

**INTERNATIONAL COURT OF JUSTICE**

**REQUEST BY THE UNITED NATIONS GENERAL ASSEMBLY FOR  
AN ADVISORY OPINION**

**OBLIGATIONS OF ISRAEL IN RELATION TO  
THE PRESENCE AND ACTIVITIES  
OF THE UNITED NATIONS, OTHER INTERNATIONAL  
ORGANISATIONS AND THIRD STATES  
IN AND IN RELATION TO  
THE OCCUPIED PALESTINIAN TERRITORY**

**WRITTEN STATEMENT  
OF ICELAND**

**28 FEBRUARY 2025**

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AN ADVISORY OPINION OF THE INTERNATIONAL COURT OF  
JUSTICE ON THE OBLIGATIONS OF ISRAEL IN RELATION TO THE  
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**I. INTRODUCTION**

1. By his letter dated 20 December 2024, the Secretary-General of the United Nations transmitted to the Court a request from the United Nations General Assembly (“**the General Assembly**”) to the International Court of Justice to render, as a matter of utmost urgency, an advisory opinion on the following question (“**the Question**”) set out in its Resolution 79/232 of 19 December 2024 (“**Resolution 79/232**”)<sup>1</sup>:

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

*What are the obligations of Israel, as an occupying Power and as a member of the United Nations, in relation to the presence and activities of the United Nations, including its agencies and bodies, other international*

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<sup>1</sup> General Assembly Resolution 79/232, 19 December 2024, A/RES/79/232.

*organizations and third States, in and in relation to the Occupied Palestinian Territory, including to ensure and facilitate the unhindered provision of urgently needed supplies essential to the survival of the Palestinian civilian population as well as of basic services and humanitarian and development assistance, for the benefit of the Palestinian civilian population, and in support of the Palestinian people's right to self-determination?*

2. By Order of 23 December 2024, the Court decided that the United Nations, its Member States, as well as the observer State of Palestine, were considered likely to be able to furnish information on the Question and invited them to present written statements thereon to the Court by 28 February 2025. Accordingly, Iceland avails itself of the right to submit the following Written Statement on the Question.

## **II. BACKGROUND**

3. The Question that the General Assembly has requested the Court to render its Advisory Opinion on, pertains to a situation of acute and imminent urgency because of the presently unfolding humanitarian crisis in the Occupied Palestinian Territory. The crisis unfolds in the context of the long-standing Israeli-Palestinian conflict in which the international community has been actively engaged for decades. This context informs the legal obligations the Question concerns.

### **A. The Israeli-Palestinian Conflict and the Role of the United Nations**

4. The enduring role of the United Nations in the resolution of the Israeli-Palestinian conflict dates back to the early days of the Organisation, when, at the initiative of the Mandatory Power, the United Kingdom, the General Assembly was asked to “make recommendations, under Article 10 of the Charter, concerning the future government of Palestine.”<sup>2</sup> Subsequently, the Assembly established the *Ad Hoc* Committee on the Palestinian Question, to which it referred for deliberation competing proposals for the governance of Palestine upon the termination of the Mandate, including the proposals

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<sup>2</sup> United Nations Special Committee on Palestine, Report to the General Assembly, Volume I, Official Records of the General Assembly Supplement No. 11, A/364, para 1.

outlined in the Report of the Special Committee on Palestine.<sup>3</sup> The outcome of that work, presented to the General Assembly by the Committee's Rapporteur, Ambassador Thor Thors, the first Permanent Representative of Iceland to the United Nations, became the basis of General Assembly Resolution 181 (II) "Future government of Palestine".<sup>4</sup> The resolution recommended the implementation of the Plan of Partition, envisioning the creation of two independent States for the peoples of the territory of the former Mandate, one Arab and one Jewish, with a special international regime to govern the City of Jerusalem.

5. Iceland recognised the State of Israel subsequent to its establishment in 1948, and further supported its membership of the United Nations in 1949. Iceland's decision, in 2011, to recognise the sovereignty and independence of Palestine, in addition to its recognition of Israel, was made with reference to the equal rights of the Israeli and Palestinian people to self-determination. Iceland is firmly convinced that a two-state solution, properly and justly negotiated, is the only viable path for a long-term resolution of the Israeli-Palestinian conflict that will allow the Israeli and Palestinian peoples to live side by side in peace and harmony.
6. In the 78 years that have passed since the adoption of Resolution 181 (II), the United Nations has remained continuously seized with the matter of self-determination that was initiated with the procedure in the General Assembly concerning the termination of the Mandate of Palestine. Resolution 181 (II) is yet to be fully implemented, although steps have been taken. With the adoption of General Assembly Resolution 67/19 in 2012, the State of Palestine was accorded the status of non-member observer State in the United Nations.<sup>5</sup> Further, on 10 May 2024, the Tenth Emergency Special Session of the General Assembly adopted Resolution ES-10/23, determining that the State of Palestine is qualified for membership in the United Nations and deciding on modalities which allow for its increased participation in the work of the General Assembly and in conferences, including the right to seating among Member States in alphabetical order and the ability to make statements on behalf of groups.<sup>6</sup> However, pending the

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<sup>3</sup> General Assembly, Report of the *Ad Hoc* Committee on the Palestinian Question, 25 November 1947, A/516.

<sup>4</sup> General Assembly Resolution 181 (II), 29 November 1947, A/RES/181 (II).

<sup>5</sup> General Assembly Resolution 67/19, 29 November 2012, A/RES/67/19.

<sup>6</sup> General Assembly (Tenth Emergency Special Session) Resolution ES-10/23, 10 May 2024, A/RES/ES-10/23.

resolution of the Israeli-Palestinian conflict, the enjoyment by the Palestinian people of its right to self-determination has yet to be fully realised.

