰

174. The information in Annex 1 demonstrates the scale and breadth of international assistance programs funded, managed, and executed by third States, non-governmental organizations, and other third parties for the benefit of the Palestinian civilian population. These programs are essential for ensuring the survival of the Palestinian people and the promotion of their welfare.

175. In addition to the provision of humanitarian relief and developmental assistance, the majority of member States of the United Nations (144 States) have recognized the State of Palestine, and a sizable number of those States have established embassies, representative offices, or other channels of diplomatic or consular relations.

(b) Israel's Obligations in Relation to the Presence and Activities of third States and other International Organizations in and in Relation to the Occupied Palestinian Territory, including East Jerusalem

176. As noted above, Egypt submits that Israel is under the following obligations:

¹⁴⁰ See Palestine Economy Portal. Available online <https://www.palestineeconomy.ps/donors/en>

- Israel is under an obligation to facilitate and not to prevent, impede, or otherwise restrict the provision, by third States, other international organizations, or non-governmental organizations, of supplies essential to the survival of the Palestinian civilian population, as well as basic services and humanitarian and development assistance for the benefit of the Palestinian civilian population and in support of the Palestinian people's right to self-determination.
- Israel is under an obligation not to prevent, impede, or otherwise restrict the establishment and maintenance of official government representation, such as diplomatic and consular representation, between third States and the State of Palestine.

177. These obligations are firmly grounded in the inalienable right of the Palestinian people to self-determination. In this regard, Egypt recalls that in its Advisory Opinion of July 19, 2024, on the *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*, the Court affirmed that “in cases of foreign occupation such as the present case, the right to self-determination constitutes a peremptory norm of international law.”¹⁴¹ The Court also reaffirmed its previous opinions that “the obligation to respect the right to self-determination is owed *erga omnes* and that all States have a legal interest in protecting that right.”¹⁴² As discussed above, the Court also determined that “[a]s a consequence of Israel’s policies and practices, which span decades, the Palestinian people has been deprived of its right to self-determination over a long period, and further prolongation of these policies and practices undermines the exercise of this right in the future. For these reasons, the Court is of the view that Israel’s unlawful policies and practices are in breach of Israel’s obligation to respect the right of the Palestinian people to self-determination.”¹⁴³

178. As a consequence of these findings, the Court affirmed that Israel is under an obligation to put an end to policies and practices that are associated with and that perpetuate its unlawful presence in the Occupied Palestinian Territory.¹⁴⁴ This is necessary in order for Israel “to comply with its obligation to respect the right of the Palestinian people to self-determination

¹⁴¹ International Court of Justice, *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*, Advisory Opinion, July 19, 2024, ¶ 233.

¹⁴² *Id.*, ¶ 232.

¹⁴³ *Id.*, at ¶ 243.

¹⁴⁴ *Id.*, at ¶ 268.

and its obligations under international humanitarian law and international human rights law.”¹⁴⁵

179. Moreover, considering the *erga omnes* nature of the obligation to respect the right to self-determination, the Court stated:

[...] all States are under an obligation not to recognize as legal the situation arising from the unlawful presence of Israel in the Occupied Palestinian Territory. They are also under an obligation not to render aid or assistance in maintaining the situation created by Israel’s illegal presence in the Occupied Palestinian Territory. It is for all States, while respecting the Charter of the United Nations and international law, to ensure that any impediment resulting from the illegal presence of Israel in the Occupied Palestinian Territory to the exercise of the Palestinian people of its right to self-determination is brought to an end.”¹⁴⁶

180. Egypt is of the view that formal recognition of the State of Palestine is an act that contributes to fulfilment by third States of their duty to ensure that impediments to the exercise of the Palestinian people of its right to self-determination are brought to an end. Indeed, the State of Palestine is a principal vehicle through which the Palestinian people can exercise their inalienable right to self-determination.¹⁴⁷

181. Formal recognition of the State of Palestine is also an instrument through which third States could fulfil their “obligation not to recognize as legal the situation arising from the unlawful presence of Israel in the Occupied Palestinian Territory.” Moreover, Egypt recalls that, as stated in the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, all States have a “duty to promote, through joint and separate action, realization of

¹⁴⁵ *Id.*, at ¶ 272.

¹⁴⁶ International Court of Justice, Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem, Advisory Opinion, July 19, 2024, ¶ 233.

¹⁴⁷ As Court noted: “the realization of the right of the Palestinian people to self-determination, including its right to an independent and sovereign State, living side by side in peace with the State of Israel within secure and recognized borders for both States, as envisaged in resolutions of the Security Council and General Assembly, would contribute to regional stability and the security of all States in the Middle East.” International Court of Justice, Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem, Advisory Opinion, July 19, 2024, ¶ 283.

the principle of equal rights and self-determination of peoples, in accordance with the provisions of the Charter”¹⁴⁸

182. Accordingly, Egypt submits that conduct by Israel that impedes, prevents, or otherwise restricts the establishment or maintenance of diplomatic or consular relations or any other form of official government representation or communication between the State of Palestine and third States is unlawful. Such conduct violates Israel’s obligation not to impede or deprive the Palestinian people of their right to self-determination.

183. Similarly, Egypt considers that the provision, by third States, other international organizations, or non-governmental organizations of supplies essential to the survival of the Palestinian civilian population, as well as basic services and humanitarian and development assistance for the benefit of the Palestinian civilian population is conduct that contributes to the fulfilment by third States of their duty to ensure that impediments to the exercise of the Palestinian people of its right to self-determination are brought to an end. Considering the *erga omnes* nature of the obligation to respect the right to self-determination, the provision of assistance of this nature is consistent with the obligation incumbent on all States to take “joint and separate action” to support the realization of the inalienable right of the Palestinian people to self-determination.

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

¹⁴⁸ General Assembly resolution - Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations

**VI. The Obligations of Israel as an Occupying Power in and in relation to the
OPT 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**

A. Introduction:

185. The third part of the question put forward to the Court by the General Assembly reads as follows:

“What are the obligations of Israel, as an occupying Power and as a member of the United Nations, ... 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?”

186. Egypt submits that this question contains several important elements which need to be identified. The first is Israel’s obligation, as an Occupying Power, to ensure urgently needed supplies essential to the survival of the Palestinian civilian population, including food, medical supplies and other resources. The second element is Israel’s obligation to agree to and facilitate the unhindered provision of humanitarian assistance. This is to be undertaken both by States, as well as “impartial humanitarian organisations”, including, but not limited to, the ICRC (which includes UNRWA and other United Nations agencies and affiliated organisations, as well as impartial non-governmental organisations involved in the provision of humanitarian relief). The third element consists in Israel’s obligation to ensure and facilitate the unhindered provision of development assistance. All three elements are to be carried out for the benefit of the Palestinian civilian population, and in support of the Palestinian people’s right to self-determination.

187. Before addressing each of these elements in turn, this Statement will clarify and opine on the geographical scope of the question put forward to the Assembly. Egypt submits that the aforementioned obligations of Israel, the Occupying Power, apply in the entirety of the Occupied Palestinian Territory, namely in the West Bank, including East Jerusalem and the Gaza Strip. The applicable law in the entirety of Palestine is the law of belligerent occupation,

a subset of the law of international armed conflict, as well as international human rights law. Beginning on 7 October 2023, active hostilities broke out, while Israel remained in effective control of the Gaza Strip. Thus, the law of occupation continued to apply, as a subset of the law of international armed conflict. International human rights law also continued to apply in the OPT.

(a) Gaza's Status as an Occupied Territory and Israel's obligations as an Occupying Power

188. During the 5 June 1967 war, Israel occupied the whole of the Gaza Strip and the West Bank, including East Jerusalem. On 22 November, 1967, the UN Security Council unanimously adopted Resolution 242 (1967), according to which, Israel was demanded to withdraw from territories “occupied in the recent conflict”. Since 1967, Israel has been governing the Occupied Palestinian Territory (namely, the West Bank, including East Jerusalem, and the Gaza Strip) as the Occupying Power. As this Court confirmed recently in its *Advisory Opinion on the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem* from a legal standpoint, the West Bank and the Gaza Strip constitute a single territorial unit, “the unity, contiguity, and integrity of which are to be preserved and respected”.¹⁴⁹ This has also been confirmed by numerous Security Council resolutions,¹⁵⁰ including SC Res 2720 (2023) which refers to Gaza as an integral part of the territory occupied in 1967 and of the Palestinian State under the two-State solution.¹⁵¹

189. This Court found in the *Wall Advisory Opinion* that the territories situated east of the Green Line occupied by Israel in 1967, including East Jerusalem, are considered occupied territories, in which Israel has the status of occupying Power under customary international law.¹⁵² The rules governing occupation, therefore, applied equally to both the West Bank and the Gaza Strip.

190. The Court also found that the Regulations Respecting the Laws and Customs of War on Land annexed to the Fourth Hague Convention of 1907 (the Hague Regulations) reflect customary law, and are thus applicable in the OPT.¹⁵³ Moreover, the 1949 Geneva Convention

¹⁴⁹ See *Advisory Opinion on the Policies and Practices of Israel in the OPT*, p. 27, para 78.

¹⁵⁰ See General Assembly Resolution 77/247, para. 12; General Assembly Resolution ES-10/20 (2018) preambular para. 16; Security Council Resolution 1860 (2009) preambular para. 2,

¹⁵¹ See e.g. Security Council Resolution 2720, S/RES/2720, 22 December 2023, preambular para. 4, can be accessed through:

<https://documents.un.org/doc/undoc/gen/n23/424/87/pdf/n2342487.pdf?token=9TdbtySYwsgjUC5vKh&fe=true>

¹⁵² *Wall Advisory Opinion*, *op cit*, p. 167, para. 78.

¹⁵³ *Ibid.*, p.172, para. 89.

Relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention) was found by the Court to apply to the OPT without a need to enquire into the prior status of this territory.¹⁵⁴

191. Although Israel withdrew its ground forces from Gaza in 2005, and removed its settlements there pursuant to the 2004 “Disengagement Plan”, Israel retained effective control over the territory by *inter alia*: exercising complete control over Gaza’s airspace, territorial waters and border crossings; regulating the flow of people and goods into and out of the Gaza Strip; controlling civilian infrastructure and basic services such as electricity and water, as well as other key governmental functions such as the Palestinian population registry (including who is a “resident” of Gaza), its tax policy, currency market, custom duties, and the transfer of tax revenues.¹⁵⁵

192. In its *Advisory Opinion on the Policies and Practices of Israel in the OPT* this Court reiterated its previous observation in the case of *Armed Activities in the Territory of the Congo* that a State cannot be considered an Occupying Power until it has placed a territory that is not its own under its effective control. This is premised on the text of article 42 of the Hague Regulations, which stipulates that “territory is considered occupied when it is actually placed under the authority of the hostile army. The occupation extends only to the territory where such authority has been established and can be exercised”.¹⁵⁶ The International Criminal Tribunal for the Former Yugoslavia has further stipulated that “occupation is defined as a transitional period following invasion and preceding the agreement on the cessation of hostilities”.¹⁵⁷

193. While the presence of ground forces is often a reasonable proxy for authority over territory, nothing in The Hague Convention makes them *per se* a prerequisite for the applicability of the law of occupation. This was confirmed by the International Military Tribunal (IMT) in Nuremberg which held that Greece and Yugoslavia were occupied even

¹⁵⁴ *Ibid.*, p. 177, para. 101.

¹⁵⁵ See “Report of the Independent Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel established pursuant to Human Rights Council Resolution S-21/1” UN Doc A/77/328, 14 September 2022, para. 19; “Report of the Independent Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel established pursuant to Human Rights Council Resolution S-21/1” UN Doc A/77/328, 14 September 2022, para. 19;

¹⁵⁶ Convention (IV) respecting the Laws and Customs of War on Land and its annex: Regulations concerning the Laws and Customs of War on Land. The Hague, 18 October 1907, entered into force 26 January 1910, Regulations, art 42, [hereinafter the “*Hague Regulations*”] can be accessed through: <https://ihl-databases.icrc.org/en/ihl-treaties/hague-conv-iv-1907?activeTab=undefined>

¹⁵⁷ International Criminal Tribunal for the former Yugoslavia [hereinafter “*ICTY*”], *The Prosecutor v. Mladen Naletilic and Vinko Martinovic*, Case No. IT-98-34-T, Judgment (Trial Chamber) 31 March 2003, para 214.

though “the partisans were able to control sections of these countries at various times” specifically since “it is established that the Germans could at any time they desired assume physical control of any part of the country”.¹⁵⁸ This Court, therefore, observed in its recent *Advisory Opinion on the Policies and Practices of Israel in the OPT* that:

... for the purpose of determining whether a territory remains occupied under international law, the decisive criterion is not whether the occupying Power retains its physical military presence in the territory at all times but rather whether its authority “has been established and can be exercised”.... Where an occupying Power, having previously established its authority in the occupied territory, later withdraws its physical presence in part or in whole, it may still bear obligations under the law of occupation to the extent that it remains capable of exercising, and continues to exercise, elements of its authority in place of the local government.¹⁵⁹

194. Based on this, the Court concluded that “Israel remained capable of exercising, and continued to exercise, certain key elements of authority over the Gaza Strip” and that its withdrawal from Gaza in 2005 “did not entirely release it of its obligations under the law of occupation,” but rather, it continues to have such obligations “commensurate with the degree of its effective control over the Gaza Strip”.¹⁶⁰

195. By virtue of Israel’s effective control over the Gaza Strip, Egypt therefore submits that Gaza remains occupied and is an integral part of the single territorial unit that constitutes the State of Palestine, and that consequently the law of belligerent occupation continues to apply in the Strip.

(b) The Continued Application of the Law of Occupation

196. Since the Israeli offensive against Gaza, launched on 7 October 2023, the law of occupation (a subset of the law of armed conflict) continued to apply in the Gaza Strip, which never ceased to be under Israel’s effective control. This remained the case even during active hostilities. The ceasefire deal, which came into effect on 19 January 2025, provided for the withdrawal of Israeli forces from populated areas, in Phase I. Israel continues, however, to

¹⁵⁸ *Hostage Case, United States v List (Wilhelm) and ors*, Trial Judgment, Case No 7, (1948) 11 TWC 757, (1950) 11 TWC 1230, (1948) 8 LRTWC 34, ICL 491 (US 1948), (1948) 15 ILR 632, 19th February 1948, International Military Tribunal [IMT]; Nuremberg Military Tribunal [NMT].

¹⁵⁹ See *Advisory Opinion on the Policies and Practices of Israel in the OPT*, p. 30, para 92.

¹⁶⁰ *Idem*, p.31, para 94.

exercise effective control, in the manner previously described, as well the ability to assume physical control of the Gaza Strip at any time it so desires.

