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**INTERNATIONAL COURT OF JUSTICE**

**CASE CONCERNING  
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 FRENCH REPUBLIC**

**28 February 2025**

*[Translation by the Registry]*

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## INTRODUCTION

1. By its resolution 79/232 of 19 December 2024, which was co-sponsored by France, the United Nations General Assembly requested the International Court of Justice (hereinafter the “ICJ” or the “Court”) to render an advisory opinion, “on a priority basis and with the utmost urgency”<sup>1</sup>, 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. By an Order dated 23 December 2024, the Court held that “the United Nations and its Member States, as well as the observer State of Palestine, are considered likely to be able to furnish information on the question submitted to the Court for an advisory opinion”. The Court fixed 28 February 2025 as the time-limit within which written statements on the question could be presented to the Court, in accordance with Article 66, paragraph 2, of its Statute.

3. Before addressing the obligations of Israel in relation to the presence and activities of the United Nations, other international organizations and third States, in and in relation to the Occupied Palestinian Territory, France will make four introductory remarks. They concern the context of the request **(I)**, the requirements pursuant to Article 65, paragraph 1, of the Statute of the Court **(II)**, the scope of the question posed **(III)** and the importance of implementing the two-State solution, the only one that can ensure long-term peace and security for Israelis and Palestinians, in particular in the context of the exercise by the Palestinian people of their right to self-determination **(IV)**.

### I. The background to the present proceedings

4. According to the latest figures from the Gaza Ministry of Health, as of 18 February 2025, the human toll of the war in Gaza included 48,317 deaths, of which 13,319 were children and 7,216 women, and 111,722 injured. In November 2024, an initial independent assessment conducted by the Office of the United Nations High Commissioner for Human Rights, moreover, noted that

“[t]he levels of death and injury in Gaza since 7 October 2023 are likely to be much higher than currently reported, given: i) the widespread destruction of civilian infrastructure, including the collapse of the healthcare system following the IDF’s [Israeli Defense Forces] attacks on hospitals across Gaza, which deprived the population of not only emergency care, but also maternity care as well as care for those with chronic illness, such as cancer and heart conditions; ii) the initial ‘complete siege’ of the Gaza Strip followed by other . . . restrictions on the entry and distribution of humanitarian assistance, with a grossly inadequate amount of food, water, electricity and fuel allowed to enter; iii) the killing of humanitarian workers . . ., further hindering the distribution of items indispensable to the survival of the civilian population; and iv) repeated

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<sup>1</sup> United Nations, General Assembly, 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, A/RES/79/232, 19 Dec. 2024.

massive displacement of people, both further to evacuation orders and as a result of the fighting itself, increasing exposure to death from illness and disease with people living in cramped and unsanitary conditions without access to essential services”<sup>2</sup>.

5. The critical humanitarian situation makes the provision of assistance in line with needs all the more urgent. France has called on all parties to ensure that the significant increase in humanitarian aid reaching Gaza since the start of the ceasefire continues. For this to happen, and as France has repeatedly asserted, all means of access must be open and the work of humanitarian actors — both intergovernmental and non-governmental organizations — must be facilitated in accordance with international law.

6. The United Nations Relief and Works Agency for Palestine Refugees in the Near East (hereinafter referred to as “UNRWA” or the “Agency”) plays a key role in the humanitarian system in place in Gaza and in providing essential services in the Occupied Palestinian Territory, including Gaza. Its mandate, entrusted to it by the United Nations General Assembly in its resolution 302 (IV) in 1949, also covers assistance to Palestinian refugees in Jordan, Lebanon and Syria, “pending the just resolution of the question of the Palestine refugees”<sup>3</sup>. As noted in the report produced by the Independent Review of Mechanisms and Procedures to Ensure Adherence by UNRWA to the Humanitarian Principle of Neutrality (hereinafter the “Colonna Report”), published on 20 April 2024 at the request of the United Nations Secretary-General,

“[i]n the absence of a political solution between Israel and the Palestinians, UNRWA remains pivotal in providing life-saving humanitarian aid and essential social services, particularly in health and education, to Palestinian refugees in Gaza, Jordan, Lebanon, Syria and the West Bank. As such, UNRWA is irreplaceable and indispensable to Palestinians’ human and economic development.”<sup>4</sup>

7. However, on 28 October 2024, Israel adopted two laws aimed at prohibiting the Agency’s activities on its territory and in the Occupied Palestinian Territory. France has publicly expressed its serious concern in this regard. On 28 January 2025, it notably recalled that

“[t]he[] implementation [of these laws] would deprive hundreds of thousands of civilians of essential shelter, healthcare, education, and food aid in Gaza and the Occupied Palestinian Territories. . . .