## **B. The Current Humanitarian Crisis in the Occupied Palestinian Territory**

7. As of the time of writing, an urgent humanitarian crisis exists in the Occupied Palestinian Territory. The situation is particularly dire in Gaza in the aftermath of 15 months of armed hostilities that erupted in the wake of the attack carried out by the terrorist entity of Hamas in Israel on 7 October 2023.
8. The humanitarian impact of the conflict has been catastrophic.<sup>7</sup> Almost the entire population living in Gaza has been displaced, often multiple times; dozens of thousands were killed,<sup>8</sup> thereof a high number of children. Famine conditions were likely met before a ceasefire entered into force on 19 January 2025, not least due to severe restrictions of humanitarian access.<sup>9</sup> Children and youth have been deprived of the right to education. Hospitals and health centres have been destroyed by repeated bombing and health services remain barely functional. 92% of homes in Gaza are estimated to be damaged or destroyed.<sup>10</sup> Newborns are dying of hypothermia in the prevailing conditions of destitution.<sup>11</sup> Combatting gender-based violence has become more challenging.<sup>12</sup>
9. A further deterioration of the humanitarian situation in the West Bank, including East Jerusalem, is underway. Following the start of Israeli military operations in the north of

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<sup>7</sup> ‘Gaza and West Bank Interim Rapid Damage and Needs Assessment: February 2025’ (Conducted by the World Bank, the European Union and the United Nations, 2025) <[thedocs.worldbank.org/en/doc/133c3304e29086819c1119fe8e85366b-0280012025/original/Gaza-RDNA-final-med.pdf](https://thedocs.worldbank.org/en/doc/133c3304e29086819c1119fe8e85366b-0280012025/original/Gaza-RDNA-final-med.pdf)>.

<sup>8</sup> At the time of writing, at least 48,348 had been killed in Gaza since 7 October 2023, and at least 111,761 others had been injured, as reported by United Nations Office for the Coordination of Humanitarian Affairs, ‘OCHA Humanitarian Situation Update #267, Gaza Strip’ (25 February 2025), <<https://www.ochaopt.org/content/humanitarian-situation-update-267-gaza-strip>>.

<sup>9</sup> IPC Famine Review Committee, ‘IPC Famine Review Committee Alert: Gaza Strip’ (8 November 2024), <[https://www.ipcinfo.org/fileadmin/user\\_upload/ipcinfo/docs/IPC\\_FRC\\_Alert\\_Gaza\\_Nov2024.pdf](https://www.ipcinfo.org/fileadmin/user_upload/ipcinfo/docs/IPC_FRC_Alert_Gaza_Nov2024.pdf)>.

<sup>10</sup> United Nations Office for the Coordination of Humanitarian Affairs, ‘OCHA Humanitarian Situation Update #263, Gaza Strip’ (11 February 2025) <[www.ochaopt.org/content/humanitarian-situation-update-263-gaza-strip](http://www.ochaopt.org/content/humanitarian-situation-update-263-gaza-strip)>.

<sup>11</sup> United Nations Office for the Coordination of Humanitarian Affairs, ‘OCHA Humanitarian Situation Update #267, Gaza Strip’ (25 February 2025) <[www.ochaopt.org/content/humanitarian-situation-update-267-gaza-strip](http://www.ochaopt.org/content/humanitarian-situation-update-267-gaza-strip)>.

<sup>12</sup> United Nations Population Fund, ‘Gender-Based Violence (GBV) Trends Analysis – Gaza GBV Case Management Taskforce Report 1 Sep – 30 Sept 2024’ (5 November 2024), <<https://palestine.unfpa.org/sites/default/files/pub-pdf/2024-11/GBV-Trends-Analysis-Sept%202024.pdf>>.

the West Bank on 21 January 2025, civilians have been killed, including children, and severe damage has been caused to civilian infrastructure, heightening public health concerns. Tens of thousands of Palestinians have been displaced from refugee camps and surrounding areas. Several settler incidents have been reported by the United Nations Office for the Coordination of Humanitarian Affairs (“OCHA”).<sup>13</sup>

10. The United Nations Relief and Works Agency for Palestine Refugees in the Near East (“UNRWA” or “the Agency”) began operations in 1950 and is mandated by the General Assembly to provide assistance and protection to Palestine refugees. The mandate has evolved over the years, as it has been regularly renewed by the General Assembly, to adapt to changing needs and realities on the ground. At present, UNRWA provides humanitarian assistance and contributes to protection of refugees through essential service delivery, such as in the areas of basic education, primary health care and mental health care, relief and social services, and emergency assistance. The General Assembly has repeatedly highlighted the vital role UNRWA plays in providing services to Palestine refugees.<sup>14</sup> It is the only humanitarian actor with the requisite infrastructure, mandate and expertise to address the breadth and scope of the needs of Palestine refugees. As such, UNRWA is indispensable and irreplaceable as a provider of humanitarian assistance in the Occupied Palestinian Territory, and it has remained the main supplier of humanitarian assistance in Gaza after 7 October 2023.<sup>15</sup>
11. As reflected in Resolution 79/232, Israel has adopted legislation which endangers the continued capacity of UNRWA to administer relief in the Occupied Palestinian Territory, in accordance with its mandate given by General Assembly. The legislation bars the Agency from operating within Israel and prohibits any contact with it by the

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<sup>13</sup> United Nations Office for the Coordination of Humanitarian Affairs, ‘OCHA Humanitarian Situation Update #264, West Bank’ (13 February 2025) <[www.unocha.org/publications/report/occupied-palestinian-territory/humanitarian-situation-update-264-west-bank](http://www.unocha.org/publications/report/occupied-palestinian-territory/humanitarian-situation-update-264-west-bank)>.

<sup>14</sup> See, *inter alia*: General Assembly Resolution 75/21, 2 December 2020, A/RES/75/21; General Assembly Resolution 72/87, 7 December 2017, A/RES/72/87; General Assembly Resolution 71/93, 6 December 2016, A/RES/71/93.