B. Factual Background: Israel's ongoing arbitrary obstruction of humanitarian assistance

197. Israel's restrictions on the movement of people and essential goods to and from Gaza long predates the 2023 war on Gaza, and has been an essential feature of the siege implemented against Gaza since the early 1990's and later intensified in 2007. Israel's continued control over the Gaza Strip was considered by the UN Special Rapporteur on the Situation of Human Rights in the Palestinian Territories Occupied since 1967 to be a form of collective punishment.¹⁶¹ In the same vein, the General Assembly in its resolution 77/247 adopted on 30 December 2022 called "upon Israel, the occupying Power, to cease its imposition of prolonged closures and economic and movement restrictions, including those amounting to a blockade on the Gaza Strip".¹⁶²

198. Israel further escalated such restrictions after the October 2023 war on Gaza. Since the beginning of the war, Israel, the Occupying Power explicitly refused humanitarian access altogether by closing its border crossings with the Gaza Strip. It further obstructed access by creating legal, administrative and other hurdles that prevented the entry of adequate humanitarian assistance. Israel directly attacked the Rafah border crossings rendering it completely inoperable during various phases of the conflict, most recently from March to May 2024. Direct attacks and targeting of humanitarian personnel further hampered humanitarian access and the provision of humanitarian relief, which together with Israel's intense military campaign and gross violations of IHL, including the targeting and displacement of civilians, created a humanitarian catastrophe of epic proportions.

199. The trajectory of humanitarian obstruction throughout the Gaza conflict can be divided into four main phases:

¹⁶¹ *Report of the Special Rapporteur on the Situation of Human Rights in the Palestinian Territories Occupied Since 1967*, A/HRC/44/60, 15 July 2020, can be accessed through: <https://www.un.org/unispal/document/report-of-the-special-rapporteur-on-the-situation-of-human-rights-in-the-palestinian-territories-occupied-since-1967-report-a-hrc-44-60-advance-unedited-version/>

¹⁶² "Situation of human rights in the Occupied Palestinian Territory, including East Jerusalem, with a focus on collective punishment", Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, A/HRC/44/60, 22 December 2020, can be accessed through; <https://documents.un.org/doc/undoc/gen/g20/352/94/pdf/g2035294.pdf?token=6IVKWA6N1q8LDtQBAC&fe=true>; General Assembly resolution, A/RES/77/247, adopted on 30 December 2022, recognised the status of Gaza as occupied and called "upon Israel, the occupying Power to cease its blockade on the Gaza Strip".

(a) From the beginning of the conflict to the adoption of Security Council Resolution 2720 in December 2023.

200. Israel's military onslaught against Gaza since 7 October 2023 has been unprecedented in the scale of death and destruction wrought on the Gaza Strip. On 9 October 2023, Israel announced a total siege of Gaza, closing all border crossings between Israel and Gaza, suspending the movement of goods and restricting access to water, food, fuel and electricity. From 7-20 October 2023 no humanitarian relief trucks entered the Gaza Strip.¹⁶³

201. The *Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories* reported that:

Israel's means and methods of warfare, including its indiscriminate bombing campaign, resulted in the widespread killing of civilians and mass destruction of civilian infrastructure, raising grave concerns of violations under international humanitarian law as to the fundamental principles of distinction, proportionality and precautions in attack The crisis was further aggravated by Israel's blockade and ongoing siege, including its unlawful restrictions on the entry and distribution of humanitarian assistance and other essential goods, attacks on humanitarian workers, and the repeated displacement of Palestinians. These measures not only exacerbated humanitarian needs but also severely compromised the ability of humanitarians to reach people in Gaza.¹⁶⁴

202. Other Israeli measures further exacerbated the situation, such as denials of and restrictions on the entry of fuel, while simultaneously cutting off the electricity supply and fuel reserves for Gaza's only power plant. Water production and distribution were severely affected, as well as sewage and solid waste management.¹⁶⁵

203. The above-mentioned measures to deprive the Palestinians in Gaza of food, water, fuel and shelter were widely condemned by the international community. Against the backdrop of this deteriorating humanitarian situation, on 15 November 2023, the United Nations Security

¹⁶³ Report of the Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and IsraelA/HRC/56/26, p. 10, para 48, available at: <https://docs.un.org/en/A/HRC/56/26>

¹⁶⁴ Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories (Starvation as a weapon of war, possibility of genocide in Gaza, apartheid in West Bank etc.) (A/79/363), <https://www.un.org/unispal/document/report-of-the-special-committee-to-investigate-israeli-practices-20sep24/>

¹⁶⁵ <https://www.ochaopt.org/content/gaza-humanitarian-response-update-2-15-february-2025>

Council adopted resolution 2712 with 12 votes in favour and 3 abstentions (Russia, the United Kingdom, and the United States). The resolution called for:

urgent and extended humanitarian pauses and corridors throughout the Gaza Strip for a sufficient number of days to enable, consistent with international humanitarian law, the full, rapid, safe, and unhindered humanitarian access for United Nations humanitarian agencies and their implementing partners, the International Committee of the Red Cross and other impartial humanitarian organizations, to facilitate the continuous, sufficient and unhindered provision of essential goods and services important to the well-being of civilians, especially children, throughout the Gaza Strip, including water, electricity, fuel, food, and medical supplies, as well as emergency repairs to essential infrastructure...¹⁶⁶

204. After the resolution's adoption, and for the first time since October 7, cooking gas was allowed to enter into Gaza, while humanitarian aid was allowed into Northern Gaza. In the South, UN agencies and partners were able to increase the amount of aid delivered and locations reached. However, the level of aid remained completely inadequate to meet the massive humanitarian needs, as the volume of fuel allowed to enter Gaza remained insufficient, while hospitals continued to lack the basic supplies and staff after the complete breakdown of the medical system. Reporting to the Council on 29 November 2023, the UN Secretary General stated that the resolution's implementation was "partial, at best, and is woefully insufficient" calling the situation in Gaza "an epic humanitarian catastrophe".¹⁶⁷ The Secretary General reported appalling sanitary conditions, and the continuing spread of hunger, especially in the North, calling for "an immediate and sustained increase in humanitarian aid including food, water, fuel, blankets, medicines and healthcare supplies".¹⁶⁸ He emphasised that the Rafah border crossing did not have sufficient capacity, urging the opening of other border crossings, including Karem Abu Salem/ Kerem Shalom, and the streamlining of inspection mechanisms.¹⁶⁹

205. On 7 December 2023, the UN Secretary General wrote to the Security Council invoking article 99 of the United Nations Charter. In his remarks to the Council, the Secretary General

¹⁶⁶ Secretary-General's remarks to the Security Council - on the Middle East, 29 November 2023, available at: <https://www.un.org/sg/en/content/sg/statement/2023-11-29/secretary-generals-remarks-the-security-council-the-middle-east-delivered>

¹⁶⁷ Ibid.

¹⁶⁸ Ibid.

¹⁶⁹ Ibid.

stated that the implementation of Resolution 2712 “has become impossible” and reported that the UN was only able to distribute aid in one of Gaza’s governorates, namely Rafah. He also reported that the conditions for the effective delivery of aid did not exist, and that intense bombardment, fuel shortages, and Israeli restrictions on movement made such delivery impossible.¹⁷⁰ He warned of the risk of a “total collapse of the humanitarian support system” and consequently the “complete breakdown of public order and increased pressure for mass displacement into Egypt”.¹⁷¹

206. Throughout this period, Israel’s operation of the border crossings into Gaza drew severe criticism. The Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem reported that explicit public statements by Israeli officials had indicated an “intention to instrumentalize and weaponize the provision of necessities in order to hold the population of Gaza hostage to achieve political and military objectives, including the forced displacement of civilians from northern Gaza and the release of Israeli hostages”.¹⁷² The Commission found evidence of this in Israel’s policies relating to the operation of the border crossings between Israel and Gaza, which showed beyond doubt an unjustified and arbitrary obstruction of humanitarian assistance. The Commission reported the following:

207. Despite the unprecedented and growing needs of the population, Kerem Shalom, the main point of entry for goods from Israel to Gaza, was entirely sealed off by Israel from 7 October until 16 December. Following intense international pressure, Israel reopened the crossing for aid trucks on 17 December. Israel allowed the reopening of the Rafah crossing on 21 October, although the quantity of goods and humanitarian assistance reaching Gaza still fell significantly short of the minimum required to sustain the population. Additional measures have been imposed for the inspection of aid trucks at the Nitzana crossing on the border between Egypt and Israel, severely hampering the entry of trucks, restricting or blocking life-saving humanitarian items.¹⁷³

¹⁷⁰ “Secretary-General’s remarks to the Security Council - on the situation in the Middle East, including the Palestinian Question”, 8 December 2023, available at: <https://www.un.org/sg/en/content/sg/statement/2023-12-08/secretary-generals-remarks-the-security-council-the-situation-the-middle-east-including-the-palestinian-question-bilingual-delivered-scroll-down-for-all-english>

¹⁷¹ Ibid.

¹⁷² Report of the Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and IsraelA/HRC/56/26, p. 10, para 50, available at: <https://docs.un.org/en/A/HRC/56/26>.

¹⁷³ Ibid. P. 11, para 52.

208. While Israel, as reported by the Commission, allowed the reopening of the Rafah border crossing on 21 October 2023, it decreed that all humanitarian aid trucks and consignments entering through Rafah were to be inspected at Nitzana, some 47 kilometers away. They then would return to Rafah for cross-loading before entering Gaza, with multiple additional inspections in between. Humanitarian organisations reported that the approval process by Israel authorities could take weeks and the rejection of a single item in a convoy at Nitzana would lead to the rejection of the whole shipment.¹⁷⁴ Checkpoint procedures remained a major hurdle to humanitarian access and the flow of humanitarian assistance into Gaza.

(b) The adoption of Security Council Resolution 2720 until Israel’s ground invasion of Rafah on 7 May 2024

209. On 22 December 2023, the United Nations Security Council adopted resolution 2720, in an effort spearheaded by Egypt and the Arab Group (represented by the Arab Group member, United Arab Emirates). The aim of the resolution was to overcome the repeated denials of access to humanitarian convoys, as well as the unjustified delays, bureaucratic and other hurdles placed by Israel, which impeded the entry and distribution of humanitarian assistance.

210. The resolution recognised the humanitarian catastrophe in Gaza, called on the parties to desist from depriving civilians of humanitarian relief and basic services indispensable to their survival, and stressed the obligation to respect and protect humanitarian personnel in the following terms:

Expressing deep concern at the dire and rapidly deteriorating humanitarian situation in the Gaza Strip and its grave impact on the civilian population, underlining the urgent need for full, rapid, safe, and unhindered humanitarian access into and throughout the entire Gaza Strip, and taking note of the concerning reports from the leadership of the United Nations and humanitarian organizations in this regard, reaffirming its strong concern for the disproportionate effect that the conflict is having on the lives and well-being of children, women, and other civilians in vulnerable situations, and stressing the humanitarian principles of humanity, impartiality, neutrality, and independence,

¹⁷⁴ Mari Carmen Viñoles , “The near impossible task of getting lifesaving supplies into Gaza” Medecins sans Frontieres, 2 May 2024, <https://www.msf.org/near-impossible-task-getting-lifesaving-supplies-gaza>

Stressing the obligation to respect and protect humanitarian relief and medical personnel,

Reaffirming its call for all parties to refrain from depriving the civilian population in the Gaza Strip of basic services and humanitarian assistance indispensable to their survival, consistent with international humanitarian law.¹⁷⁵

211. The resolution also *welcomed* Egypt's efforts to facilitate the use by UN humanitarian agencies of the border crossing at Rafah for the provision of humanitarian assistance throughout the Gaza Strip, and expressed appreciation for Egypt's diplomatic efforts, with Qatar and other States, to secure a "humanitarian pause" in the Gaza Strip. The resolution *took note* of the 15 December 2023 decision by Israel to open its crossing at Karm Abu Salem for delivery of humanitarian assistance to Gaza and *emphasized* the need to work closely with all parties to expand the delivery and distribution of humanitarian aid.

212. The resolution further reiterated the demand that the parties comply with their obligations under international law, including humanitarian access and the duty of ensuring the food, medical and other supplies of the population and recalled the obligation to respect and protect "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". It also stipulated the following:

1. ... *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, and in this regard *calls* for urgent steps to immediately allow safe, unhindered, and expanded humanitarian access and to create the conditions for a sustainable cessation of hostilities;

2. *Demands* that the parties to the conflict allow and facilitate the use of all available routes to and throughout the entire Gaza Strip, including border crossings, including full and prompt implementation of the announced opening of the Karem Abu Salem/Kerem Shalom Border Crossing, for the provision of humanitarian assistance in order to ensure that humanitarian personnel and humanitarian assistance, including fuel, food, and medical supplies and emergency shelter assistance, reaches the civilian

¹⁷⁵ Preamble, Resolution 2720, *op cit.*

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, and *stresses* the importance of respecting and protecting border crossings and maritime infrastructure used for the delivery of humanitarian assistance at scale;

Requests the Secretary-General, with the objective of expediting the delivery of humanitarian assistance to the civilian population in the Gaza Strip, to appoint a Senior Humanitarian and Reconstruction Coordinator with responsibility for facilitating, coordinating, monitoring, and verifying in Gaza, as appropriate, the humanitarian nature of all humanitarian relief consignments to Gaza provided through states which are not party to the conflict, and *further requests* that the Coordinator expeditiously establish a UN mechanism for accelerating the provision of humanitarian relief consignments to Gaza through states which are not party to the conflict, consulting all relevant parties, with the goal of expediting, streamlining, and accelerating the process of providing assistance while continuing to help ensure that aid reaches its civilian destination, and *demand*s that the parties to the conflict cooperate with the Coordinator to fulfil their mandate without delay or obstruction;

213. The Resolution placed a clear obligation on Israel to allow and facilitate the use of all border crossings, rather than relying exclusively on the Rafah border crossing (which was stretched beyond capacity) and to implement the opening of the Karem Abu Salem crossing, in order to allow the entry and expedite the distribution of humanitarian assistance through the most direct routes. The main aim of the resolution was to enable the Senior Humanitarian and Reconstruction Coordinator to monitor and verify the humanitarian nature of relief consignments to and to establish a UN mechanism in Gaza that would expedite, streamline and accelerate the delivery of aid, putting an end to the arbitrary procedures put in place by Israel, which unnecessarily obstructed and delayed the entry and delivery of humanitarian assistance.

214. While the Senior Coordinator briefed the UN Security Council of some minor improvements in aid delivery and the diversification of supply routes,¹⁷⁶ by and large there

¹⁷⁶ Briefing of Ms. Sigrid Kaag, Senior Humanitarian and Reconstruction Coordinator for Gaza, Security Council Seventy-ninth year 9617th meeting,

was no enabling environment for the adequate implementation of Resolution 2720 and prior resolutions on humanitarian access. Although the Karem Abu Salem crossing was opened for the movement of goods and humanitarian assistance, it was not operated to full capacity, while the lengthy, non-transparent inspection process for humanitarian inspection remained in place. Israel continued to place a ceiling on the amount of aid allowed to enter through the Karem Abu Salem crossing, while the active hostilities hampered the ability to distribute what little assistance was able to enter the Gaza Strip.