There is no credible alternative to UNRWA. . . . UNRWA plays an essential stabilizing role in the Gaza Strip, but also in Jerusalem and the West Bank, as well as in the host countries.”<sup>5</sup>

8. The effects of these two texts, which entered into force on 30 January 2025, are already being seen, especially in the West Bank. Among other things, UNRWA has been forced to evacuate its headquarters in East Jerusalem, and its international staff are now based in Amman. Despite its fundamental role in the response to a humanitarian crisis that the Court has described as

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<sup>2</sup> United Nations, Office of the United Nations High Commissioner for Human Rights, Update Report: Six-month update report on the human rights situation in Gaza: 1 November 2023 to 30 April 2024, 8 Nov. 2024, para. 10.

<sup>3</sup> United Nations, General Assembly, Support for the mandate of the United Nations Relief and Works Agency for Palestine Refugees in the Near East, A/ES-10/L.32, 16 Dec. 2024, para. 3.

<sup>4</sup> Colonna Report, p. 4.

<sup>5</sup> Statement by Mr Nicolas de Rivi re, Permanent Representative of France to the United Nations, Security Council, New York, 28 Jan. 2025, accessible at <https://onu.delegfrance.org/france-reaffirms-its-full-support-to-unrwa>.

“disastrous”<sup>6</sup>, UNRWA is now facing an unprecedented accumulation of difficulties that further reduce its capacity to “provide life-saving assistance and essential basic and emergency services in accordance with its mandate”<sup>7</sup>.

9. This context therefore justifies the request for an advisory opinion, which will give the Court the opportunity to clarify, in the light of international law, Israel’s obligations in relation to the presence and activities of UNRWA — but also other humanitarian 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.

## **II. The Court’s jurisdiction and discretion to give an opinion**

10. In France’s view, there can be no doubt that the Court has jurisdiction to give an opinion on the question put to it: in accordance with Article 65, paragraph 1, of its Statute, the Court has been seised of a “legal question” by a body that is authorized to do so under Article 96, paragraph 1, of the United Nations Charter and is acting within its mandate<sup>8</sup>.

11. In order to assess the propriety of the Court giving an opinion, the Court must “consider . . . whether there is any reason why [it] should, in the exercise of its discretion, decline to answer”<sup>9</sup> the question put to it. In accordance with the Court’s jurisprudence, “only compelling reasons may lead [it] to refuse to give its opinion in response to a request falling within its jurisdiction”<sup>10</sup>. In the context of the present proceedings, this matter calls for two remarks.

12. First, on 19 July 2024, the Court rendered an Advisory Opinion on the *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*. In that context, it pronounced on certain obligations of Israel in the Occupied Palestinian Territory. The present request for an opinion thus follows directly on from those earlier proceedings. However, the question posed by resolution 79/232 contains specific points on which clarification by the Court would usefully lend assistance to the General Assembly in the solution of a problem confronting it<sup>11</sup>. Moreover, there is no reason to think that the short interval between two proceedings relating to the same context may in itself be sufficient reason to decline to render an opinion.

13. Second, the formulation of the question posed has a certain originality compared with the previous requests for opinions: the Court is asked to pronounce on the obligations of a single State and not on those of all States in a particular area or on the legal consequences of a situation for the entire international community. There is no legal obstacle to the Court giving an opinion on such a

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<sup>6</sup> *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. 28.

<sup>7</sup> United Nations, General Assembly, Support for the mandate of the United Nations Relief and Works Agency for Palestine Refugees in the Near East, A/ES-10/L.32, 16 Dec. 2024.