<sup>15</sup> Independent Review Group on the UN Relief and Works Agency for Palestine Refugees in the Near East, ‘Final Report for the United Nations Secretary-General: Independent Review of the Mechanisms and Procedures to Ensure Adherence by UNRWA to the Humanitarian Principle of Neutrality’, 20 April 2024, p. 4.

authorities. Its effect will in various ways hinder the delivery of both humanitarian assistance and necessary services to the detriment of the Palestinian people.<sup>16</sup>

### III. OBLIGATIONS AS A MEMBER OF THE UNITED NATIONS

“WE THE PEOPLES OF THE UNITED NATIONS DETERMINED

to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind,”

12. The Question referred by the General Assembly requests the Court to opine on the obligations arising from various regimes of international law in relation to a situation that is governed by the law of occupation, together with other provisions of international humanitarian law. At the outset, Iceland observes that international humanitarian law is the comprehensive legal regime applicable in any armed conflict, which sets out clear rights and obligations binding on all parties to a conflict. It follows that it is generally not necessary to have recourse to other regimes of international law to identify the obligations contained under international humanitarian law. However, special considerations apply to the present Question since it pertains to a situation in which the United Nations has been actively and systemically engaged for close to 80 years. In answering the Question, including as it concerns the obligations of an occupying Power, due consideration must be given to the special status and characteristics of the United Nations, and the mandate with which the Organisation has been endowed by the UN Charter.
13. The Charter was drawn up by generations that bore witness to the most unspeakable atrocities and devastating conflicts to have ravaged human society, undertaking the solemn commitment to prevent their recurrence. As such, the Charter is the common covenant of the peoples of world, effected through a treaty between their constitutive States, to create a centre for harmonising their common actions for the maintenance of international peace and security, to effect human development, and to secure human

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<sup>16</sup> General Assembly Resolution 79/232 (n 1); Letter dated 28 October 2024 from the Secretary-General addressed to the President of the General Assembly, A/79/558 (Dossier No. N65); Letter from the Secretary-General addressed to the President of the General Assembly and the President of the Security Council, A/79/716-S/2025/18 (Dossier No. N68).

rights. Together, these three purposes comprise a common foundation for the enjoyment of all peoples of their right to self-determination in peaceful coexistence with their neighbours.<sup>17</sup>

14. While many rules of international law predate it, the Charter holds a singular legal status as the constitutive treaty for the entire system of international law. Pursuant to Article 103 thereof, all Members of the United Nations have expressly consented to the supremacy of the Charter over any other international agreement they make. Endowed with that State consent of its Members, the Charter has vested in the constituent organs of the United Nations the mandate to act in pursuit of its purposes and in accordance with its principles.
15. It follows that, where the United Nations is carrying out such mandate in a situation governed by a sectoral regime of international law, the specific performance required of States will be informed by their obligations as United Nations Members under the Charter. Accordingly, in answering the Question of the General Assembly about the obligations of Israel, as the occupying Power in the Occupied Palestinian Territory, regard must be had to the role which is played by the United Nations in relation to the Israeli-Palestinian conflict at large.

#### **A. The Responsibility of the United Nations in the Israeli-Palestinian Conflict**

16. As has been elaborated in Chapter II, the mission of attaining a just and enduring peace for the peoples of Israel and Palestine to live side-by-side in peace and security is central to the purposes and principles of the United Nations.
17. Iceland recalls that the responsibility of the United Nations in relation to the self-determination of peoples was already engaged at the time of the partition of Mandatory Palestine, and the ongoing responsibility of the Organisation in the resolution of the conflict follows from that engagement. After the 1948 Arab-Israeli War, ended by an

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<sup>17</sup> See: Article 1 of the Charter of the United Nations.

armistice pursuant to Security Council Resolution 62 (1948),<sup>18</sup> the organs of the United Nations were seized to act within their respective mandates towards a solution to the conflict, including the completion of the process of self-determination, which had brought about the creation of the State of Israel, but which had yet to result in statehood for the Palestinian people.

18. In particular, the 1948 War resulted in the mass displacement of Palestine refugees into the Occupied Palestinian Territory and into neighbouring Arab States. In its Resolution 194 (III), adopted on 11 December 1948, the General Assembly resolved that Palestine refugees should be permitted to “return to their homes and live at peace with their neighbours” and that compensation should be paid for the homes of those choosing not to return and “for the loss of or damage to property” sustained by them.<sup>19</sup> Pending repatriation and compensation, in the context of a broader political settlement of the conflict, the General Assembly further acted to respond to the urgent humanitarian needs of Palestine refugees, recognising the need to administer the relief “necessary to prevent conditions of starvation and distress among them and to further conditions of peace and stability”.<sup>20</sup> It was on this basis that, in its Resolution 302 (IV) adopted on 8 December 1949, the General Assembly established UNRWA and endowed it with its mandate to act, in collaboration with local governments, to administer relief and development assistance necessary to ensure the survival and well-being of Palestine refugees.
19. The mandate of UNRWA is temporary and serves to alleviate an urgency that exists in the transitory stage of an uncompleted process of self-determination. As that process has been beset by impasse since its inception, the United Nations and its Members have, from the beginning, faced the reality that the temporary urgency which UNRWA is mandated to respond to would be protracted. Indeed, as was reflected in the annual Report of the Commissioner-General of UNRWA to the twentieth session of the General Assembly: “the international community and its agent, UNRWA, were confronted with a long-term problem in providing for the needs of the Palestine refugees, and that, in the absence of a political solution as envisaged in the General Assembly’s Resolution

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<sup>18</sup> Security Council Resolution 62 (1948), 16 November 1948, S/RES/62 (1948).

<sup>19</sup> General Assembly Resolution 194 (III), 11 December 1948, A/RES/194 (III), para 11.