215. The Deputy Executive Director of the United Nations Children’s Fund (UNICEF), reported to the UN Security Council repeated denials or delays in granting access for humanitarian convoys, which, coupled with the widespread destruction of logistical infrastructure in Gaza, the quasi-blockade of the North, as well as electricity and telecommunications blackouts were driving dehydration, malnutrition and hunger.¹⁷⁷

216. The UN Special Rapporteur on the Human Rights of Internally Displaced Persons criticised “Israel’s continued efforts to obstruct and weaponize humanitarian aid, including through attacks on civilians seeking aid”.¹⁷⁸ She stated that “Israel has also continued to attack aid convoys and health facilities, impose arbitrary movement restrictions on humanitarian actors, and done little to hold Israeli citizens accountable for blocking the delivery of humanitarian aid. As a result, starvation and disease are running rampant, and claiming lives alongside Israel’s military actions”.¹⁷⁹ In addition, she reported that “Israel appears to have expanded its assault on humanitarian aid to systematically target aid-seekers themselves,” referring to the Israeli targeting and mass killing of civilians queuing for food aid on 29 February 2024 and 1 March 2024.¹⁸⁰ This was followed by Israel’s targeting of the non-governmental relief organisation “World Food Kitchen”, killing seven humanitarian aid workers.¹⁸¹

217. In its order of 28 March 2024, this Court found that “the catastrophic living conditions of the Palestinians in the Gaza Strip have deteriorated further, in particular in view of the

¹⁷⁷ “‘Shocking Increase’ in Denial of Access to Life-Saving Humanitarian Aid for Children in Conflict Zones Worldwide, Security Council Hears, as Delegates Discuss Solutions” Press Release, Security Council 9594th Meeting, SC/15651, 3 April 2024.

¹⁷⁸ “Gaza: Israel’s dehumanisation of displaced persons must end, says UN expert” Press Release (6 March 2024) <https://www.ohchr.org/en/press-releases/2024/03/gaza-israels-dehumanisation-displaced-persons-must-end-says-un-expert>

¹⁷⁹ *Ibid.*

¹⁸⁰ *Ibid.*

¹⁸¹ “Gaza: Aid worker killings prompt temporary halt to UN operations after dark” (3 April 2024), UN News, available at: <https://news.un.org/en/story/2024/04/1148211>

prolonged and widespread deprivation of food and other basic necessities to which the Palestinians in the Gaza Strip have been subjected.”¹⁸² The Court further cited the report issued by the United Nations Children Fund (UNICEF) stipulating that 31 per cent of children under the age of 2 suffered from acute malnutrition in Northern Gaza, and that malnutrition among children was reaching devastating levels due to restrictions on aid delivery.¹⁸³ The Court observed that the Gaza Strip was not only facing the risk of famine, but that famine was, in fact, setting in as 31 people had died of malnutrition and starvation.¹⁸⁴ It also noted the Statement of the United Nations High Commissioner for Human Rights which stated that “[t]he situation of hunger, starvation and famine is a result of Israel’s extensive restrictions on the entry and distribution of humanitarian aid and commercial goods...”.¹⁸⁵ Accordingly, the Court decided that Israel shall:

“(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....”¹⁸⁶

(c) Israel’s ground invasion of Rafah on 7 May 2024 until the Ceasefire Agreement in January 2025

218. On 7 May, 2024 Israel launched its military offensive against Rafah, a refuge for more than a million Palestinians, and the hub for humanitarian assistance to Gaza, severely impacting humanitarian operations and exacerbating an already catastrophic humanitarian situation. Although the international community repeatedly warned of the danger and risks of undertaking military operations in Rafah, these calls went unheeded. Israel took over the Palestinian side of the Rafah border crossing, generating military confrontations with Palestinian groups that blocked what was until then the main lifeline for civilians in Gaza. As the active hostilities threatened the lives of humanitarian relief workers, humanitarian agencies on the Palestinian side of the crossing withdrew, preventing humanitarian access from the

¹⁸² *South Africa v. Israel*, Order of 28 March 2024, p. 6, para 18.

¹⁸³ *Idem*, p. 7, para 20. UNICEF, “Acute malnutrition has doubled in one month in the north of Gaza Strip: UNICEF”, press release, 15 March 2024.

¹⁸⁴ Order of 28 March 2024, p. 7, para 21.

¹⁸⁵ *Idem.*, para. 34.

¹⁸⁶ *Idem*, p. 11, para 45.

Rafah crossing. This led to a further tightening of the siege on the Gaza Strip, due to Israel's failure to open its other border crossings with Gaza in accordance with its obligations under international humanitarian law (hereinafter 'IHL') and relevant Security Council Resolutions. Israel ordered hundreds of thousands of displaced Palestinian civilians to leave Rafah, ordering them to evacuate to Al-Mawasi, a so-called "expanded humanitarian area", lacking adequate shelter, food, water and sewage infrastructure, according to Tor Wennesland, United Nations Special Coordinator for the Middle East Peace Process,¹⁸⁷ in what amounted to the repeated displacement through evacuation orders and bombardment by the IDF of almost 2 million Palestinian people.

219. Simultaneously, Israeli settlers launched attacks on humanitarian consignments passing from Jordan to Gaza through Israeli territory, looting and destroying them, further contributing to an already grave humanitarian situation.

220. On 24 May 2024, the International Court of Justice issued its order for Provisional Measures in the case of *South Africa v. Israel* on the Application of the Genocide Convention, in which it emphasized that Israel was required to maintain open land crossing points, in particular the Rafah crossing. The Court's order thus indicated that Israel should "maintain open the Rafah crossing for unhindered provision at scale of urgently needed basic services and humanitarian assistance".¹⁸⁸

(d) The Ceasefire Agreement until the filing of this Written Statement

221. On 15 January 2025 Israel and Hamas accepted a ceasefire agreement, which was brokered by United States, Qatar, and Egypt. The agreement provided, during the first Phase of the ceasefire, for the entry of adequate quantities of humanitarian aid, relief supplies and fuel, amounting to around 600 trucks daily, half of which would be delivered to Northern Gaza. Of these trucks, 50 would be carrying fuel. The supplies entering would include equipment required for the removal of rubble, rehabilitation and operation of hospitals, health centers, and bakeries in all areas of the Gaza Strip, as well as civil defense supplies and shelter for the displaced.¹⁸⁹

¹⁸⁷ "Speakers in Security Council Urge Israel to Stop Military Incursions into Rafah", available at <https://press.un.org/en/2024/sc15701.doc.htm>

¹⁸⁸ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip* (South Africa v. Israel), Provisional Measures Order of 24 May 2024, para 52, 57.

¹⁸⁹ "Egypt says Israel will release over 1,890 Palestinian prisoners in 1st phase of Gaza ceasefire deal", Egyptian State Information Service, 18 January 2025, available at <https://sis.gov.eg/Story/204352/Egypt-says-Israel-will-release-over-1%2C890-Palestinian-prisoners-in-1st-phase-of-Gaza-ceasefire-deal?lang=>

222. Since the ceasefire entered into effect on 19 January 2025, thousands of trucks carrying humanitarian aid entered into the Gaza Strip. However, this remains insufficient for the massive humanitarian and development needs of the Palestinian people due to the complete collapse of all essential services and the large-scale destruction of health, housing, and education facilities over 15 months of war. According to reports, less than half of Gaza’s hospitals are partially functional, while the production of water is at less than 25 per cent capacity, due to destruction of pipes and pumps as well as electricity and fuel restrictions. With nearly all the inhabitants of Gaza facing high levels of acute food insecurity, including malnutrition among children, UNICEF described the level of humanitarian need as “almost unimaginable”.¹⁹⁰

223. On 18 February 2025, the Office for Coordination of Humanitarian Affairs (OCHA) reported a large number of challenges, including: restrictions on the entry of most agricultural inputs thereby obstructing the resumption of agricultural activities, insufficient access to financial services which hampered operations and hindered cash assistance, as well as a lack of commercial deliveries to complement humanitarian assistance, reduced warehousing capacity and destroyed infrastructure.¹⁹¹

224. OCHA further reported that, while improved humanitarian access allowed WASH services to be provided in more locations, “the importation rate of appropriate equipment and materials to Gaza remains very slow”,¹⁹² while additionally:

a broad range of critical WASH equipment are classified as “dual-use” items—goods that are considered useable for either civilian or military purposes—and are subject to entry restrictions by Israeli authorities [and] the various access corridors and complex entry processes further complicate the delivery of essential WASH materials.¹⁹³

225. In order to meet the massive humanitarian needs on the ground, Israel should allow unrestricted, unobstructed and safe humanitarian access to and throughout Gaza, at scale and

¹⁹⁰ UNICEF, “UNICEF acts swiftly during ceasefire to address the huge needs of Gaza’s children”, 10 February 2025, <https://www.unicef.org/sop/stories/unicef-acts-swiftly-during-ceasefire-address-huge-needs-gazas-children>

¹⁹¹“Gaza Humanitarian Response Update” 2-15 February 2025, <https://www.ochaopt.org/content/gaza-humanitarian-response-update-2-15-february-2025>

¹⁹² *Ibid.*

¹⁹³ *Ibid.*

in a timely manner through all entry points, and to guarantee the safety and security of humanitarian workers. Specific requests by UN Agencies operating on the ground include:

- Respecting and protecting the civilian infrastructure, including border crossings schools, hospitals, and water and sanitation infrastructure.
- Addressing the security environment and maintaining law and order;
- Allowing the unobstructed entry of aid as well as commercial supplies to all parts of the Gaza Strip, at scale in the long run;
- Allowing unfettered entry of agricultural inputs for food production to improve nutrition and reduce food gaps;
- Ensuring that enough cooking gas regularly reaches northern Gaza;
- Making available reliable telecommunications networks to coordinate response efforts;
- Immediate medical evacuation for injured and sick children, in accompaniment with their family members, and for all with urgent medical needs to safely access critical health services or be allowed to leave.¹⁹⁴

226. Egypt submits that Israel’s repeated attacks on humanitarian workers, humanitarian assistance and the infrastructure necessary for humanitarian operations, and its deliberate measures to restrict and obstruct humanitarian access and deprive the civilian population of the ability to receive humanitarian assistance constitutes a violation of a number of distinct rules and principles of international humanitarian law.

C. Israel’s Obligations under International Humanitarian Law

227. International humanitarian law is premised on the temporary nature of occupation. The commentary to article IV of the Geneva Conventions stipulates that “the occupation of territory in wartime is essentially a temporary, *de facto* situation, which deprives the Occupied Power neither of its statehood nor its sovereignty; it merely interferes with its power to exercise its rights”.¹⁹⁵ As a corollary, an occupying power must “freez[e] the *status juris* of the occupied territory for as long and as far as occupation remains effective; so that it cannot be changed by any unilateral act or action on the part of the Occupying Power”.¹⁹⁶ This is

¹⁹⁴ UNICEF, “Children in Gaza need life-saving support. UNICEF and partners are surging aid now” <https://www.unicef.org/emergencies/children-gaza-need-lifesaving-support>

¹⁹⁵ International Committee of the Red Cross, Commentary on the IV Geneva Convention Relative to the Protection of Civilian Persons in Time of War (Jean S. Pictet ed.), (1958), [hereinafter “Pictet, *Commentary*”], p. 275.

¹⁹⁶ Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Verbatim Record, 23 February (Request for advisory opinion submitted by the General Assembly of the United Nations),

reflected in Article 43 of the Hague Regulations, which directs the Occupying Power to take all measures to ensure “public order and safety, while respecting unless absolutely prevented, the laws in force in the country”.¹⁹⁷

228. International humanitarian law does not bestow “rights” on an Occupying Power; it only allows it to exercise limited powers, intended to be temporary in nature, with the aim of balancing between its own military needs, and the protection of the local inhabitants. These are not rights bestowed on the Occupying Power, but rather limitations on its authority.

229. It is an essential feature of IHL that the protections afforded by this body of law admit no derogation or exception absent an express treaty provision to the contrary. The following sections discuss, *inter alia*, Israel’s obligations as an occupying power to respect and protect humanitarian workers and not to attack or destroy objects indispensable for the survival of the civilian population, provide basic needs in the Occupied Territory, ensure public order and respect the laws in force, ensure the unhindered provision of humanitarian assistance, and the obligation to refrain from causing displacement or the individual or mass forcible deportation or transfer of the civilian population.

(a) The duty of the Occupying Power to respect and protect humanitarian workers

230. Humanitarian relief personnel must be respected and protected at all times. This is part of the general prohibition, under international humanitarian law, of intentionally attacking civilian objects. It follows that persons, objects and infrastructure involved in the provision of humanitarian assistance must not be the object of attack.

231. Earlier, this Written Statement outlined Israel’s policies of targeting humanitarian personnel and objects, including but not limited to UNRWA personnel and facilities. UNRWA’s Commissioner-General and Director for operations in the West Bank have directed letters to the IDF, protesting the targeting of aid convoys in Gaza as well as UNRWA installations and refugee camps in the West Bank.¹⁹⁸ Other humanitarian and relief organisations have also reported being targeted. In a recent survey, 72% of aid agencies

Advisory Proceedings [hereinafter “*Wall Advisory Proceedings*”], Oral Statement by counsel Georges Abi Saab, 23 February 2004, CR 2004/1, p. 43.

¹⁹⁷ The Hague Regulations, art. 43.

¹⁹⁸ Letter of UNRWA Commissioner General to the Israeli Defense Forces 31 December 2023; Letter of Director of UNRWA Affairs West Bank to the Ministry of Foreign Affairs of Israel, 29 January 2024;

questions reported damage to their premises due to air or ground attacks by the IDF, including a number that were heavily damaged or destroyed.¹⁹⁹

232. Countless General Assembly resolutions have called for the safety and security of humanitarian personnel and the protection of United Nations personnel, calling on all States

to ensure the safe and unhindered access of humanitarian personnel and the delivery of supplies and equipment, in order to allow those personnel to perform efficiently their task of assisting the affected civilian population, including refugees and internally displaced persons.²⁰⁰

233. Regarding the situation in the Gaza Strip, UNSC Resolution 2720 provided for the need to protect humanitarian facilities, infrastructure and personnel and objects critical to the delivery of essential services to the civilian population. On this point, UNSC Resolution 2720 stated the following:

1. [...] *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 [...];

3. [...] *stresses* the importance of respecting and protecting border crossings and maritime infrastructure used for the delivery of humanitarian assistance at scale;

10. *Reaffirms* the obligations of all parties under international humanitarian law, including with regard to respecting and protecting civilians and taking constant care to spare civilian objects, including such objects critical to the delivery of essential services to the civilian population, and with regard to refraining from attacking, destroying, removing or rendering useless objects that are indispensable to the survival of the civilian population, as well as respecting and protecting humanitarian personnel and consignments used for humanitarian relief operations;²⁰¹

¹⁹⁹ Oxfam, “New survey reveals extent of Israel’s failure to improve humanitarian access in Gaza in the year since ICJ ruling” (27th January 2025), available at: <https://www.oxfam.org/en/press-releases/new-survey-reveals-extent-israels-failure-improve-humanitarian-access-gaza-year-icj>

²⁰⁰ See e.g. General Assembly Resolution A/RES/77/31, (adopted 6 December 2022) operative paragraph 5. See also, generally, General Assembly Resolutions A/RES/76/127 (adopted on 10 December 2021), A/RES/73/137 (adopted on 14 December 2018).

²⁰¹ UN Security Council Resolution 2720, *op cit*, operative paragraphs 1, 3, 10.

234. According to UNSC resolution 2720, the duty to respect and protect humanitarian personnel, objects and infrastructure extends to border crossings and maritime infrastructure specifically used for the delivery of humanitarian assistance. Accordingly, Israel's above-described policies of targeting humanitarian workers, their means of transport and facilities, as well as targeting the Rafah border crossing, without ever producing evidence for Israel's unfounded claims of their loss of protected status, violate the principles of IHL, most notably the principle of distinction and the duty to respect and protect humanitarian personnel, objects and infrastructure.