<sup>8</sup> United Nations Charter, Art. 10.

<sup>9</sup> *Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965*, Advisory Opinion, I.C.J. Reports 2019 (I), p. 111, para. 54.

<sup>10</sup> *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*, Advisory Opinion of 19 July 2024, para. 31.

<sup>11</sup> *Western Sahara*, Advisory Opinion, I.C.J. Reports 1975, p. 21, para. 23.

question, so long as the General Assembly considers it to be of assistance to it for the exercise of its functions<sup>12</sup>, which is unquestionably the case here<sup>13</sup>. The fact remains that, in accordance with the Court's jurisprudence, its advisory function is devoted to questions which concern the United Nations as a whole and which form part of "a much broader frame of reference than a bilateral dispute"<sup>14</sup>, let alone the situation of a single State.

### III. The scope of the question put to the Court

14. The question put to the Court concerns only "the obligations" of Israel in relation to the presence and activities of certain entities in the Occupied Palestinian Territory. This written statement thus identifies those obligations without prejudice to any legal consequences that may arise, if applicable, as a result of the breach thereof.

15. Further, it should be noted that the substantive scope of the request at hand concerns both the humanitarian and the development assistance activities of the United Nations, including its agencies and bodies, other international organizations and third States. Since the text of the question does not specify the meaning of the term "international organization", and in view of the essential role of non-governmental organizations in the Occupied Palestinian Territory, France considers that the activities of such organizations must also be covered by the present proceedings.

16. The territorial scope of the question concerns the "Occupied Palestinian Territory". As the Court recalled in its Advisory Opinion of 19 July 2024, this territory "encompasses the West Bank, East Jerusalem and the Gaza Strip" and, "from a legal standpoint, . . . constitutes a single territorial unit, the unity, contiguity and integrity of which are to be preserved and respected"<sup>15</sup>. However, the question's territorial scope is not limited to the Occupied Palestinian Territory *stricto sensu*. The phrase employed in the request for an opinion, "in and in relation to the Occupied Palestinian Territory", notably invites the Court to examine the international obligations with which Israel must comply on its own territory and the performance of which could have consequences on the Occupied Palestinian Territory. In this respect, the request at hand follows the same logic as that of the Opinion rendered on 19 July 2024. In that Opinion, the Court explicitly recalled that the unlawfulness of Israel's presence in the Occupied Palestinian Territory does not relieve it of its obligations "in respect of the exercise of its powers *in relation to* the territory until such time as its presence is brought to an end"<sup>16</sup>.

17. Finally, in terms of its temporal scope, the request for an opinion concerns Israel's obligations "as an occupying Power and as a member of the United Nations". Israel has been a Member State of the United Nations since 11 May 1949. In addition, bearing in mind that "the Court is not precluded from having regard to facts predating the occupation, to the extent that this is

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<sup>12</sup> *Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion, I.C.J. Reports 1996 (I)*, p. 237, para. 16.

<sup>13</sup> In this regard, the Court's reasoning in its Opinion of 19 July 2024 appears entirely transposable to the request at hand. See *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem, Advisory Opinion of 19 July 2024*, para. 35.

<sup>14</sup> *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, I.C.J. Reports 2004 (I)*, p. 159, para. 50. See also *Western Sahara, Advisory Opinion, I.C.J. Reports 1975*, p. 26, para. 38; *Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965, Advisory Opinion, I.C.J. Reports 2019 (I)*, p. 118, para. 88.

<sup>15</sup> *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem, Advisory Opinion of 19 July 2024*, para. 78.

<sup>16</sup> *Ibid.*, para. 264 (emphasis added).

necessary for the proper discharge of its judicial function”<sup>17</sup>, Israel has had the status of an occupying Power in the Occupied Palestinian Territory since the end of the Six-Day War in 1967.

#### IV. The right to self-determination of the Palestinian people

18. The present proceedings are intended to enable the Court, through the advisory opinion that it will render, to clarify the state of international law applicable to the provision of humanitarian and development assistance in the Occupied Palestinian Territory, in particular “in support of the Palestinian people’s right to self-determination”.