<sup>20</sup> General Assembly Resolution 302 (IV), 8 December 1949, A/RES/302 (IV).

194 (III), the plight of the refugees was likely to continue and to demand the sympathy and support of the international community for a period to which a time limit could not be fixed at present.”<sup>21</sup> Iceland observes that these words hold as true in 2025 as they did at the time of writing, in 1965. Thus, 75 years after it began operations, UNRWA continues to administer relief necessary to respond to an urgency that is perpetuated by an unresolved conflict and multiple, generational displacement. In that vein, the continued renewals by the General Assembly of UNRWA’s mandate are an articulation of the “permanent responsibility of the United Nations with regard to the question of Palestine until it is resolved in all aspects in accordance with international law and the relevant United Nations resolutions”.<sup>22</sup>

## **B. Obligations towards UNRWA**

20. The urgency in which the Question of the General Assembly has arisen relates to “plans and measures, including legislation adopted, by Israel to interfere with or obstruct the presence and operations of the United Nations and United Nations entities and organizations”, including UNRWA.<sup>23</sup> It follows that, in answering the Question, it is particularly relevant for the Court to consider the legal obligations of Israel, as a Member of the United Nations, to the presence and activities of UNRWA, specifically, in and in relation to the Occupied Palestinian Territory.
21. The Charter equips the United Nations with the international legal personality and capacity required to carry out the functions vested in it, in pursuit of peace and security, human development and human rights. The Charter confers upon the Members obligations in respect of the Organisation, which in turn is a rightsholder with respect to those obligations. Iceland observes that the following passage, in the Court’s Advisory Opinion of 11 April 1949 on *Reparations for Injuries Suffered in the Service of the United Nations*, is illustrative in this regard:

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<sup>21</sup> General Assembly Official Records, 20<sup>th</sup> Session, Supplement No. 13, Report of the Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East: 1 July 1964-30 June 1965, A/6013, para 4.

<sup>22</sup> General Assembly (Tenth Emergency Session) Resolution ES-10/24, 18 September 2024, A/RES/ES-10/24.

<sup>23</sup> General Assembly Resolution 79/232 (n 1).

*“The Charter has not been content to make the Organization created by it merely a ‘centre for harmonizing the actions of nations in the attainment of these common ends’ (Article I, para. 4). It has equipped that centre with organs, and has given it special tasks. It has defined the position of the Members in relation to the Organization by requiring them to give it every assistance in any action undertaken by it (Article 2, para. 5), and to accept and carry out the decisions of the Security Council; by authorizing the General Assembly to make recommendations to the Members; by giving the Organization legal capacity and privileges and immunities in the territory of each of its Members; and by providing for the conclusion of agreements between the Organization and its Members.”<sup>24</sup>*

22. While the content of specific obligations, whether they apply to the Organisation at large or individually to its constituent organs, follows from various provisions of the Charter, Iceland submits that the principles enshrined in Article 2 encompass the primordial and overarching obligations of the Members. Of particular relevance to the present Question are the principle of observing Charter obligations in good faith, set out in Article 2(2), and the principle of giving “the United Nations every assistance in any action it takes in accordance with [the Charter]”, set out in Article 2(5). These two principles require Members to honour positive legal obligations, compliance with which is indispensable to enabling the Organisation, as the mutual endeavour of the Members, to act in pursuit of the attainment of its purposes.
23. These obligations have application to UNRWA because of its legal status in the UN legal order. The General Assembly established UNRWA in its Resolution 302 (IV) pursuant to the competences under Articles 7(2) and 22 of the Charter. As a subsidiary organ, UNRWA constitutes an integral part of the United Nations. It is endowed with the legal personality of its parent Organisation and vested with the competences derived from the Charter. This distinguishes the status of UNRWA, as a subsidiary body, from that of a specialised agency established in relationship with the United Nations on the basis of its own constituent treaty instrument.<sup>25</sup> Any action undertaken by UNRWA is

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<sup>24</sup> *Reparations for Injuries Suffered in the Services of the United Nations, Advisory Opinion, I.C.J. Reports 1949, p. 178.*

<sup>25</sup> See: Article 57 of the Charter of the United Nations.

an exercise of the legal competence endowed by the Charter in the General Assembly and, consequently, gives rise to the same legal obligations as apply to the Organisation in general. This includes, in particular, the obligations of good faith and of giving assistance.

24. It is further relevant to the case of UNRWA to consider its place in a broader legal and institutional regime established by the United Nations under its mandate to advance and attain a peaceful solution to the Israeli-Palestinian conflict. The General Assembly has given UNRWA a temporary mandate to act in response to a humanitarian dimension of the conflict, in the context of a larger peace process in which other organs of the United Nations are engaged. The role played by UNRWA is interconnected with the action of the Organisation at large, and it has been recognised and affirmed both in the action of other organs, including the Security Council, and deferred to by parallel legal frameworks such as the United Nations Convention Relating to the Status of Refugees.<sup>26</sup>
25. This is the legal context in which UNRWA has operated since it commenced operations in 1950, in cooperation with the Members of the United Nations which have, variably, exercised effective control over the areas to which the Agency's mandate extends. Indeed, upon assuming effective control over the Occupied Palestinian Territory, Israel undertook, in compliance with its obligations, to provide the Agency with the assurances necessary for it to continue its operations. These assurances were formalised in the "provisional agreement" concluded via Exchange of Letters between UNRWA and Israel on 14 June 1967 ("**the Comay-Michelmores Exchange of Letters**" or "**the Exchange of Letters**").<sup>27</sup>
26. In the Exchange of Letters, Israel committed to "facilitate the task of UNRWA to the best of its ability, subject only to regulations or arrangements which may be necessitated

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<sup>26</sup> For the Security Council, see, *inter alia*: Security Council Resolution 1860 (2009), 8 January 2009, S/RES/1860 (2009); Convention relating to the Status of Refugees, (adopted 28 July 1951, entered into force 22 April 1954) 189 UNTS 137, art. 1D. For further information, see also: United Nations High Commissioner for Refugees, 'Guidelines on International Protection No. 13: Applicability of Article 1D of the 1951 Convention relating to the Status of Refugees to Palestinian Refugees' (HCR/GIP/17/13, December 2017).