(b) Israel's obligation to take measures to ensure public order and safety and respecting the laws in force

235. As discussed earlier, as an Occupying Power, Israel is obliged to take measures to ensure "public order and safety, while respecting unless absolutely prevented, the laws in force in the country".²⁰² The law of belligerent occupation freezes the legal order of the occupied territory throughout the duration of the occupation.²⁰³ The occupying authority is merely a *de facto* administrator, a principle intended to protect both the inhabitants of the occupied territory, as well as "the separate existence of the State, its institutions and its laws."²⁰⁴ This is reflected in article 47 of the Fourth Geneva Convention and is what "distinguishes occupation from annexation".²⁰⁵

236. This is particularly significant for the continuation of UNRWA's operations in the OPT, which predate the Israeli occupation. As an Occupying Power, Israel cannot lawfully take any measures to end UNRWA operations in the OPT, as this would amount to making changes in the legal order existing prior to the occupation. On the other hand, the State of Palestine, the rightful sovereign, has consented to the presence of UNRWA, and entered into undertakings with UN agencies and bodies regulating their operations in the OPT (see paragraphs 89 and 148 above).

237. Israel's obligations to ensure "public order and safety" also extend to the realm of protecting humanitarian assistance and humanitarian workers, whether from acts of looting of

²⁰² The Hague Regulations, art. 43.

²⁰³ Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Verbatim Record, 23 February (Request for advisory opinion submitted by the General Assembly of the United Nations), Advisory Proceedings [hereinafter "*Wall Advisory Proceedings*"], Oral Statement by counsel Georges Abi Saab, 23 February 2004, CR 2004/1, p. 43.

²⁰⁴ *International Committee of the Red Cross, Commentary on the IV Geneva Convention Relative to the Protection of Civilian Persons in Time of War* (Jean S. Pictet ed.), (1958), p. 273, available at: <https://ihl-databases.icrc.org/en/ihl-treaties/gciv-1949/article-47/commentary/1958>

²⁰⁵ *ibid*, p. 275.

humanitarian relief in the Gaza Strip, or from the obstruction of humanitarian aid and emergency services by settlers in the West Bank, whether through violence or intimidation.

(c) The duty of the Occupying Power to provide basic needs in the Occupied Territory

238. In situations of occupation, international humanitarian law places the primary obligation to ensure the food and medical supplies of the civilian population on the Occupying Power. According to article 55 (1) of the Fourth Geneva Convention (hereinafter “GC IV”),

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.²⁰⁶

239. While the phrase “to the fullest extent of the means available to it” indicates a recognition that the Occupying Power may face material difficulties (such as financial, transport and other challenges), article 55 nevertheless requires the Occupying Power to utilize all means at its disposal to ensure food and medical supplies.²⁰⁷ The Occupying Power’s responsibility, under article 55, to provide food, medical and other supplies “places that Power under a definite obligation to maintain at a reasonable level the material conditions under which the population of the occupied territory lives”.²⁰⁸ There is no security or military- related qualification or exception to article 55 (1).

240. Article 55 also provides that the Protecting Power shall be at liberty to verify the state of food and medical supplies in the occupied territory, at any time, “except where temporary restrictions are made necessary by imperative military requirements”.²⁰⁹ According to the commentary of this article,

[t]he assistance given by the Protecting Powers is not limited to mere supervision; it can extend to the measures taken by the occupation authorities to ensure the food

²⁰⁶ Article 55 Geneva Convention IV

²⁰⁷ Commentary of 1958, p. 309. <https://ihl-databases.icrc.org/en/ihl-treaties/gciv-1949/article-55/commentary/1958>

²⁰⁸ Ibid., p. 310.

²⁰⁹ Article 55 GC IV.

and medical supplies of the population; the Protecting Powers may, for example, usefully lend their good offices for the importing of food and medicaments.²¹⁰

241. The only exception to this authority of the Protecting Power is captured in paragraph 3 of article 55, namely the case of temporary restrictions necessitated by imperative military requirements. As the language of article 55 (3) indicates, the suspension of the supervisory authority of the Protecting Power is only temporary and can only be authorised as an exceptional measure; to allow otherwise would render “the rule in regard to verification inoperative”.²¹¹

242. The obligation under article 55 is not confined to food and medical supplies. The obligation also includes “any article necessary to support life”.²¹² Additionally, Security Council Resolutions 2712 (2023) and 2720 (2023) specifically referred to fuel, food, water, sanitation, electricity, telecommunications, emergency shelter assistance, medical supplies and services.²¹³

243. Article 56 GC IV provides for the Occupying Power’s duty to ensure and maintain the medical and hospital establishments and services, as well as public health and hygiene, with the cooperation of national and local authorities. In line with this, articles 18 and 20 GC IV provide that civilian hospitals and their personnel are to be respected and protected at all times, and may in no circumstances be the object of attack. The same protection is afforded, under article 21, to convoys of vehicles on land or sea conveying wounded and sick civilians.

244. Article 50 (1) of GC IV further provides that “the Occupying Power shall, with the cooperation of the national and local authorities, facilitate the proper working of all institutions devoted to the care and education of children”. Articles 50 and 56 require cooperation between the Occupying Power and national and local authorities in the provision of such public services. The Palestinian Authority should be fully empowered to assume this role.

245. According to article 60 GC IV, the provision of humanitarian relief by third States and impartial organisations cannot absolve the Occupying Power of its responsibility under articles

²¹⁰ Commentary of 1958, p. 310. <https://ihl-databases.icrc.org/en/ihl-treaties/gciv-1949/article-55/commentary/1958>.

²¹¹ *Idem*, p. 311.

²¹² Commentary of 1958, p. 309, available at <https://ihl-databases.icrc.org/en/ihl-treaties/gciv-1949/article-59/commentary/1958>.

²¹³ UNSC Resolution 2712, Adopted by the Security Council at its 9479th meeting, on 15 November 2023; UNSC Resolution 2720 Adopted by the Security Council at its 9520th meeting, on 22 December 2023

55 and 56, to ensure the food and medical supplies of the population, and maintain medical and hospital services. The provision of humanitarian assistance by third parties, therefore, “should be understood as a subsidiary, complementary and temporary means”.²¹⁴

246. With the outbreak of Israel’s war against Gaza on 7 October 2023, Israel failed to fulfill its obligations to provide the essential needs, including food, medical and other supplies to the population of Gaza. Moreover, Israel’s adoption of legislation on 28 October 2024 compelling UNRWA to cease its activities in the Occupied Palestinian Territory prevents the Agency from providing essential needs and public services in the OPT.

247. Egypt submits that, as an Occupying Power, Israel has the duty to ensure the food and medical supplies of the population of the Gaza Strip to the fullest extent of the means available to it, and to ensure and maintain the medical and hospital establishments and services, in accordance with articles 55 and 56 GC IV. There are no security or military-related qualifications to these obligations, which Israel has clearly disregarded.

(d) The duty of the Occupying Power to ensure the unhindered provision of humanitarian assistance

248. In the specific case of an occupied territory, the text of GC IV is unequivocal in requiring the Occupying Power - where food, medical and other relief supplies are inadequate - to allow humanitarian assistance and relief to reach the civilian population. According to article 59 GC IV,

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.

249. According to the 1958 Commentary of article 59, “the obligation on the Occupying Power to accept such relief is unconditional”.²¹⁵ In other words, in cases where the occupied territory is inadequately supplied, there is a clear and unqualified obligation on the Occupying Power to accept humanitarian supplies and relief schemes. This is in contrast to situations of armed conflict, where consent for relief operations is required.

²¹⁴ Nelzer and Kuster, p. 251.

²¹⁵ Commentary of 1958, p. 321, available at <https://ihl-databases.icrc.org/en/ihl-treaties/gciv-1949/article-59/commentary/1958>

250. Article 59 (1) embodies both a negative obligation not to hinder or obstruct the entry of relief supplies destined for the civilian population, as well as a positive obligation to actively facilitate such humanitarian assistance by all means at the Occupying Power's disposal. In the words of the Commentary, "the occupation authorities must therefore cooperate wholeheartedly in the rapid and scrupulous execution of these [relief] schemes", including by providing transportation and facilities for storage and distribution.²¹⁶ This principle is reflected in the text of UNSC Resolution 2720, adopted in December 2023, which demanded the parties to "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", without any qualification.²¹⁷

251. The second paragraph of article 59 provides that such relief schemes shall consist, in particular, of foodstuffs, medical supplies and clothing. The ICRC's customary international law study broadens this obligation to include "all relief items", in accordance with the text of article 70 of Additional Protocol I. This includes clothing, bedding, shelter, and other supplies essential to the civilian population's survival.²¹⁸ This is also consistent with the texts of UNSC Resolutions 2712 (2023) and 2720 (2023).²¹⁹

252. The second paragraph also indicates that relief schemes are to be undertaken both by States, as well as impartial humanitarian organisations, including, but not limited to, the ICRC. This includes all impartial humanitarian organisations, including UNRWA and other United Nations agencies, as well as other international and non-governmental organisations.

253. Article 59 also places an obligation on third States to permit the free passage of relief consignments and guarantee their protection, subject to their "right to search the consignments, to regulate their passage according to prescribed times and routes, and to be reasonably satisfied through the Protecting Power that these consignments are to be used for the relief of the needy population and are not to be used for the benefit of the Occupying Power".²²⁰

254. Article 60 of GC IV prohibits the Occupying Power from diverting relief consignments from their intended purpose, except in the interests of the population of the occupied territory

²¹⁶ Commentary of 1958, p. 320.

²¹⁷ UNSC 2720 (2023)

²¹⁸ Jean-Marie Henckaerts and Louise Doswald-Beck, *Customary International Humanitarian Law* (2005) (Hereinafter ICRC Customary International Law Study), Rule 55, p. 194.

²¹⁹ UNSC Resolution 2712, *op cit.* UNSC Resolution 2720 Adopted by the Security Council at its 9520th meeting, on 22 December 2023.

²²⁰ Article 59 GC IV.

and where there exists a case of urgent necessity. Such diversion cannot take place without the consent of the “Protecting Power”. Article 61 further provides that the Occupying Power “shall facilitate the rapid distribution of these consignments”, which shall be distributed “with the cooperation and under the supervision” of the Protecting Power, or a delegated neutral party, the International Committee of the Red Cross or other impartial humanitarian organisation. The High Contracting Parties shall endeavour to permit the transit and transport of these consignments free of charge. Relief consignments are generally exempt from charges, taxes and duties.

255. The duty of the Occupying Power to facilitate the rapid distribution of relief requires the occupation authorities to take measures such as “cutting out red tape, making transport available, granting permits allowing freedom of movement, facilities of all kinds for the staff of the distributing and supervising bodies, etc.”.²²¹ This is a far cry from the obstructionist policies adopted by Israel, which delay and impede the entry and distribution of humanitarian supplies in the Occupied Territory.

256. While there are no qualifications on the humanitarian action of impartial third States and humanitarian organisations under articles 59-61, this is to be contrasted with article 63, regarding relief actions by national Red Cross/Red Crescent Societies. According to article 63 GC IV, “subject to temporary and exceptional measures imposed for urgent reasons of security by the Occupying Power:

a) recognized National Red Cross (Red Crescent, Red Lion and Sun) Societies shall be able to pursue their activities in accordance with Red Cross Principles, as defined by the International Red Cross Conferences. Other relief societies shall be permitted to continue their humanitarian activities under similar conditions;

b) the Occupying Power may not require any changes in the personnel or structure of these societies, which would prejudice the aforesaid activities.

The same principles shall apply to the activities and personnel of special organizations of a non-military character, which already exist or which may be established, for the purpose of ensuring the living conditions of the civilian

²²¹ Commentary of 1958, p. 328, available at: <https://ihl-databases.icrc.org/en/ihl-treaties/gciv-1949/article-63/commentary/1958?activeTab=>

population by the maintenance of the essential public utility services, by the distribution of relief and by the organization of rescues.”²²²

257. Article 63 applies to a special category of relief societies, namely national Red Cross/ Red Crescent societies and other “special organisations” maintaining public utility services, such as “civil defence, passive defence, civil security services, civil air defence”.²²³ These societies and special organisations are to permitted to continue their humanitarian activities, provided they respect the Red Cross/ Red Crescent Movement’s Principles of humanity, impartiality, neutrality, independence, voluntary service, unity and universality.²²⁴ While the essential principle of the continuity of the humanitarian activities of such societies may be temporarily suspended through “exceptional measures imposed for urgent reasons of security” it must be emphasized that “under no circumstances may the occupation authorities invoke reasons of security to justify the general suspension of all humanitarian activities in an occupied territory”.²²⁵ It applies specifically to relief societies that abuse their privileges and humanitarian character as a front to promote hostile action against the Occupying Power. In the absence of such misuse, however, their activities must not be obstructed or interfered with by the Occupying Power. Any measures adopted by the Occupying Power “for urgent reasons of security” will depend on the specific context, and are to remain in place only for as long as the reasons justifying their adoption in the first place subsist.²²⁶ No such security exception exists under article 59, applicable to relief action by States and international humanitarian organisations.

258. While article 59 of the Fourth Geneva Convention does not require the consent of the Occupying Power for relief actions to take place in an occupied territory, the ICRC customary international law study indicates that the First Additional Protocol and customary international law require consent of the parties to an international armed conflict [hereinafter ‘IAC’]. This is mainly because a humanitarian organisation would not practically be able to operate without the consent of the parties involved.²²⁷

²²² Article 63 GC IV

²²³ Commentary of 1958, p. 334, available at: <https://ihl-databases.icrc.org/en/ihl-treaties/gciv-1949/article-63/commentary/1958?activeTab=>

²²⁴ “Our Fundamental Principles”, International Committee of the Red Cross, available at: <https://www.icrc.org/en/our-fundamental-principles>.

²²⁵ Commentary of 1958, p. 333, available at: <https://ihl-databases.icrc.org/en/ihl-treaties/gciv-1949/article-63/commentary/1958?activeTab=>

²²⁶ *Idem*.

²²⁷ Customary International Humanitarian Law Study, p. 197.

259. The provision of relief in the context of IAC is also subject to other exceptions. for instance article 23 GC IV, which is designed to guarantee free passage of consignments during a blockade, without entry of war contraband, requires the High Contracting Parties to allow free passage of “consignments of medical and hospital stores and objects necessary for religious worship,” while “essential foodstuffs, clothing and tonics” are only allowed free passage if they are “intended for children under fifteen, expectant mothers and maternity cases”.²²⁸ This is subject to various exceptions, including where there is a reasonable fear of misappropriation or diversion or that

a *definite* advantage may accrue to the military efforts or economy of the enemy through the substitution of the above-mentioned consignments for goods which would otherwise be provided or produced by the enemy or through the release of such material, services or facilities as would otherwise be required for the production of such goods [emphasis added].²²⁹

260. Clearly, the use of qualifier “definite” is intended to avoid a belligerent using this article as a pretext for denying any free passage of goods.