19. The Court has on several occasions affirmed that this right is “one of the essential principles of contemporary international law” and 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”<sup>18</sup>. In this context, France has consistently recalled the importance of respect for the Palestinian people’s right to self-determination. The exercise of this right offers the only hope for a two-State solution, the sole means of ensuring long-term peace and security for Israelis and Palestinians.

20. As a corollary of the Palestinian people’s right to self-determination, all States, including Israel, which clearly has a special responsibility as an occupying Power in the Occupied Palestinian Territory, have an obligation not to do anything that might impede the exercise of that right. In this regard, France takes note of the fact that the Court considered in its Opinion of 19 July 2024 that

“[t]he prolonged character of Israel’s unlawful policies and practices aggravates their violation of the right of the Palestinian people to self-determination. As 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.”<sup>19</sup>

21. As France noted in the written statement it submitted to the Court in July 2023, “[w]hatever practical forms it takes, according to the particular situation of a people, the right to self-determination is given effect when various conditions are met, enabling that people to decide its own destiny”<sup>20</sup>. The provision of humanitarian and development assistance — in so far as it makes it possible to establish the conditions for the people receiving such assistance to ultimately be able to exercise their right to self-determination — contributes to the exercise of that right.

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<sup>17</sup> *Ibid.*, para. 80.

<sup>18</sup> *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem, Advisory Opinion of 19 July 2024*, para. 232, citing *East Timor (Portugal v. Australia)*, Judgment, I.C.J. Reports 1995, p. 102, para. 29; *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.

<sup>19</sup> *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem, Advisory Opinion of 19 July 2024*, para. 243.

<sup>20</sup> *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*, written statement of France, 25 July 2023, para. 26.



## THE QUESTION PUT TO THE COURT

22. This written statement will provide some responses to the question put to the Court, through an approach based on the bodies of law from which Israel's obligations derive. It is important to note that the obligations identified in this statement are not mutually exclusive in their implementation. On the contrary, they must be considered as applying simultaneously and drawing on each other in a mutual and reciprocal way.

23. These responses are, moreover, in line with the Court's Advisory Opinion of 19 July 2024, in which it recalled 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”<sup>21</sup>.

24. In this context, France will set out Israel's obligations deriving from United Nations law (I), before turning to those arising from international humanitarian law and international human rights law (II).

### I. The obligations deriving from United Nations law

25. As a preliminary matter, it should be noted that the obligations deriving from United Nations law apply in combination and in keeping with those arising from other bodies of law, in particular international humanitarian law and international human rights law. While the rule formulated by Article 103 of the Charter must be taken into account in this context, it must also be recalled that this rule establishing the primacy of the Charter can only be invoked in the event of a conflict of norms, which would not appear to be the case in the present proceedings. In France's opinion, none of the obligations of Israel flowing from its status as a Member State of the United Nations conflict with those arising from its status as an occupying Power in the Occupied Palestinian Territory. On the contrary, these obligations apply concurrently and are mutually reinforcing.

26. Further, in light of the factual circumstances underlying the Court's seisin, the discussion that follows will be devoted to the presence and activities of UNRWA in and in relation to the Occupied Palestinian Territory. In this regard, France is of the opinion that clarification by the Court would be especially useful regarding the question of Israel's obligation not to impede UNRWA's activities in the territories concerned by them (A) and its obligation to protect the Agency as an organ of the United Nations (B).

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<sup>21</sup> *Ibid.*, para. 264.

## A. Israel's obligations in relation to UNRWA's activities in and in relation to the Occupied Palestinian Territory

### 1. *The principle of consent to UNRWA's activities*

27. It must be recalled that UNRWA is a subsidiary organ of the United Nations General Assembly, established by resolution 302 (IV) of 8 December 1949<sup>22</sup>. As such, as the Court noted in its Advisory Opinion on *Certain Expenses of the United Nations*, its presence and activities on a given territory are subject to the consent of the State concerned:

“The functions of the General Assembly for which it may establish such subsidiary organs include, for example, investigation, observation and supervision, but the way in which such subsidiary organs are utilized *depends on the consent of the State or States concerned*”<sup>23</sup>.