<sup>27</sup> Exchange of Letters Constituting a Provisional Agreement concerning Assistance to Palestine Refugees, (Israel-United Nations Relief and Works Agency for Palestine Refugees in the Near East) (entered into force 14 June 1967), 620 UNTS 183.

by considerations of military security.”<sup>28</sup> These commitments included the “protection and security of the personnel, installations and property of UNRWA”, “the free movement of UNRWA vehicles into, within and out of Israel and the areas in question”, the free movement of international staff “in, out and within Israel and the areas in question”, and to “recognize that the Convention on the Privileges and Immunities of the United Nations of 13 February 1946, to which Israel is a party, shall govern the relations between the Government and UNRWA in all that concerns UNRWA’s functions.” In the reply issued by UNRWA, which was “subject to any relevant instructions or resolutions emanating from the United Nations”, it was affirmed on the part of the Agency that the commitments undertaken towards UNRWA were “essential if the Agency is to operate effectively”.

27. By a letter to the President of the General Assembly, dated 3 November 2024, Israel informed the United Nations of its unilateral cancellation of the Comay-Michelmores Exchange of Letters.<sup>29</sup> It is important to underscore that the cancellation does not extinguish the legal obligations in force between UNRWA and Israel. The Exchange of Letters did not create those legal obligations since they follow from the Charter. Rather, it provided assurances that those obligations would be respected, which was a prerequisite for the Agency to continue operations in the immediate aftermath of the hostilities of the Six Day War in 1967. Consequently, by its unilateral cancellation of assurances given in the Exchange of Letters, Israel is not relinquished from its Charter obligations to enable UNRWA to deliver on its mandate. This extends, *inter alia*, to the inviolability of the premises of the Agency and other obligations which follow from the privileges and immunities of the United Nations, pursuant to Article 104 of the Charter and the 1946 Convention on the Privileges and Immunities of the United Nations.<sup>30</sup>
28. It follows that unilateral action undertaken by a Member of the United Nations to impede the execution of the mandate vested in one of its subsidiary bodies entails an obstruction of the United Nations itself. As such, it undermines the competences of the General Assembly, which is the political organ in which decisions in relation to the

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<sup>28</sup> *ibid.*

<sup>29</sup> Letter of the Director General of the Ministry of Foreign Affairs of Israel of 3 November 2024 to the President of the General Assembly, Dossier No. N302.

<sup>30</sup> Convention on the Privileges and Immunities of the United Nations, (adopted 13 February 1946, entered into force 17 September 1946) 1 UNTS 15, as corrected by 90 UNTS 327.

operation of UNRWA are to be taken. Further, the implementation by Israel of legislation which prohibits its State entities from communicating or cooperating with a subsidiary organ of the United Nations, which is specifically mandated to operate on the basis of such cooperation, is manifestly inconsistent with Charter principles of good faith and giving assistance.

29. Beyond the provisions of the law of the United Nations, this legal assessment also finds support through recourse to principles of good faith and cooperation under general international law, given the fact that UNRWA has operated in the Occupied Palestinian Territory for 75 years and its operations are contingent on maintaining communication and cooperation with the occupying Power.<sup>31</sup>
30. These obligations have further significance for the content of Israel's obligations as an occupying Power in the Occupied Palestinian Territory.

#### **IV. OBLIGATIONS AS AN OCCUPYING POWER**

“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.”

31. International law governs occupation in recognition of it being a temporary and incidental aberration arising in the context of an international armed conflict. An interim situation where, for reasons of military necessity, a territory and its local population

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<sup>31</sup> Compare here the case of UNRWA with the WHO Regional Office in Alexandria, in *Interpretation of the Agreement of 25 March 1951 between the WHO and Egypt, Advisory Opinion, I.C.J. Reports 1980*, p. 93, para 43 and p. 95, paras 47 to 49. While Israel, as the occupying Power, is not the host State in respect of UNRWA activities in the Occupied Palestinian Territories, there are parallels with the Court's reasoning as to the obligation of mutual cooperation and good faith of Egypt towards the WHO Regional Office, which stemmed from its membership of the parent organisation.

come under the effective control of a belligerent foreign Power.<sup>32</sup> Hence, an occupation inevitably entails an encroachment upon the legitimate enjoyment of the rights international law recognises as inalienable to all peoples. For the duration of the occupation, it is incumbent upon the occupying Power to administer the occupied territory for the benefit of the local population. Irrespective of the lawfulness of the use of force from which the occupation resulted, the duty of the occupying Power is strict, non-derogable and requires continuous and specific performance on its part. The occupying Power is not released from this duty until the occupation itself is ended.

32. It is established, as a matter of fact and of law, that Israel has been the occupying Power in respect of the entire Occupied Palestinian Territory, comprising the West Bank, including East Jerusalem, and Gaza, since it came under the effective Israeli control during the Six Day War of 1967.<sup>33</sup>
33. While the Court has already rendered its opinion that the continued presence of Israel in the Occupied Palestinian Territory is unlawful and that Israel is under an obligation to bring that unlawful presence to an end as rapidly as possible,<sup>34</sup> those considerations are not *per se* relevant to the present Question of the General Assembly. This Question, referred as a matter of urgency, is specific to a situation where, firstly, an ongoing humanitarian disaster is unfolding in the Occupied Palestinian Territory and, secondly, Israel has been imposing measures liable to impede the provision by external actors, including the United Nations, of humanitarian and development assistance to the

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<sup>32</sup> For the definition of an occupation under customary international law, see: Article 42 of the Regulations annexed to the Hague Convention (IV) respecting the Laws and Customs of War on Land (1907 Hague Regulations) (adopted 18 October 1907, 26 January 1910). For the requirement of effective control, see: *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory* (“*Construction of a Wall Advisory Opinion*”), *Advisory Opinion*, *I.C.J. Reports 2004*, p. 167, para 78, and *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda)*, *Judgment*, *I.C.J. Reports 2005*, p. 229, para 172; For the premise of military necessity, see *Legal Consequences Arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem* (“*Policies and Practices of Israel Advisory Opinion*”), *Advisory Opinion*, 19 July 2024, para 105.