261. Even if, *arguendo*, the principles applicable during IAC were to apply to the present case, where belligerents have larger discretion when it comes to the free passage of humanitarian assistance, it must be emphasized that “consent must not be refused on arbitrary grounds”.²³⁰ For instance, under paragraph 2 (a), the free passage of humanitarian supplies cannot be denied unless there are serious reasons to believe that the supplies may be diverted for military purposes rather than the intended civilian beneficiaries.²³¹ Similarly, under paragraph 2 (b), free passage of supplies intended to meet the most urgent needs of the civilian population cannot be denied on the grounds that they may potentially improve an already dire economic situation. Free passage also cannot be denied if it were established that a civilian population lacked supplies essential for its survival or was facing starvation, and an impartial humanitarian relief organisation could remedy the situation.²³² In such circumstances, a party is obliged to give consent as its refusal would be considered arbitrary.

²²⁸ Article 23 GC IV

²²⁹ Ibid, para 2(c).

²³⁰ Customary International Humanitarian Law Study, p. 197.

²³¹ Melzer and Kuster, p. 251. GC IV, Art. 23(2); J.S. Pictet (ed.), *Commentary on the Fourth Geneva Convention*, pp. 182–183.

²³² Customary International Humanitarian Law Study, Rule 55, p. 197.

262. Although in an IAC the concerned party may exercise control over the content and delivery of relief supplies, such as searching relief supplies or their delivery under supervision; this cannot be abused to impede humanitarian action. The intervention of a “Protecting Power” or neutral party can be sought to carry out supervision, surveillance and verification. Under article 23 (4), once free passage is authorized, relief consignments must be forwarded as rapidly as possible.

263. Willfully impeding relief supplies falls under the definition of starvation as a war crime in international armed conflicts.²³³ In other words, the parties to an international armed conflict may not deliberately impede relief supplies or withhold consent to humanitarian and impartial relief operations.

264. Egypt submits that the applicable regime in the case of the recent war in the Gaza Strip is the specific one established under articles 59-61 of GC IV, which are specifically relevant to situations of occupation, rather than the broader regime applicable to cases of international armed conflict. This is so whether before, during, or after the events of October 7th, as the Gaza Strip remained under Israel’s occupation, in spite of the presence of hostilities between 7 October 2023 and 19 January 2025. The regime of occupation therefore applies as a matter of *lex specialis*.

265. Egypt, therefore, respectfully submits that the entry and distribution of humanitarian assistance to Gaza are governed by the international law principles applicable to situations of occupation, which require Israel to unconditionally allow and facilitate the entry and delivery of humanitarian assistance destined for the civilian population. This embodies an obligation to refrain from deliberately impeding the delivery of humanitarian assistance to civilians in the occupied Palestinian territory and arbitrarily obstructing relief action that is impartial and humanitarian in character.

(e) Freedom of movement of authorized humanitarian relief personnel

266. Although freedom of movement of authorised humanitarian relief personnel is not explicitly mentioned in the Fourth Geneva Convention, it is a *sine qua non* condition for the fulfillment of the obligations embodied in articles 59-61 GC IV, in particular the rapid distribution of relief supplies.

²³³ *Idem*, 197-98.

267. In international armed conflicts, some exceptions to freedom of movement are allowed in narrow circumstances. For instance, article 142 GC IV allows a Detaining Power to restrict the movement of relief organisations and societies specifically engaged in distributing relief supplies to internees, whose activities may be subject to measures the Detaining Power considers essential to ensure its security or meet any other reasonable need. The Detaining Power may also limit the number of societies and organizations allowed to perform their activities in its territory, as long as this does not hinder the supply of adequate relief.²³⁴ This article specifically applies to relief for internees and allows the Detaining Power to limit relief organisations in its own territory. It, therefore, does not apply to Occupied territories.

268. Similarly, article 71 of the First Additional Protocol, which applies in situations of IAC, provides that the participation of relief personnel in relief action, transportation or distribution “shall be subject to the approval of the Party *in whose territory they will carry out their duties* (emphasis added)”. The text does not require the approval of the Occupying Power, but rather of the Party in whose territory the relief action is taking place. Article 71 further allows for the temporary restriction of the movement of relief personnel “only in the case of imperative military necessity”.²³⁵ It also requires relief personnel to “take account of the security requirements” of the Party in whose territory they are operating, and as such permits the termination of the missions of relief personnel who do not respect this duty.

269. While article 69 AP I stipulates that humanitarian relief action in occupied territory is governed by the Fourth Convention articles 59, 60, 61, 62, as well as articles 108, 109, 110 and 111 (on relief for civilian internees), in addition to article 71 AP I, as already mentioned, the text of article 71 does not seem to have been drafted with occupied territories in mind. The text requires the approval of the Party on whose territory the humanitarian workers are operating and requires relief workers to respect the security of the territorial State. According to the 1987 Commentary of AP I, this should be interpreted to mean the approval of the Party exercising territorial control, i.e. the Occupying Power in the case of occupied territories (rather than the Party whose territory is occupied). To mitigate the requirement of “approval”, the Commentary indicates that article 71 could be interpreted to mean that the receiving Party/ Occupying Power may refuse participation by *a particular person*, and not the principle of participation of humanitarian personnel, as such. This is so since paragraph 4 lays down the

²³⁴ Article 142 GC IV. See J.S. Pictet (ed.), *Commentary on the Fourth Geneva Convention*, (1958), p. 559-564 [hereinafter ‘**Commentary of 1958**’].

²³⁵ AP I, article 71 (3).

option to terminate the mission of ‘any member’ of the relief personnel. The Commentary opines that

It would be reasonable in this case to comply with such a demand, provided that it remains exceptional and is justified, and it does not constitute a subterfuge to obstruct the action itself. In this respect it should be recalled that the approval for action required from the receiving Party does not give this Party the discretionary power to refuse a relief action.

270. In short, Israel’s obligation to allow the entry and free movement of humanitarian personnel is a corollary of the obligation to unconditionally allow and facilitate the entry and delivery of humanitarian assistance destined for the civilian population, and to refrain from deliberately impeding the delivery of humanitarian assistance or arbitrarily obstruct relief action that is impartial and humanitarian in character. Even if a customary norm has crystallised, on the basis of article 71 AP I, permitting Israel, as an Occupying Power, to deny participation of relief personnel, this should be narrowly construed to apply to participation by a particular person in circumstances that are exceptional and is justified. Other restrictions on entry and movement of humanitarian relief personnel are not applicable to the general case of civilians under occupation.

(f) Right of the Civilian Population in Need to Receive Humanitarian assistance

271. According to article 30(1) of the Fourth Geneva Convention protected persons have the right to make application to the Protecting Powers, the ICRC or National Red Cross/Red Crescent Societies, as well as to any organization that might assist them. This is a principle of customary international law and is reflected in numerous Security Council, General Assembly and Human Rights Council Resolutions.²³⁶

272. The right to receive relief includes civilian internees. Article 108 GC IV allows for internees to receive individual or collective shipments of relief, which can be limited by justification of military necessity. Articles 108-110, which appear in Section IV of the Convention on “Regulations for the Treatment of Internees”, govern individual and collective relief for civilian internees.

²³⁶ See, UN Security Council Resolution 824; UN General Assembly Resolution 55/2

(g) The Prohibition of Starvation

273. International humanitarian law prohibits the starvation of civilians as a method of warfare. According to the ICRC's Customary International Law Study, the prohibition of starvation as a method of warfare is a norm of customary international law in both international and non-international armed conflicts.²³⁷ The principle is reflected in article 54(1) of Additional Protocol I, which stipulates that "starvation of civilians as a method of warfare is prohibited".²³⁸ It flows from this that a siege whose purpose is to starve the civilian population is unlawful. The besieging party must therefore allow the free passage of essential supplies, including foodstuffs. To do otherwise would be to clearly indicate an intention to starve the civilian population rather than to achieve an exclusively military objective.

274. The denial of humanitarian relief and humanitarian access to civilians in need may amount to the war crime of starvation, or - if committed as part of a widespread or systematic attack directed against the civilian population - extermination as a crime against humanity.

(h) Attacking, destroying, removing or rendering useless objects indispensable to the survival of the civilian population

275. The obligation not to target objects indispensable to the survival of the civilian population is a corollary to the principle of distinction and the prohibition of attacking civilian objects. Article 54 (2) of Additional Protocol I, which reflects customary international law, prohibits attacks against objects "for the specific purpose of denying them for their sustenance value to the civilian population or to the adverse party, whatever the motive, whether to starve out civilians, to cause them to move away, or for any other motive".²³⁹ The intent of the attack must be to deprive the civilian population of their means of sustenance, and not to achieve a military objective.

276. The definition of objects indispensable to the survival of the civilian population includes: "foodstuffs, crops, livestock, drinking water installation, and supplies, and irrigation works", or any deprivation or insufficient supply of an essential commodity that is necessary for survival.²⁴⁰

²³⁷ Customary International Humanitarian Law Study, p. 189.

²³⁸ Article 54 (1) Additional Protocol I

²³⁹ Article 54(2) API, see Rule 54, Customary International Law Study, p. 189-190.

²⁴⁰ Customary International Humanitarian Law Study, p. 193.

277. According to the ICRC’s customary international law study, there are two exceptions to the above-mentioned prohibition of attacking objects indispensable to the survival of the civilian population. The first is where these objects lose their protected status by qualifying as military objectives. This is only fulfilled when the objects are being used *for the sole purpose* of sustaining combatants or in direct support for military action. Where such objects have a dual military and civilian use, they may not be attacked if such attack would lead to starvation amongst the civilian population. The other exception is to protect a State’s *own* national territory against invasion, where this is required by imperative military necessity.²⁴¹ Clearly, this exception cannot be employed to maintain an unlawful occupation or in any occupied territory, for that matter. Neither of the two exceptions is applicable to the case of Gaza, where Israel consistently targeted humanitarian assistance, humanitarian convoys, food, water and other essential supplies indispensable for the civilian population in the Gaza Strip.

(i) The Prohibition of Population Displacement, Deportation and Transfer

278. It is self-evident that population displacement and transfer is a major factor contributing to the violation of the obligation to ensure the food and medical supplies of the civilian population in the Occupied territory, and the facilitation and distribution of humanitarian assistance. One of the main aims and purposes of IHL is to prevent displacement and enable civilians to remain in their homes, thus ensuring that their basic needs are met.²⁴² In addition to the multiple and constant displacement of the Palestinian civilian population in Gaza, a recently published survey of 35 humanitarian relief organisations revealed that 94% of aid workers had been displaced once, with many reported being displaced multiple times, while 93% of the relief organisations surveyed were forced to relocate their operations, some multiple times, due to Israeli evacuation orders and military offensives.²⁴³

279. In situations of occupation, article 49 GC IV prohibits the individual or mass forcible transfers or deportations of civilians from occupied territory to the territory of the Occupying Power or to that of any another country, regardless of their motive. A partial or total evacuation of a given area may be undertaken for the safety of the population or imperative military reasons; however, “such evacuations may not involve the displacement of protected persons

²⁴¹ *Ibid.*

²⁴² Jelena Pejic, “The right to food in situations of armed conflict: The legal framework”, *International Review of the Red Cross*, (December 2001), Vol 83 (844), 1097, at p. 1100.

²⁴³ Oxfam, “New survey reveals extent of Israel’s failure to improve humanitarian access in Gaza in the year since ICJ ruling” (27th January 2025), available at: <https://www.oxfam.org/en/press-releases/new-survey-reveals-extent-israels-failure-improve-humanitarian-access-gaza-year-icj>

outside the bounds of the occupied territory except when for material reasons it is impossible to avoid such displacement”.²⁴⁴ Evacuations are considered a duty, not a right of the Occupying Power, and are authorised for the strict purposes of removing civilians from the line of fire during active military operations or if their presence hampers the operations. In such cases, however, evacuation is only allowed “when overriding military considerations make it imperative; if it is not imperative, evacuation ceases to be legitimate”.²⁴⁵ Civilians in an Occupied Territory may not be moved to places outside the Occupied Territory unless it is physically impossible to avoid this.²⁴⁶ They must be returned to their homes as soon as hostilities come to an end. In the final analysis, it must be recalled that for an evacuation to be lawful, “a real necessity must exist; the measures taken must not be merely an arbitrary infliction or intended simply to serve in some way the interests of the Occupying Power”.²⁴⁷

280. The drafting history of the Fourth Geneva Convention indicates that an initial draft prohibited transfers and deportation of protected persons “against their will”. This was omitted, however, as it was considered superfluous.²⁴⁸ As the Soviet delegate explained, “in occupied territory no one had the right to express an opinion”.²⁴⁹ The Drafting Committee also found these terms “valueless” in view of the pressure which could be exerted on protected persons.²⁵⁰ Moreover, the cases envisioned where evacuation would be permitted outside the occupied territory were cases very specific and limited cases, such as Wake Island’s evacuation to Japan during the Second World War²⁵¹ (the case involved a total population of about 1700, of which more than 500 were military personnel and the rest civilian contractors). Article 49 therefore cannot in any way be construed to permit the expulsion, displacement, evacuation, transfer or deportation of almost 2 million Palestinians from the occupied Gaza Strip to neighboring countries, for any justification, whether during or after the end of hostilities, including for the purported reconstruction of Gaza.

281. The jurisprudence of international courts and tribunals has further clarified the law on displacement of civilians. The International Criminal Tribunal for the Former Yugoslavia

²⁴⁴ Article 49(2) GC IV

²⁴⁵ Commentary of 1958, p. 280.

²⁴⁶ *Ibid.*

²⁴⁷ *Ibid.*, p. 283.

²⁴⁸ See 'Final Record of the Diplomatic Conference of Geneva of 1949, ' Vol. II-A, p.759.

²⁴⁹ Morosove (delegate of the Union of Soviet Socialist Republics), 'Final Record of the Diplomatic Conference of Geneva of 1949, ' Vol. II-A, p.664.

²⁵⁰ See Du Pasquier (Delegate of Switzerland and Rapporteur of the Committee), 'Final Record of the Diplomatic Conference of Geneva of 1949, ' Vol. II-A, p.664.

²⁵¹ See (delegate of the United States of America), *idem.*

(hereinafter ‘ICTY’) has found that “although displacement for humanitarian reasons is justifiable in certain situations, the Appeals Chamber agrees with the Prosecution that it is not justifiable where the humanitarian crisis that caused the displacement is itself the result of the accused’s own unlawful activity”.²⁵² In the *Krajišnik* Appeal Judgement, the ICTY found that displacement occurring as a direct result of the “severe living conditions” created by the Serb authorities and forces fell under the prohibition of forced deportation and transfer.²⁵³ It also found that:

The requirement that the displacement be forced is not limited to physical force but can be met through the threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression or abuse of power, or taking advantage of a coercive environment. It is the absence of genuine choice that makes the displacement unlawful... Displacement may be permitted by international law in certain limited circumstances, provided it is temporary in nature and conducted humanely. Notably, however, displacement is not permissible where the humanitarian crisis that caused the displacement is the result of the accused’s own unlawful activity.²⁵⁴

282. This Court, therefore, similarly concluded in the Advisory Opinion on the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem, that

transfer may be “forcible” — and thus prohibited under the first paragraph of Article 49 — not only when it is achieved through the use of physical force, but also when the people concerned have no choice but to leave Therefore, the absence of physical force does not exclude the possibility that the transfer in question is forcible.²⁵⁵

283. According to article 49 (3), the Occupying Power, when engaging in an evacuation that is permitted under the Fourth Geneva Convention, must place those evacuated in places of refuge and ensure proper accommodation for the protected persons to the greatest practicable extent, as well as “satisfactory conditions of hygiene, health, safety and nutrition”.²⁵⁶ Members

²⁵² STAKIĆ (IT-97-24-A), Appeal Judgement - 22.03.2006.