28. Similarly, in its Advisory Opinion of 20 December 1980, the Court held that “States . . . possess a sovereign power of decision with respect to their acceptance of the headquarters or a regional office of an organization *within their territories*”<sup>24</sup>.

29. Moreover, although resolution 302 (IV) does not explicitly mention the “consent” of concerned States, several of its provisions appear to imply that the working of UNRWA depends on it. The mandate of the Agency is thus:

- “(a) To carry out *in collaboration with local governments* the direct relief and works programmes as recommended by the Economic Survey Mission;
- (b) *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”<sup>25</sup>.

30. In addition, “the Director and the Advisory Commission *shall consult with each Near Eastern Government concerned* in the selection, planning and execution of projects”<sup>26</sup>. Finally, the General Assembly

“[c]alls upon the Governments concerned to accord the . . . Agency . . . the privileges, immunities, exemptions and facilities which have been granted to the United Nations Relief for Palestine Refugees, together with all other privileges, immunities, exemptions and facilities necessary for the fulfilment of its functions”<sup>27</sup>.

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<sup>22</sup> United Nations, General Assembly, Assistance to Palestine refugees, resolution 302 (IV), 8 Dec. 1949, para. 7.

<sup>23</sup> *Certain Expenses of the United Nations (Article 17, paragraph 2, of the Charter)*, Advisory Opinion, I.C.J. Reports 1962, p. 165 (emphasis added).

<sup>24</sup> *Interpretation of the Agreement of 25 March 1951 between the WHO and Egypt*, Advisory Opinion, I.C.J. Reports 1980, p. 89, para. 37 (emphasis added).

<sup>25</sup> United Nations, General Assembly, Assistance to Palestine refugees, resolution 302 (IV), 8 Dec. 1949, para. 7 (emphasis added).

<sup>26</sup> *Ibid.*, para. 8 (emphasis added).

<sup>27</sup> *Ibid.*, para. 17 (emphasis in the original and added).

31. In this context, Israel and UNRWA have concluded several agreements, including one concerning assistance to Palestine refugees, which entered into force on 14 June 1967 (hereinafter the “1967 Agreement”)<sup>28</sup>. By that instrument, Israel “confirm[s] [its] agreement that, at the request of the Israel Government, UNRWA would continue its assistance to the Palestine refugees, with the full co-operation of the Israel authorities, in the West Bank and Gaza Strip areas”. This agreement thus provides a framework for the activities of UNRWA in the Occupied Palestinian Territory, but also those “in and in relation to” that territory. Indeed, some of its provisions relate to the movement of Agency vehicles and personnel into Israel<sup>29</sup>.

32. It should further be noted that the Palestinian Authority has also concluded various agreements with UNRWA, including in particular an agreement relating to the location of UNRWA’s headquarters in the West Bank and Gaza Strip, signed in Ramallah on 5 July 1996, the stated purpose of which is as follows: “[t]his Agreement embodies the conditions necessary to enable UNRWA to establish and operate its Headquarters in the West Bank and Gaza Strip area and carry out its functions in all of its areas of operations”<sup>30</sup>.

## **2. *Israel’s obligations in relation to UNRWA’s activities in and in relation to the Occupied Palestinian Territory***

33. On 28 October 2024, Israel’s Knesset adopted two laws that entered into force on 30 January 2025. The first law, “to cease UNRWA operations”, provides, *inter alia*, for “[n]o [c]ontact [w]ith UNRWA” and for the expiration of “[t]he invitation to UNRWA, based on an exchange of letters between Israel and UNRWA from . . . 14 June 1967”<sup>31</sup>. In a letter dated 18 December 2024 addressed by Israel to the President of the General Assembly and the President of the Security Council, Israel stated that,

“[p]ursuant to the legislation passed by the Knesset, Israel has withdrawn, by formal notification issued on 3 November 2024, its request issued to UNRWA as referred to in the ‘Exchange of Letters constituting a Provisional Agreement between the United Nations Relief and Works Agency for Palestine Refugees in the Near East and Israel concerning Assistance to Palestine Refugees’, dated 14 June 1967. This provisional agreement has thus been terminated.”<sup>32</sup>