<sup>33</sup> *Construction of a Wall Advisory Opinion* (n 32), p. 166, para 73 and p. 167, para 78; *Policies and Practices of Israel Advisory Opinion* (n 32), paras 87 and 93; See also, relevant resolutions of the Security Council, including: Security Council Resolution 242 (1967), 22 November 1967, S/RES/242 (1967); Security Council Resolution 252 (1968), 21 May 1968, S/RES/252 (1968); Security Council Resolution 2334 (2016), 23 December 2016, S/RES/2334 (2016); See, further, relevant resolutions of the General Assembly, including: General Assembly (Tenth Emergency Session) Resolution ES-10/2, 25 April 1997, A/RES/ES-10/2; General Assembly (Tenth Emergency Session) Resolution ES-10/24 (n 22); General Assembly Resolution 79/91, 4 December 2024, A/RES/79/91; General Assembly Resolution 79/229, 19 December 2024, A/RES/79/229.

<sup>34</sup> *Policies and Practices of Israel Advisory Opinion* (n 32) p. 73, para 267.

Palestinian civilian population of the territory. Here, the Court is asked to opine on the degree of Israeli discretion to deny or deter the presence and activities of such actors in and in relation to the occupied territory.

34. The status of Israel, as the occupying Power, gives rise to a series of positive and negative obligations under international law in relation to the presence and activities in and in relation to the Occupied Palestinian Territory of external actors, including the United Nations, its agencies and bodies, as well as, where applicable, other international organisations and third States.
35. The primary source of these obligations is the law of occupation, together with other provisions of international humanitarian law more broadly, which applies for as long as the occupation persists. The specific performance required by those obligations is informed by their interplay with other rules of international law, including the right to self-determination, the full application of which is impinged by the existence of the occupation. Additional obligations are derived from further rules of international law, such as under international human rights law, which bind Israel in any action it takes in a territory where it exercises effective control, whether in the sovereign territory of Israel or in the Occupied Palestinian Territory.
36. In answering the Question in relation to the obligations of Israel as an occupying Power, Iceland respectfully invites the Court to consider obligations under the law of occupation, firstly, to respect the *status quo ante*, and, secondly, to facilitate and permit the implementation of collective relief schemes. Finally, Iceland invites the Court to consider the obligations which a prolonged occupation gives rise to for an occupying Power not to impede the progressive realisation of the occupied people's right to self-determination.

**A. Obligation to Respect the *Status Quo Ante***

37. International law requires the protection of the population of an occupied territory because such a situation renders the ordinary authorities incapable of ensuring basic services and thereby endangers the survival and well-being of that population. The duty is thus conferred upon the occupying Power to administer the occupied territory for the benefit of the local population for the entire duration of the occupation. The duty arises once the occupying Power assumes effective control over the territory, at which point

its primary obligation is to re-establish and to ensure, as far as possible, public order and civilian life, while respecting, unless absolutely prevented, the laws already in force.<sup>35</sup> As the occupying Power holds no sovereign title over the occupied territory, the emphasis of the obligation is on restoration, rather than reorganisation, of the *status quo ante*, which the occupation has disrupted.

38. In the case of the Occupied Palestinian Territory, the *status quo ante* refers to the transitory situation that existed in the uncompleted process of the self-determination of the Palestinian people. That situation was characterised by the presence and the activities of the United Nations, in particular UNRWA, which were actively engaged in the resolution of the conflict and responding to the need for relief and assistance created by it.
39. By the time the occupation began in 1967, the relief assistance which had been provided by UNRWA to Palestine refugees since 1950 encompassed a range of the basic services that a State typically administers for its population, and which an occupying Power is obliged to ensure and to maintain during an occupation. These services included the provision and administration of food rations; camps and shelters; health services in UNRWA clinics, hospitals and laboratories; control of communicable diseases; maternal and child health care; nursing services; health education; nutritional support; environmental sanitation; primary and secondary education; vocational training technical education; youth activities; and assistance to disabled persons.<sup>36</sup>
40. It follows that, upon assuming effective control over the Occupied Palestinian Territory, the obligation of Israel in relation to the restoration of the *status quo ante* encompassed, *inter alia*, an obligation to ensure the resumption of the services of UNRWA. This obligation is additional to the existing obligations which were owed by Israel in respect of UNRWA under the Charter. This legal context is therefore also relevant to the interpretation of the Comay-Michelmores Exchange of Letters, in which Israel undertook, in accordance with its legal obligations, to request the continued assistance

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<sup>35</sup> 1907 Hague Regulations (n 32) art. 47.

<sup>36</sup> General Assembly Official Records, 22<sup>nd</sup> Session, Supplement No. 13, Report of the Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East: 1 July 1966-30 June 1967, A/6713, paras 68 to 138.

by UNRWA to the Palestine refugees and provided the necessary assurances for the Agency's operations to continue.

41. Without prejudice to the question of the lawfulness of action to hinder the presence and activities of a United Nations entity in an occupied territory, under United Nations law, it is important to consider the specific consequences it entails under the law of occupation where that entity is providing the basic services which the occupying Power is itself responsible for ensuring are maintained. It follows that, in a situation where UNRWA would be compelled to cease its activities in the Occupied Palestinian Territory, Israel would remain under the positive obligation to ensure that the necessary services and assistance administered by UNRWA continue to be provided.