²⁵³ *Krajišnik* (IT-00-39-A), Appeal Judgement - 17.03.2009.

²⁵⁴ MLADIĆ (MICT-13-56-A), Appeal Judgement - 08.06.2021

²⁵⁵ Advisory Opinion on the Policies and Practices of Israel in the Occupied Palestinian Territory including East Jerusalem, para 145

²⁵⁶ Article 49(2) GC IV

of the same family shall not be separated. The Occupying Power's failure to provide refuge and basic needs of evacuees may render a lawful evacuation unlawful.

284. Any displacement or movement of civilians in contravention of the strict limitations placed by article 49 constitute grave breaches of the Geneva Conventions and have been found by international courts and tribunals to constitute persecution or extermination as a crime against humanity.²⁵⁷

285. Accordingly, Egypt respectfully submits that Israel's obligations to provide basic needs and to avoid unlawful deportation and transfer of the civilian population of the occupied territory entails a concomitant obligation to avoid measures calculated to make the Gaza Strip uninhabitable and to create and perpetuate the humanitarian crisis. Israel's obligations in this regard include the obligation not to unlawfully displace, transfer, or deport civilians in the occupied Palestinian territory, including the Gaza Strip, whether within that territory or outside it. This extends to aid workers and humanitarian assistance and relief organisations whose displacement and relocation due to extensive bombardment and military orders obstructed their ability to provide critically-needed humanitarian assistance. Where lawful, temporary evacuations are necessary, these must be limited in duration and conducted humanely, with the basic needs, shelter, health and hygiene of evacuees respected to the greatest practicable extent.

286. Egypt further submits that Israel's targeting of humanitarian operations, and its repeated denials of access to humanitarian convoys, closures of border crossings, as well as the unjustified delays, bureaucratic and other hurdles placed by Israel, which impeded the entry and distribution of humanitarian assistance are a violation of the law of belligerent occupation, including the obligation to provide basic needs in the occupied territory, the obligation to ensure the unhindered provision of humanitarian assistance, the prohibition of starvation and the prohibition against attacking, destroying, removing or rendering useless objects indispensable to the survival of the civilian population, as well as the prohibition against individual or mass forcible transfer or deportation.

²⁵⁷ Blaškić (IT-95-14-A), Appeal Judgement - 29.07.2004; Krnojelac (IT-97-25-A), Appeal Judgement - 17.09.2003

D. Israel's obligations under International Human Rights Law

287. Israel's responsibility to provide the basic needs of the civilian population and ensure the unhindered provision of humanitarian assistance also finds its basis in international human rights law. This Court has already confirmed in the *Wall* Advisory Opinion that international human rights law continues to apply during armed conflict and occupation, stating the following in paragraph 106:

“More generally, the Court considers that the protection offered by human rights conventions does not cease in case of armed conflict, save through the effect of provisions for derogation of the kind to be found in Article 4 of the International Covenant on Civil and Political Rights. As regards the relationship between international humanitarian law and human rights law, there are thus three possible situations: Some rights may be exclusively matters of international humanitarian law; others may be exclusively matters of human rights law; yet others may concern both these branches of international law”.²⁵⁸

288. In the *Advisory Opinion on the Policies and Practices of Israel*, the Court recalled that:

“international human rights instruments are applicable ‘in respect of acts done by a State in the exercise of its jurisdiction outside its own territory’, particularly in occupied territories” (*Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda)*, Judgment, I.C.J. Reports 2005, p. 243, para. 216, citing *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Advisory Opinion, I.C.J. Reports 2004 (I), pp. 178-181, paras. 107-113).²⁵⁹

289. The Court further observed that - in respect of its conduct in the Occupied Palestinian Territory - Israel remained bound by the International Covenant on Civil and Political Rights (hereinafter ‘**ICCPR**’) and the International Covenant on Economic, Social and Cultural Rights (hereinafter ‘**ICESCR**’).²⁶⁰

290. First, with respect to the ICCPR, Israel is bound to respect the right to life and to refrain from arbitrary deprivation of life in areas under its jurisdiction, including the OPT. Israel's

²⁵⁸ *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Advisory Opinion, I.C.J. Reports 2004 (I), p. 178, para. 106.

²⁵⁹ *Advisory Opinion on the Policies and Practices of Israel*, para 99.

²⁶⁰ *Idem*, para 100.

refusal to allow unimpeded humanitarian access throughout 15 months of the war in Gaza, in accordance with its responsibility as an Occupying Power amounts to a denial of the right to life, taking into consideration the Palestinian people's urgent need of humanitarian assistance to avoid hunger, starvation, severe malnutrition, dehydration and disease. The right to life is a non-derogable human right.

291. The ICESCR, to which Israel is a party, is also particularly relevant with regard to the obligation to guarantee the basic needs of the civilian population and ensure the unhindered provision of humanitarian assistance. The ICESCR embodies the right to the highest attainable standard of living, the right to adequate food, housing, and highest attainable standard of physical and mental health.

292. Unlike the ICCPR, the ICESCR contains no article on its scope of application. However, the Committee on Economic, Social and Cultural Rights has confirmed that the Covenant applies to all the territories and populations under a State's effective control, and was therefore applicable in the OPT.²⁶¹

293. Similarly, this Court observed in the *Wall* Advisory Opinion that

the territories occupied by Israel have for over 37 years been subject to its territorial jurisdiction as the occupying Power. In the exercise of the powers available to it on this basis, Israel is bound by the provisions of the International Covenant on Economic, Social and Cultural Rights. Furthermore, it is under an obligation not to raise any obstacle to the exercise of such rights in those fields where competence has been transferred to Palestinian authorities.²⁶²

294. It follows that Israel, the Occupying Power, is obligated to apply the ICESCR in the OPT and to respect and protect the rights enshrined in it.

295. Israel's obstruction of humanitarian assistance and failure to provide for the basic needs of the population is a violation of a plethora of rights under the ICESCR. In general, all States parties to the ICESCR have an obligation to respect, protect and fulfill basic levels of all the economic,

²⁶¹ UN Doc. EIC.12/III Add.90, paras. 15 and 31; See also "In dialogue with Israel, experts of Committee on Economic, Social and Cultural Rights say human rights obligations extend to territories under the country's effective control" (03 October 2019) available at: <https://www.ohchr.org/en/press-releases/2019/10/dialogue-israel-experts-committee-economic-social-and-cultural-rights-say>

²⁶² *Wall* Advisory Opinion, p. 181, para 112.

social, and cultural rights enshrined in the convention at all times. The ICESCR contains no derogation clause allowing for States to derogate from their obligations in times of emergency.

296. The UN Committee on Economic, Social and Cultural Rights (CESCR) has confirmed that States must protect, respect and fulfill the rights to basic food, primary health care, basic shelter and housing.²⁶³

297. Article 11 of the ICESCR stipulates the following:

1. The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.²⁶⁴

298. Paragraph (2) of article 11 recognises the right of everyone to be free from hunger. With respect to the right to food, the CESCR stated that:

The obligation to respect existing access to adequate food requires States parties not to take any measures that result in preventing such access. The obligation to protect requires measures by the State to ensure that enterprises or individuals do not deprive individuals of their access to adequate food. The obligation to fulfil (facilitate) means the State must pro-actively engage in activities intended to strengthen people's access to and utilization of resources and means to ensure their livelihood, including food security. Finally, whenever an individual or group is unable, for reasons beyond their control, to enjoy the right to adequate food by the means at their disposal, States have the obligation to fulfil (provide) that right directly.²⁶⁵

²⁶³ See Committee on Economic, Social and Cultural Rights, General Comment No. 12: The right to adequate food, UN Doc E/C 12/1999/5 (12 May 1999); General Comment N0. 4: the right to highest attainable standard of health, E/C 12/2000/4 (11 August 2000)

²⁶⁴ ICESCR, article 11.

²⁶⁵ CESCR, General Comment No. 12, para. 15.

299. The CESCR has also stated that the burden of proof is on the State to prove that it cannot fulfil its obligations for reasons beyond its control, and that it is seeking international support to ensure the availability and access to food.²⁶⁶

300. Furthermore, Article 12 of the UCESCR recognises “the right of everyone to the enjoyment of the highest attainable standard of physical and mental health,”²⁶⁷ while articles 13 and 15 of the ICESCR recognise the rights to education and to take part in cultural life. Regarding the minimum core obligations relative to the right to highest attainable standard of physical and mental health, the CESCR has stated that States are required to:

ensure the right of access to health facilities, goods and services on a non-discriminatory basis, especially for vulnerable or marginalized groups; to ensure access to the minimum essential food which is nutritionally adequate and safe, to ensure freedom from hunger to everyone; to ensure access to basic shelter, housing and sanitation, and an adequate supply of safe and potable water.²⁶⁸

301. Israel has not fulfilled these minimum core obligations in the OPT. In addition, Article 22(1) of the Convention on the Rights of the Child (hereinafter ‘**CRC**’) provides that

States Parties shall take appropriate measures to ensure that a child...shall...receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present Convention and in other international human rights or humanitarian instruments to which the said States are Parties.²⁶⁹

302. From the above, it is evident that international human rights law establishes clear obligations to provide basic needs and proscribes restrictions to humanitarian assistance that violate the basic rights enshrined in the relevant Conventions.

²⁶⁶ *Idem*, para 17.

²⁶⁷ ICESCR, article 12

²⁶⁸ CESCR, General Comment No. 14, para. 43.

²⁶⁹ Article 22(1), Convention on the Rights of the Child

303. Egypt submits that Israel's repeated denials and delays in granting access for humanitarian convoys constitutes a violation of Israel's obligations under international human rights law, including the ICCPR, ICESCR, and CRC.

VII: The Obligation of Israel not to Impede the Exercise by the Palestinian People of their Inalienable Right to Self-Determination

A. The Right of Peoples to Self-Determination

304. The right of peoples to self-determination is a fundamental principle of international law. This is reflected in article 1(2) of the UN Charter, which provides that one of the purposes of the Organization is the development of friendly relations among nations “based on respect for the principle of equal rights and self-determination of peoples”²⁷⁰. Moreover, article 56 of the UN Charter, stipulates that all States should “take joint and separate action in co-operation with the Organization for the achievement of the purposes set forth in Article 55,” which include “respect for the principle of equal rights and self-determination”²⁷¹.

305. The centrality of the right to self-determination in international law is also reflected in its inclusion in articles 1 of both the International Covenant on Civil and Political Rights (“ICCPR”) and the International Covenant on Economic, Social and Cultural Rights (“ICESCR”), which states: “all peoples have the right of self-determination. By virtue of that right, they freely determine their political status and freely pursue their economic, social and cultural development.” Moreover, the Court has affirmed the right to self-determination is a fundamental right.²⁷²

306. The General Assembly has recognized the right to self-determination as one of the “basic principles of international law”²⁷³. For example, Resolution 1514 (XV) of 14 December 1960 on the Declaration on the Granting of Independence to Colonial Countries and Peoples affirmed that “[a]ll peoples have the right to self-determination; by virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.”²⁷⁴. Moreover, the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States, which is widely accepted as containing an authoritative interpretation of the UN Charter, also stipulates the following:

Every State has the duty to promote, through joint and separate action, realization of the principle of equal rights and self-determination of peoples, in accordance with the

²⁷⁰ UN Charter, *op. cit.*, Article 1(2).

²⁷¹ Article 55 of UN Charter

²⁷² Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965, Advisory Opinion, I.C.J. Reports 2019 (I), p. 131, para. 144

²⁷³ Annex to resolution 2625 (XXV) of 24 October 1970

²⁷⁴ resolution 1514 (XV) of 14 December 1960, para. 2.

provisions of the Charter, and to render assistance to the United Nations in carrying out the responsibilities entrusted to it by the Charter regarding the implementation of the principle [...]

Every State has the duty to promote through joint and separate action universal respect for and observance of human rights and fundamental freedoms in accordance with the Charter.

Every State has the duty to refrain from any forcible action which deprives peoples referred to above in the elaboration of the present principle of their right to self-determination and freedom and independence”²⁷⁵.

307. The Court has affirmed that the right of all peoples to self-determination is “one of the essential principles of contemporary international law”²⁷⁶. The Court also recognized that the duty to respect the right to self-determination is an obligation *erga omnes* that all States have a legal interest in protecting,²⁷⁷ and that “in cases of foreign occupation such as the present case, the right to self-determination constitutes a peremptory norm of international law”²⁷⁸.

B. The Right to Self Determination of the Palestinian People

308. It is firmly established that exercising the right to self-determination is an inalienable right of the Palestinian people. In the *Wall Advisory Opinion*, the Court affirmed that “[a]s regards the principle of the right of peoples to self-determination, the Court observes that the existence of a “Palestinian people” is no longer in issue”²⁷⁹. Furthermore, the Court determined that the construction of the Wall in the Occupied Palestinian Territory, including East Jerusalem, “severely impedes the exercise by the Palestinian people of its right to self-determination, and is therefore a breach of Israel’s obligation to respect that right”²⁸⁰.

309. The General Assembly has also affirmed the inalienable right of the Palestinian people to self-determination on numerous occasions. For example, in Resolution 2649 (XXV) the General Assembly condemned “those governments that deny the right to self-determination

²⁷⁵ Annex to resolution 2625 (XXV) of 24 October 1970

²⁷⁶ East Timor (Portugal v. Australia), Judgment, I.C.J. Reports 1995, p.102, para. 29.

²⁷⁷ Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, I.C.J. Reports 2004 (I), p. 199, para. 155; Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965, Advisory Opinion, I.C.J. Reports 2019 (I), p. 139, para. 180).

²⁷⁸ Legal Consequences arising from the policies and practices of Israel in the Occupied Palestinian Territory, including East Jerusalem, Advisory Opinion, I.C.J. 2024, para 233.

²⁷⁹ *The Wall Advisory Opinion, op.cit., pp. 182-183, para. 118.*

²⁸⁰ *The Wall Advisory Opinion, op.cit., pp. 182-183, para. 122.*

of peoples recognized as being entitled to it, especially of the peoples of Southern Africa and Palestine.”²⁸¹ In Resolution 3236 (XXIX) of 22 November 1974, the General Assembly also affirmed that “the inalienable rights of the Palestinian people in Palestine, including: (a) The right to self-determination without external interference; (b) The right to national independence and sovereignty”, as well as “the inalienable right of the Palestinians to return to their homes and property from which they have been displaced and uprooted, and call[ed] for their return”²⁸². Moreover, since the adoption of Resolution 49/149 of 23 December 1994, the General Assembly has adopted an annual resolution titled “The Right of the Palestinian People to Self-Determination,” the latest of which is Resolution 79/163 of 17 December 2024, which “[r]eaffirms the right of the Palestinian people to self-determination, including the right to their independent State of Palestine” and “urges all States and specialized agencies and organizations of the United Nations system to continue to support and assist the Palestinian people in the early realization of their right to self-determination”²⁸³.

310. The Human Rights Council has also recognized “the inalienable, permanent and unqualified right to self-determination of the Palestinian people, including the right to live in freedom, justice and dignity and their right to their independent State of Palestine”²⁸⁴.

C. The Obligation of Israel not to Impede the Exercise of the Inalienable Right of the Palestinian People to Self Determination

311. Israel is under an obligation to respect the right of the Palestinian people to self-determination, and to immediately put an end to its policies and practices that impede the exercise by the Palestinian people of this inalienable right.

312. In the *Wall Advisory Opinion*, the Court affirmed that Israel’s conduct, including the construction of the Wall, “severely impedes the exercise by the Palestinian people of its right to self-determination, and is therefore a breach of Israel’s obligation to respect that right”²⁸⁵ and that Israel “should comply with the obligations it had breached, including respect for the Palestinian people’s right of self-determination, and compliance with the rules and principles of humanitarian and human rights law”²⁸⁶.

²⁸¹ *General Assembly, Resolution 2649 (XXV), 30 November 1970.*

²⁸² *General Assembly, Resolution 3236 (XXIX), 22 November 1974.*

²⁸³ *General Assembly, Resolution 79/163, 17 December 2024.*

²⁸⁴ *Human Rights Council, Resolution 49/28, 11 April 2022, paras. 1, 3-5.*

²⁸⁵ *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, I.C.J. Reports 2004 (I), p. 184, para. 122.*

²⁸⁶ *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, I.C.J. Reports 2004 (I), p. 184, para. 149.*

313. In its Advisory Opinion on the *Chagos Archipelago*, the Court confirmed the “customary law character of the right to territorial integrity of a non-self-governing territory as a corollary of the right to self-determination.”²⁸⁷ In relation to the situation in the Occupied Palestinian Territory, the Court reiterated, in its Advisory Opinion on the *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*, the duty to respect and preserve “the territorial unity, contiguity and integrity of all of the Occupied Palestinian Territory, and affirmed that Israel is under an “obligation not to impede the Palestinian people from exercising its right to self-determination, including its right to an independent and sovereign State, over the entirety of the Occupied Palestinian Territory.”²⁸⁸ The Court also determined found that “Israel’s annexation of large parts of the Occupied Palestinian Territory violates the integrity of the Occupied Palestinian Territory, as an essential element of the Palestinian People’s right to self-determination”²⁸⁹.

314. Furthermore, the Court stated: “by virtue of the right to self-determination a people is protected against acts aimed at dispersing the population and undermining its integrity as a people.”²⁹⁰ The Court also concluded that Israel’s policies and practices in the Occupied Palestinian Territory were undermining the integrity of the Palestinian people and forcing the Palestinian people to depart certain areas of the Occupied Palestinian Territory.²⁹¹

315. The Court also noted that “a key element of the right to self-determination is the right of a people freely to determine its political status and to pursue its economic, social and cultural development.”²⁹² It also observed that the dependence of the Occupied Palestinian Territory on Israel “for the provision of basic goods and services impairs the enjoyment of fundamental human rights, in particular the rights to self-determination,”²⁹³ and that “Israel’s policies and practices obstruct the Palestinian people freely to determine its political status and to pursue its economic, social and cultural development.”²⁹⁴ On the basis of these findings, the Court determined that the “prolonged character of Israel’s unlawful policies and practices aggravates their violation of the right of the Palestinian people to self-determination. As a

²⁸⁷ *Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965*, Advisory Opinion, I.C.J. Reports 2019, p. 134, para. 160

²⁸⁸ *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*, p. 66, para 237.

²⁸⁹ *Ibid.*, para 238.

²⁹⁰ *Ibid.*, p. 184, para. 122.

²⁹¹ *Ibid.*, para 239

²⁹² *Ibid.*, para 241.

²⁹³ *Ibid.*, para 241.

²⁹⁴ *Ibid.*, I.C.J. 2024, para 242.

consequence of Israel's policies and practices, which span decades, the Palestinian people has been deprived of its right to self-determination over a long period, and further prolongation of these policies and practices undermines the exercise of this right in the future"²⁹⁵.

316. In the context of the present proceedings, Egypt submits that Israel's conduct in relation to the presence and activities of UN agencies and bodies, other international organizations, and third States in the Occupied Palestinian Territory is inconsistent with its obligation not to impede the exercise of the inalienable right of the Palestinian people to self-determination.

317. By failing to facilitate and actively impeding the presence and activities of UN bodies and agencies in the Occupied Palestinian Territory, Israel is engaging in conduct that is designed to further disperse the Palestinian people, entrench Israel's control of natural resources in the Occupied Palestinian Territory, and to prevent the Palestinian people from freely determining their status and pursuing their economic, social and cultural development. The effect of this Israeli conduct is to further impede the exercise by the Palestinian people of their inalienable right to self-determination.

318. This is especially the case with UNRWA. As discussed above, given the scale of essential humanitarian relief and social services that it provides, UNRWA is indispensable and irreplaceable for the promotion of the welfare of the population of the Occupied Palestinian Territory. In addition, underlying UNRWA's mandate is recognition of the right to return of Palestine refugees. UNRWA's presence and activities in the Occupied Palestinian Territory is, therefore, essential to preserving the right of return of Palestine refugees, which is integral to ensuring that the Palestinian people are able to exercise their inalienable right to self-determination. Any attempt by Israel to debilitate or dismantle UNRWA or to impede or terminate its presence and activities in the Occupied Palestinian Territory would amount to an assault on the right of return, and a further attempt to impede the exercise of the right to self-determination by the Palestinian people.

319. As an occupying power, Israel is also under an obligation to ensure and facilitate the provision of essential supplies, humanitarian relief, and development assistance to the civilian population of the Occupied Palestinian Territory. In addition to being wrongful under international humanitarian law, especially the law of belligerent occupation, Israel's failure to uphold these obligations is inconsistent with its duty not to impede the exercise of the right to

²⁹⁵ *Ibid.*, para 243.

self-determination by the Palestinian people. Israel's conduct, especially during its onslaught against the Gaza Strip, which includes the obstruction of humanitarian assistance and the targeting of objects indispensable to the survival of the civilian population, demonstrates its intent to forcibly transfer the Palestinian people from the Occupied Palestinian Territory. Such conduct constitutes a violation of the obligation to respect the inalienable right to self-determination of the Palestinian people.

320. The duties that Israel is failing to uphold include *erga omnes* obligations that are “the concern of all States.”²⁹⁶ Accordingly, all States and the United Nations are under an obligation to ensure that Israel fulfils its obligations in respect of the inalienable right of the Palestinian people to self-determination.

321. As the Court affirmed in the *Wall Advisory Opinion*, “[i]t is also for all States, while respecting the United Nations Charter and international law, to see to it that any impediment, resulting from the construction of the wall, to the exercise by the Palestinian people of its right to self-determination is brought to an end.”²⁹⁷

322. In its Advisory Opinion on the *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory*, the Court also confirmed that “it is for all States [...] to ensure that any impediment resulting from the illegal presence of Israel in the Occupied Palestinian Territory to the exercise of the Palestinian people of its right to self-determination is brought to an end. In addition, all the States parties to the Fourth Geneva Convention have the obligation [...] to ensure compliance by Israel with international humanitarian law as embodied in that Convention”²⁹⁸.

323. States that have recognized the State of Palestine or that have established diplomatic relations with the State of Palestine are upholding their duty to take joint and separate action to enable the Palestinian people to exercise their inalienable right to self-determination. Some of those States include Ireland, Norway, and Spain. By recognizing the State of Palestine, which is the sole legitimate representative of the Palestinian people, those States have provided invaluable support to protecting and promoting the right of the Palestinian people to self-determination.

²⁹⁶ Barcelona Traction Case, Belgium v. Spain, ICJ Reports 1970, para. 33.

²⁹⁷ *Wall Advisory Opinion*, para. 159

²⁹⁸ *Legal Consequences arising from the policies and practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*, para 279.

324. Given the unlawfulness of its presence in the Occupied Palestinian Territory and its obligation not to impede the exercise of the right to self-determination of the Palestinian people, Israel is under an obligation not take any measures that are intended to hinder or deter the recognition of the State of Palestine by third States or that prevent or impede the establishment of diplomatic relations between State of Palestine and third States.

VIII: The Right of the Palestinian People to receive development assistance and the Obligation of Israel not to obstruct such assistance

325. The right of the Palestinian people to receive development assistance, and Israel's obligation not to obstruct or hinder such assistance, derives in particular, from the right to self-determination, as well as international human rights law, including economic, social and cultural rights, and the right to development. As previously discussed, in its *Advisory Opinion on the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem* this Court found that Israel's indefinite occupation of the Palestinian territories, is as a whole, inconsistent with the principle of self-determination. Israel's continuing, unlawful occupation deprives the Palestinians of their right to pursue their economic, social and cultural development in accordance with the principle of self-determination.

326. Self-determination includes a people's right to determine their political status, freely pursue their economic, social and cultural development,²⁹⁹ and dispose of their wealth, natural resources and economic activities.³⁰⁰ As the rightful sovereign in the OPT, the State of Palestine has the "right and responsibility to choose its means and goals of development", while Israel has the "obligation of restitution and full compensation for the exploitation and depletion of, and damages to, the natural and all other resources" of Palestine.³⁰¹

327. The massive scale of destruction inflicted by Israel upon Gaza, gives rise to an obligation to ensure early recovery and post-conflict reconstruction, followed by a development process that requires participation of UN and other international organisations. Israel is under an obligation to facilitate and not to hinder these efforts, and to refrain from obstructing the presence and activities of the United Nations, including its agencies and bodies, other international organizations and third States providing development assistance, for the benefit of the Palestinian civilian population, and in support of the Palestinian people's right to self-determination.

328. Economic self-determination presupposes that economic development (including recovery and reconstruction) and the exploitation of national wealth and resources take place within a State's territory. This Court's recognition of the Palestinians' right to self-determination in the "single territorial unit" of the Occupied Palestinian Territory, whose

²⁹⁹ See Article 1(1), ICCPR; Article 1(1) ICESCR; Paragraph 5(1), 1970 Declaration on the Principles of International Law Concerning Friendly Relations and Cooperation Among States in Accordance with the Charter of the United Nations (UNGA Resolution 2625);

³⁰⁰ Article (2), Charter on Economic Rights and Duties of States, (UNGA resolution 3281 (XXIX) - adopted by the General Assembly on 12 December 1974).

³⁰¹ *Ibid.*, articles 7 and 16.

“unity, integrity, and contiguity” are to be preserved, confirms Palestine’s legitimate title over its territory.³⁰² Any recovery and reconstruction efforts on Palestine’s territory are, therefore, to take place with the presence of its people, the legitimate sovereigns, and without removing or expelling them, and must be in their own interest. As discussed earlier, international human rights law, including the International Covenant on Economic, Social and Cultural Rights, applies fully in the OPT, including article 11 that guarantees the right of everyone “to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions”.³⁰³ This is also consistent with the principle of a people’s permanent sovereignty over their natural wealth and resources, recently confirmed by this Court.³⁰⁴

329. In light of Israel’s obligations under the principles of self-determination, international human rights law, and IHL, Israel is therefore under an obligation to ensure the existence of conditions conducive to early recovery and reconstruction. These include establishing a permanent cease-fire in Gaza, restoring law and order, and enabling the Palestinian Authority and its state institutions to reassume its responsibilities in Gaza and govern the entire State of Palestine. In line with the fundamental principle of the integrity of a self-determination unit, Israel is obliged to give effect to Palestinian people’s right to self-determination *in their own territory* and not to obstruct the consolidation of Palestinian state institutions politically and economically, in accordance with international law.

330. Israel’s obligations in this regard include rehabilitating damaged border crossings, allowing the unimpeded access of goods and requirements needed to rebuild the infrastructure and effect early recovery and reconstruction, remove rubble and human remains, rehabilitate the traumatized civilian population and establish temporary shelters for the displaced until they are provided with permanent housing. Israel must refrain from its practices that have stunted Palestine’s economy and impeded the geographical unity of the State of Palestine, including the depletion and diversion of Palestinian natural resources, imposition of access restrictions to “Area C”, and obstruction of the movement of goods and people between

³⁰² *Advisory Opinion on the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*, para 78.

³⁰³ ICESCR, para 11.

³⁰⁴ *Advisory Opinion on the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*, para 133.

the West Bank and Gaza. These measures have already been considered unlawful by this Court.³⁰⁵

331. As the rightful sovereign, the primary responsibility for coordinating the reconstruction effort within the territory of Palestine rests with the State of Palestine and its government. Egypt is thus cooperating with the State of Palestine to develop a comprehensive, multi-phase plan for early recovery and reconstruction in Gaza, with the participation of the international community. As the affected state, Palestine has the sovereign right to consent to, coordinate, regulate, and monitor the development assistance provided by external actors on its territory, for the purpose of reconstruction, in accordance with international law.

332. There is an urgent need for a sustainable peace based on the two-State solution and an enabling environment to consolidate the Palestinian State, based on the 1967 lines, with East Jerusalem as its capital.

³⁰⁵ *Advisory Opinion on the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*, para 90, 124- 133.

IX: THE LEGAL CONSEQUENCES OF ISRAEL'S BREACH OF ITS INTERNATIONAL OBLIGATIONS

333. As noted in the introduction to the present submission, it is Egypt's view that the term "obligation" is not limited to obligations arising from primary rules of international law. Rather, the term "obligation," as it is used in the question referred from the General Assembly to the Court, should be read broadly to include obligations arising from secondary rules of international law. Accordingly, Egypt submits that the Court should consider and opine on Israel's obligations flowing from the legal consequences arising from its internationally wrongful conduct in relation to the subject-matter of the present advisory proceedings.

334. International law establishes that a state is responsible for violations of international law where the violations are attributable to it. This includes violations of the rules and principles regarding humanitarian access in situations of armed conflict and occupation.

335. As discussed at length above, Israel has violated a plethora of international legal obligations 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 its obligation to collaborate with the UN and its agencies to uphold the privileges and immunities of UN agencies, including UNRWA, arising from the *Convention on the Privileges and Immunities of the United Nations*.

336. As an Occupying Power, Israel, has violated, and continues to violate, a number of distinct international obligations pertaining to international humanitarian law and international human rights law. These comprise, *inter alia*: (i) the duty to respect and protect humanitarian workers; (ii) the duty to provide basic needs in the OPT; (iii) the obligation to ensure and facilitate humanitarian assistance; and (iv) the obligation to guarantee the fundamental human rights of the Palestinian People; (v) the obligation not to obstruct the right to self-determination of the Palestinian people, including their right to receive development assistance for their economic development, recovery and reconstruction.

337. Hence, the international responsibility incurred by Israel for such acts involves a series of legal consequences.

A. The continued duty of Israel to perform the obligations that it breached

338. Israel is first and foremost obliged to comply with the all obligations it has breached. Article 29 of the ILC Articles on State Responsibility provides:

“The legal consequences of an internationally wrongful act under this Part do not affect the continued duty of the responsible State to perform the obligation breached.”³⁰⁶

339. As such, even though Israel has committed breaches of international obligations in connection with its unlawful continued occupation, it remains bound by these obligations.