## **B. Obligation to Accept External Relief**

42. First and foremost, the duty of the occupying Power is to ensure, to the fullest extent of the means available to it, that the population of the occupied territory has access to the basic supplies and services necessary for its survival and development. This includes, in particular, access to food and medical supplies, to working medical and hospital establishments and services, to clothing, bedding, means of shelter, and to facilities for the education and care of children.<sup>37</sup> Where the resources of the occupied territory are inadequate to secure supplies of foodstuffs, medical stores and other articles, it is the obligation of the occupying Power to bring them into the occupied territory.<sup>38</sup> Likewise, the occupying Power is responsible for ensuring that the state of medical services is sufficiently high to function.<sup>39</sup>
43. This obligation of the occupying Power is an obligation of result. Where, for whatever reason, "the whole or part of the population of an occupied territory is inadequately supplied", then the occupying Power must agree to the provision of external relief by

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<sup>37</sup> Geneva Convention Relative to the Protection of Civilian Persons in Times of War (Fourth Geneva Convention) (adopted 12 August 1949, entered into force 21 October 1950) 75 UNTS 287, arts. 59, 55 and 56, respectively; Protocol additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts (Additional Protocol 1) (adopted 8 June 1977, entered into force 7 December 1978), art. 69. Art. 69 of Additional Protocol 1, together with the relevant provisions of the Fourth Geneva Convention, codify applicable rules of customary international law, cf. *Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion, I.C.J. Reports 1996*, p. 259, para 84.

<sup>38</sup> Fourth Geneva Convention (n 37), art. 55.

<sup>39</sup> *ibid.*, art. 56.

States or impartial humanitarian organisations.<sup>40</sup> That obligation applies not only *in* the occupied territory, that is to permit the entry of relief, but also *in relation to* it. This entails that the occupying Power is, like all other States, obliged to “permit the free passage” of relief consignments and to “guarantee their protection”.<sup>41</sup> The content of this obligation is further informed by the rule set out in Article 70(2) of Additional Protocol 1, reflective of customary international law, which requires all States to “allow and facilitate rapid and unimpeded passage of all relief consignments, equipment and personnel” referred to in Section II of the Additional Protocol.

44. The weight of the obligation of the occupying Power to ensure access to collective relief is evident from comparing Article 59 of the Fourth Geneva Convention, applicable to occupied territory, with Article 70(1) of Additional Protocol I and Article 18 of Additional Protocol II, which concern relief actions in armed conflicts for the civilian population of any territory other than occupied territory. In accordance with the principle of humanity, international law requires that humanitarian relief be undertaken to respond to any case of an inadequately supplied civilian population. States, international organisations, private undertakings or individuals may extend offers of providing relief to respond to that need.<sup>42</sup> Generally, the provision of that relief requires the consent of the State responsible for meeting the needs of the civilian population concerned.<sup>43</sup> While an arbitrary denial of consent incurs the international responsibility of the State in question, it is nevertheless a requirement for the lawful provision of aid by external actors.<sup>44</sup> In contrast, in the case of an occupation, the occupying Power does not have discretion to withhold its consent to external collective relief in accordance with Article 59 of the Fourth Geneva Convention – the occupying Power “shall agree” to those schemes and “shall facilitate them by all means at its disposal”.

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<sup>40</sup> *ibid.*, art. 59.

<sup>41</sup> *ibid.*

<sup>42</sup> Fourth Geneva Convention (n 37) arts. 3(2), 59; Additional Protocol I (n 37) art. 70(1); Protocol Additional to the Geneva Conventions of 12 August 1949 and Relating to the Protection of Victims of Non-International Armed Conflicts (Additional Protocol II) (adopted 8 June 1977, entered into force 7 December 1978), art. 18(1).

<sup>43</sup> Consent is implicitly required in Article 3(2) of the Fourth Geneva Convention (n 37); explicitly required in Article 70(1) of Additional Protocol I (n 37), and Article 18 of Additional Protocol II (n 42).

<sup>44</sup> For further discussion on the arbitrary withholding of consent, see: Dapo Akande and Emanuela-Chiara Gillard, ‘Oxford Guidance on the Law Relating to Humanitarian Relief Operations in Situations of Armed Conflict’ (Commissioned by the United Nations Office for the Coordinator of Humanitarian Affairs, 2016) <[www.elac.ox.ac.uk/wp-content/uploads/2022/06/oxfordguidancepdf.pdf](http://www.elac.ox.ac.uk/wp-content/uploads/2022/06/oxfordguidancepdf.pdf)>, section E.

45. In the case of the Occupied Palestinian Territory, Iceland submits that it is evident and established that the civilian population of the territory has inadequate access to basic supplies and services which Israel, as the occupying Power, is obliged to ensure and to maintain. Consequently, Article 59 of the Fourth Geneva Convention is engaged in the situation of the Occupied Palestinian Territory and Israel is, thus, under an obligation to agree to and facilitate relief schemes on behalf of the Palestinian population.
46. These obligations apply to any relief scheme offered and administered by any external actor, subject only to the conditions set out in Articles 59 to 63 of the Fourth Geneva Convention. In this situation, the relief action that has been provided to the civilian population of the Occupied Palestinian Territory by UNRWA since 1950 is especially relevant, due to the fundamental role the Agency plays in administering and coordinating the relief essential to the survival of that population.
47. As long as the civilian population of the Occupied Palestinian Territory remains inadequately supplied, Israel has the obligation to permit external relief and is prohibited from imposing selective criteria as to which actors it wishes to engage with. That obligation extends not only to permitting their presence and activities in and relation to the Occupied Palestinian Territory, but further to undertake positive action to facilitate that presence and those activities. In this regard, Iceland considers it important to specifically highlight that a disengagement from communication with such external actors, as the Israeli legislation against UNRWA foresees in relation to the Agency, is incompatible with the obligations of the occupying Power.