340. These obligations encompass Israel’s obligation to 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.

B. Cessation and Non-repetition

341. As this Court has stated previously, a “State responsible for an internationally wrongful act is under an obligation to cease that act, if it is continuing.”³⁰⁷ This is reflected in Article 30 (a) of the International Law Commission’s Articles on State Responsibility for Internationally Wrongful Acts³⁰⁸ and is established in general international law.³⁰⁹

342. On that specific obligation, the ILC explained that:

“The function of cessation is to *put an end to a violation of international law and to safeguard the continuing validity and effectiveness of the underlying primary rule*. The responsible State’s obligation of cessation thus protects both the interests

³⁰⁶ Articles on the Responsibility of States for Internationally Wrongful Acts, with commentaries, “Text adopted by the International Law Commission at its fifty-third session, in 2001, and submitted to the General Assembly as a part of the Commission’s report covering the work of that session (A/56/10). The report, which also contains commentaries on the draft articles, appears in the *Yearbook of the International Law Commission, 2001, vol. II, Part Two, as corrected*”, Article 29, [hereinafter “**Articles on States Responsibility**”]

³⁰⁷ *Jurisdictional Immunities of the State, (Germany v. Italy: Greece intervening), Judgement, ICJ Reports 2012*, p. 153, para. 137.

³⁰⁸ Articles on States Responsibility, *op. cit.*, Article 30.

³⁰⁹ See *Wall Advisory Opinion*, para 150, which states: “The obligation of a State responsible for an internationally wrongful act to put an end to that act is well established in general international law, and the Court has on a number of occasions confirmed the existence of that obligation.

of the injured State or States and the interests of the international community as a whole in the preservation of, and reliance on, the rule of law” (emphasis added).³¹⁰

343. Two conditions must be met to trigger this obligation. The first is that an obligation arising under a primary rule of international law is breached. The second is that the breach must be of a continuing character. Egypt is of the view that Israel’s conduct in relation to the questions that are the subject of the present advisory proceedings satisfies both of these conditions.

344. As discussed above, Israel has failed to facilitate the presence and activities of UN bodies and agencies in and in relation to the Occupied Palestinian Territory, and has failed to observe the privileges and immunities accorded to UN bodies, agencies, and personnel. Israel’s conduct in this regard is inconsistent with its obligations under, inter alia, the Charter of the United Nations and the General Convention. These acts give rise to an obligation incumbent on Israel to cease these internationally wrongful acts. In this regard, Egypt underscores that Israel is under an obligation to cease these internationally wrongful acts immediately.³¹¹

345. The responsible State also has the obligation “[t]o offer appropriate assurances and guarantees of non-repetition, if circumstances so require”.³¹² Egypt is of the view that the circumstances in the Occupied Palestinian Territory require Israel to offer such assurances and guarantees.

346. As outlined above, Israel has engaged in a longstanding pattern of conduct designed to impede the operation of UN bodies and agencies in and in relation to the Occupied Palestinian Territory, especially UNRWA. This conduct is intertwined with Israel’s policy of depriving the Palestinian people of exercising their right to self-determination and preventing the delivery of international development assistance that supports the welfare of the Palestinian people.

³¹⁰ Articles on States Responsibility, *op. cit.*, Article 30, Commentary, para. 5.

³¹¹ This is consistent with the jurisprudence of the Court. For example, in Dispute regarding Navigational and Related Rights (Costa Rica v. Nicaragua), Judgment, I.C.J. Reports 2009, p. 213 at ¶ 148, the Court stated: “[w]hen the Court has found that the conduct of a State is of a wrongful nature, and in the event that this conduct persists on the date of the judgment, the State concerned is obliged to cease it immediately.” See also *Wall Advisory Opinion*, p. 198, para. 151, in which the Court found that:

All legislative and regulatory acts adopted with a view to [the] construction [of the wall], and to the establishment of its associated régime, must forthwith be repealed or rendered ineffective, except in so far as such acts, by providing for compensation or other forms of reparation for the Palestinian population, may continue to be relevant for compliance by Israel with [its] obligations.

³¹² Articles on States Responsibility, Article 30, Commentary, para. 9.

347. Accordingly, Egypt submits that Israel must offer guarantees to immediately provide essential supplies including temporary shelter to the civilian population in the OPT, cease its obstruction of humanitarian and development assistance, including its imposition of arbitrary ceilings and limitations on the amount and categories of supplies entering, immediately facilitate the presence and activities of UN agencies and bodies in and in relation to the Occupied Palestinian Territory, especially UNRWA, and that it will accord these UN agencies and bodies their full privileges and immunities.

C. Reparation and restitution

348. It is well established that in international law the wrongdoing State “has the obligation to make reparation for the damage caused to all the natural or legal persons concerned.”³¹³ The Permanent Court of International Justice in the *Factory at Chorzów* case stated that “reparation must, so far as possible, wipe out all the consequences of the illegal act and reestablish the situation which would, in all probability, have existed if that act had not been committed.”³¹⁴

349. According to Article 34 of the Articles on State Responsibility “full reparation for the injury caused by the internationally wrongful act shall take the form of restitution, compensation and satisfaction, either singly or in combination ...”³¹⁵ The judgment in the *Chorzów Factory Case* also affirmed that “[i]t is a principle of international law that the reparation of a wrong may consist in an indemnity corresponding to the damage which the nationals of the injured State have suffered as a result of the act which is contrary to international law.”³¹⁶

350. In order to achieve that goal in the “concrete circumstances surrounding each case and [given] the precise nature and scope of the injury,”³¹⁷ the various forms of reparation may have to be combined. As explained by the ILC:

“full reparation may only be achieved in particular cases by the combination of different forms of reparation. For example, re-establishment of the situation which

³¹³ *Wall Advisory Opinion*, p. 198, para. 152. Article 31(1) Articles on State Responsibility states: “The responsible State is under an obligation to make full reparation for the injury caused by the internationally wrongful act.”

³¹⁴ *Factory at Chorzow* (Germany v. Poland), 1928 P.C.I.J. (ser. A) No. 17 (Sept. 13), p. 47.

³¹⁵ Articles on States Responsibility, Article 34.

³¹⁶ *Factory at Chorzów*, *op cit.*, pp. 27.

³¹⁷ *Avena and Other Mexican Nationals (Mexico v. United States of America)*, Judgment, I.C.J. Reports 2004 (I), p. 59, para. 119.

existed before the breach may not be sufficient for full reparation because the wrongful act has caused additional material damage (e.g. injury flowing from the loss of the use of property wrongfully seized). Wiping out all the consequences of the wrongful act may thus require some or all forms of reparation to be provided, depending on the type and extent of the injury that has been caused.”³¹⁸

351. Restitution may have to be accompanied by measures of compensation for the material and non-material damage caused. For instance, the Court stated, in the *Wall* Advisory Opinion, that Israel was

under an obligation to return the land, orchards, olive groves and other immovable property seized from any natural or legal person for purposes of construction of the wall in the Occupied Palestinian Territory. In the event that such restitution should prove to be materially impossible, Israel has an obligation to compensate the persons in question for the damage suffered. The Court considers that Israel also has an obligation to compensate, in accordance with the applicable rules of international law, *all natural or legal persons having suffered any form of material damage as a result of the wall’s construction*.³¹⁹ (emphasis added)

352. In its judgment on the merits in the Diallo case, the Court stated the following:

In the light of the circumstances of the case, in particular *the fundamental character of the human rights obligations breached* and Guinea’s claim for reparation in the form of compensation, the Court is of the opinion that, in addition to a judicial finding of the violations, reparation due to Guinea for the injury suffered by Mr. Diallo *must take the form of compensation*.³²⁰ (emphasis added)

353. In terms of restitution, Egypt submits that Israel is obliged to allow all Palestinians displaced during the occupation to return to their original place of residence, restore the civilian infrastructure and housing damaged and destroyed in the recent conflict, and provide temporary shelter and basic needs until permanent housing is available.

³¹⁸ Articles on States Responsibility, *op. cit.*, Article 34, Commentary, para. 2.

³¹⁹ *Wall* Advisory Opinion, *op. cit.*, p. 198, para. 153.

³²⁰ *Ahmadou Sadio Diallo (Republic of Guinea v. Democratic Republic of the Congo), Merits, Judgment, I.C.J. Reports 2010*, p. 691, para. 161.

354. There is no doubt that the fundamental character of the obligations breached by Israel calls for compensation. Thus, in view of the circumstances leading to the present request, Israel should provide adequate compensation, not only to the State of Palestine, but also to all natural and legal persons having suffered from material and non-material damage, as a result of its wrongful conduct. Such an extension of compensation to natural or legal persons – and not only to the injured State has been confirmed by the Court.³²¹

355. Egypt also submits that Israel is under an obligation to provide compensation to the UN as a result of any loss, damage, or injury caused by Israel's conduct to UN premises, personnel, or assets in the Occupied Palestinian Territory, as well as other international organisations that suffered material damage.

D. Satisfaction

356. Finally, Egypt is of the view that the Court should consider whether the injury suffered by Palestinians, would be fully repaired via restitution and compensation. In the alternative, according to Article 37 of the ILC Articles on State Responsibility, it may prove necessary to provide for satisfaction, “consist[ing] in an acknowledgement of the breach, an expression of regret, a formal apology or another appropriate modality”.³²² Given the character and importance of the rights at stake, such a possibility may indeed appear relevant. At the very least, it would appear that a declaration, included in the operative part of the advisory opinion, according to which Israel would be declared as having failed to comply with its obligations towards Palestine and the Palestinians, its people and its nationals, would indeed provide an “appropriate form”³²³ of satisfaction.

X. CONCLUSIONS AND SUBMISSIONS

357. For the reasons set out in this written statement, Egypt herewith submits to the Court the following:

- a. The Court has jurisdiction to give the Advisory Opinion requested by the UNGA, and there are no grounds for the Court to decline to exercise such jurisdiction.

³²¹ *Wall Advisory Opinion, op. cit.*, p. 198, para. 152; p. 74, para 270-71.

³²² Articles on States Responsibility, Article 37(2).

³²³ *Punishment of the Crime of Genocide, op. cit.*, p. 234, para. 463; See also *Corfu Channel (United Kingdom v. Albania) case, Judgment of 9 April 1949, I.C.J. Reports 1949*, p. 4, pp. 35, 36.

b. Egypt maintains that the Court is in a position to establish that Israel has committed a series of systematic violations of international law in the OPT;

c. Israel's occupation of the OPT remains unlawful under international law;

d. Israel is bound to respect the law of belligerent occupation throughout the OPT, including East Jerusalem and the Gaza Strip, including throughout the war on Gaza which started on 7 October 2023;

e. Violations committed by Israel include but are not limited to:

(1) adoption of legislative and administrative measures that amount to the application of Israeli law in the Occupied Palestinian Territory, including East Jerusalem, including legislative measures adopted on 28 October 2024 that relate to the presence and activities of UNRWA

(2) impeding the work of UN agencies and bodies, including UNRWA, and the work of other international organisations involved in providing humanitarian and development assistance to the Palestinian people in the OPT, and violating the privileges and immunities of UN agencies and bodies;

(2) targeting humanitarian operations and workers, including hospitals, clinics and medical establishments, in violation of the principle of distinction and obligation to respect and protect humanitarian workers and medical personnel;

(3) attacking, destroying, removing or rendering useless objects indispensable to the survival of the civilian population, in violation of the prohibition of starvation, and deliberately causing the displacement, expulsion deportation and transfer of the civilian population;

(4) failure to ensure public order and safety and respect the legal order in force in the OPT;

(5) failure to ensure the food, medical supplies and basic needs of the Palestinian civilian population in the OPT;

(6) obstructing the provision of humanitarian assistance, including through repeated denials of access to humanitarian convoys, closures of border crossings, unjustified delays, bureaucratic and other hurdles

f. Egypt respectfully submits that Israel is under an international legal obligation to undertake the following:

(1) Immediately bring to an end its wrongful conduct, as outlined in the present submission;

(2) Offer appropriate assurances and guarantees of non-repetition;

(3) Respect the rights of the Palestinian people recognized by international law, especially the right to self-determination;

(4) Repeal all legislative or administrative measures that amount to the application of Israeli law in the Occupied Palestinian Territory, including East Jerusalem, and repeal the legislative measures adopted on 28 October 2024 that relate to the presence and activities of UNRWA in and in relation to the Occupied Palestinian Territory, including occupied East Jerusalem;

(5) Ensure the protection of UN staff, including UNRWA personnel, operating in and in relation to the Occupied Palestinian Territory, including occupied East Jerusalem.

(6) Observe and uphold the absolute immunity and absolute inviolability of UN agencies and bodies, including UNRWA, in and in relation to the Occupied Palestinian Territory, including occupied East Jerusalem, including during the conduct of hostilities.

(7) Ensure the protection of UN agencies and bodies, including UNRWA, operating in and in relation to the Occupied Palestinian Territory, including occupied East Jerusalem, against acts of violence of any conduct inconsistent with their absolute immunity and absolute inviolability by third parties.

(8) Facilitate the presence and activities of UN officials and experts on mission, including by permitting their entry into Israel and guaranteeing their

free movement throughout the Occupied Palestinian Territory, including occupied East Jerusalem.

(9) Respect the absolute immunity of UN officials, including the Secretary-General, and UN experts on mission of the United Nations, including UNRWA personnel.

(10) In order to meet the massive humanitarian needs on the ground, and to avoid unlawful displacement of Palestinian civilians, Israel is under an obligation to:

i. Address the security situation, including through establishing a permanent ceasefire, ensure public order and safety, and protect and respect humanitarian assistance and humanitarian workers and guarantee their safety and security,

ii. Desist from attacks against objects indispensable for the survival of the civilian population for the purpose of denying sustenance to the civilian population and starving civilians,

iii. ensure the essential supplies of the civilian population, including fuel, food, water, sanitation, electricity, telecommunications, emergency shelter assistance, medical supplies and services;

iv. agree to relief schemes for the benefit of the Palestinian population, and facilitate them by all the means at its disposal, and allow unrestricted, unobstructed and safe humanitarian access to and throughout Gaza, at scale and in a timely manner through all entry points, including through removing all limitations on the amounts of assistance entering, rehabilitating border crossings, cutting out red tape and arbitrary inspection procedures and delays, making transport available, granting permits allowing freedom of movement, facilitating the presence of staff of the distributing and supervising bodies.

v. facilitate the rapid distribution of humanitarian assistance

vi. allow the unobstructed entry of development assistance necessary for early recovery and reconstruction efforts needed for rebuilding Gaza, including infrastructure and housing development, commercial supplies and agricultural inputs for food production;

(11) Egypt also submits that Israel is under an obligation not to prevent, impede, or otherwise restrict the establishment and maintenance of official government representation, such as diplomatic and consular representation, between third States and the State of Palestine.

(12) The Court should declare that the right to self-determination entails the Palestinian people's right to pursue their economic, social and cultural development in their own territory, and the right and responsibility to choose its means and goals of development, including the right to receive development assistance for early recovery, reconstruction and longer-term development in the OPT and the right to participate in these efforts and not to be displaced or expelled from their land.

(13) Israel is under an obligation to facilitate and not to hinder these recovery, reconstruction and development efforts, and to refrain from obstructing the presence and activities of the United Nations, including its agencies and bodies, other international organizations and third States providing development assistance, for the benefit of the Palestinian civilian population, and in support of the Palestinian people's right to self-determination.

(14) Israel is also under an obligation to make full reparation to the United Nations, other international organizations, third States and the Palestinian people for the injury caused as a result of its wrongful conduct.

(15) The United Nations, especially the UNGA and the UNSC, should consider further action required to bring to an end the illegal situation resulting from Israel's breach of fundamental rules and principles of international law.

26 February 2025

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