### **C. Obligations Relevant to the Right to Self-Determination**

48. As a situation that, by definition, entails that the people of a territory are subject to foreign control, it is inherent in the notion of an occupation that it infringes upon the enjoyment by that people of its right to self-determination. The law of occupation serves to remedy that infringement by conserving the legal situation that existed prior to the occupation, and by requiring the occupying Power to care for the needs of the occupied people in the absence of legitimate authorities.<sup>45</sup> Since an occupation is a temporary situation, the preservationist character of the applicable framework is largely premised

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<sup>45</sup> See (n 35).

on it being brief, providing safeguards to avoid prejudicing the enjoyment of the right to self-determination upon prompt restoration. Where an obligation becomes protracted, it will necessarily impact the balance that is struck in the interplay between the legal regime governing the occupation and the legal implications of the right to self-determination.

49. The right to self-determination is at once “a fundamental human right” and “one of the essential principles of contemporary international law”, respect for which is one of the purposes of the United Nations.<sup>46</sup> It encompasses the right of all peoples “freely to determine without external interference, their political status and to pursue their

economic, social and cultural development”.<sup>47</sup> While the right has “a broad scope of application” which is responsive to the specificities of each situation,<sup>48</sup> the Court has held, specifically in relation to the Occupied Palestinian Territory, that “in cases of foreign occupation such as the present case, the right to self-determination constitutes a peremptory norm of international law”.<sup>49</sup>

50. The Palestinian people have an inalienable right to self-determination.<sup>50</sup> The obligation to respect that right of the Palestinian people is owed *erga omnes*, and all States have a legal interest in protecting it.<sup>51</sup> The realisation of that right has been subject to an extensive and as of yet uncompleted process which predates the occupation of the Occupied Palestinian Territory. The prolonged character of the occupation has resulted in a longer-term deprivation of the enjoyment of the Palestinian people’s right to self-determination. That deprivation has material consequences for the obligations of the

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<sup>46</sup> *Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965* (“*Chagos Archipelago Advisory Opinion*”), *Advisory Opinion*, *I.C.J. Reports 2019*, p. 131, para 144; *Case Concerning East Timor (Portugal v. Australia)*, *Judgment*, *I.C.J. Reports 1995*, p. 102, para 29; Article 1(2) of the Charter of the United Nations.

<sup>47</sup> See “The principle of equal rights and self-determination of peoples” as reflected 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, approved in General Assembly Resolution 2625 (XXV), 23 October 1970, A/RES/2625 (XXV), cf. Common Articles 1(1) of the International Covenant on Civil and Political Rights, (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171, and of the International Covenant on Economic, Social and Cultural Rights, (adopted 16 December 1966, entered into force 3 January 1976) 993 UNTS 3.

<sup>48</sup> *Chagos Archipelago Advisory Opinion* (n 46).

<sup>49</sup> *Policies and Practices of Israel Advisory Opinion* (n 32) para 233.

<sup>50</sup> *ibid.*, para 257.

<sup>51</sup> *ibid.*, para 232.

occupying Power, as have been reflected in the Court’s Advisory Opinion of 19 July 2024 on *Legal Consequences Arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*.<sup>52</sup>

51. As the Court has already held, “Israel, as the occupying Power, has the obligation not to impede the Palestinian people from exercising its right to self-determination”.<sup>53</sup> Iceland observes that this obligation finds application in relation to the presence and activities of external actors in the Occupied Palestinian Territory. Innate in its right to self-determination is the right of the Palestinian people to freely pursue their economic, social and cultural development. This entails not only an internal dimension of self-governance, but further a freedom to establish external relations and to engage with the outside world in that pursuit. In fact, “international co-operation in solving international problems of an economic, social, cultural, or humanitarian character” is one of the purposes of the United Nations enshrined in the Charter.<sup>54</sup> It follows that, in the case of a prolonged occupation, the discretion of the occupying Power to impede the capacity of the people of the occupied territory to such external engagement is curtailed.
52. It is material to note that the people of Palestine, through its legitimate representatives, has established relations and entered into legal relations with States and with international organisations, in exercise of and in pursuit of the full attainment of its right to self-determination. That capacity has been facilitated by actions of the United Nations, including Resolution ES-10/23 of the General Assembly, which have augmented the capacity of the State of Palestine to participate in the work of the Organisation and to accede to treaties under its auspices.<sup>55</sup> Third States and international organisations have also established a presence in the Occupied Palestinian Territory, through which they administer development assistance and for the purposes of international relations with the Palestinian people.
53. Iceland therefore maintains that the obligation of Israel, as the occupying Power, not to impede the Palestinian people from exercising its right to self-determination encompasses, within the framework of the law of occupation, obligations in respect of

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<sup>52</sup> *ibid.*, paras 243, 255 to 257.

<sup>53</sup> *ibid.*, para 237.

<sup>54</sup> Article 1(3) of the Charter of the United Nations.

<sup>55</sup> General Assembly (Tenth Emergency Special Session) Resolution ES-10/23 (n 6).

enabling the presence and activities of external actors in and in relation to the Occupied Palestinian Territory.

## **V. CONCLUSION**

54. With reference to the Question of the General Assembly and the urgent humanitarian situation in which it has arisen, Iceland respectfully submits that Israel, as a Member of the United Nations and as an occupying Power, has a duty which encompasses a set of positive and negative obligations, several of which have been enumerated in this Written Statement, in relation to the presence and activities of the United Nations, including its agencies and bodies, other international organisations and third States, in and in relation to the Occupied Palestinian Territory.

Respectfully submitted on behalf of the Government of Iceland,

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