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<sup>28</sup> Exchange of letters constituting a provisional agreement between the United Nations Relief and Works Agency for Palestine Refugees in the Near East and Israel concerning assistance to Palestine refugees, Jerusalem, 14 June 1967, United Nations, *Treaty Series*, Vol. 620, No. 8955. This replaces the exchange of letters constituting an Agreement between Israel and the United Nations Relief and Works Agency for Palestine Refugees concerning assistance to Palestine Refugees in the Gaza Strip, Israel and Beirut, 9 Nov. 1956, United Nations, *Treaty Series*, Vol. 280, No. 4063.

<sup>29</sup> 1967 Agreement, paras. (b) and (c).

<sup>30</sup> Agreement between the United Nations Relief and Works Agency for Palestine Refugees in the Near East and the Palestinian Authority, Ramallah, 5 July 1996, Art. II.

<sup>31</sup> United Nations, General Assembly, Letter dated 28 October from the Secretary-General addressed to the President of the General Assembly, A/79/558, 29 Oct. 2024, p. 2.

<sup>32</sup> United Nations, General Assembly and Security Council, Identical letters dated 18 December 2024 from the Permanent Representative of Israel to the United Nations addressed to the President of the General Assembly and the President of the Security Council, A/79/710-S/2024/940, 31 Dec. 2024, p. 4.

34. The second law, “for the cessation of UNRWA activities in the State of Israel”, has as its objective “to prevent any activity of UNRWA within the territory of the State of Israel” and provides for the “[p]rohibition of [its] activities in the State of Israel”<sup>33</sup>.

35. In France’s view, the general principle of consent of States concerned by UNRWA’s activities must accord with the other international obligations incumbent on Israel. From a legal point of view, it thus appears useful to distinguish between UNRWA’s activities depending on whether they take place in the Occupied Palestinian Territory *(a)* or in Israel *(b)*.

***(a) Israel’s obligation to co-operate with the Agency in relation to its activities in the Occupied Palestinian Territory***

36. As a Member of the United Nations, but also as an occupying Power, Israel’s margin of discretion to prohibit UNRWA’s activities is limited by its obligation to co-operate in good faith with the Agency. In this regard, three clarifications can be made.

37. First, it may be recalled that Article 2, paragraph 5, of the Charter provides that “[a]ll Members shall give the United Nations every assistance in any action it takes in accordance with the present Charter”. It follows that Israel has a general obligation to co-operate with the United Nations. The Court has long adopted a broad interpretation of this provision, applying it to actions of the General Assembly as well. In 1949, the Court thus

“stress[ed] 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. It must be noted that the effective working of the Organization — the accomplishment of its task, and the independence and effectiveness of the work of its agents — require that these undertakings should be strictly observed”<sup>34</sup>.

38. This general obligation does not, of course, have the effect of conferring a binding character on the General Assembly’s recommendations. However, it must be taken into account by all Members of the United Nations with a view to achieving the objectives established by the Charter. Moreover, there can be no doubt about its applicability in humanitarian contexts; pursuant to Article 1, paragraph 3, of the Charter, one of the purposes of the United Nations is “[t]o achieve international co-operation in solving international problems of [a] . . . humanitarian character”. Like all United Nations Members States, Israel is thus required to implement this obligation of assistance in good faith, including in relation to the activities of UNRWA.

39. Second, Israel’s obligation to co-operate for the purpose of enabling UNRWA to carry out its activities in the Occupied Palestinian Territory is reinforced by the Order indicating provisional measures of 28 March 2024 (in the case between South Africa and Israel), pursuant to which Israel must

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<sup>33</sup> United Nations, General Assembly, Letter dated 28 October from the Secretary-General addressed to the President of the General Assembly, A/79/558, 29 Oct. 2024, p. 2.

<sup>34</sup> *Reparation for Injuries Suffered in the Service of the United Nations, Advisory Opinion, I.C.J. Reports 1949*, p. 183.

“[t]ake 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”<sup>35</sup>.

40. This measure is binding on the parties to the proceedings and continues to produce its legal effects pending the decision on the merits. In France’s opinion, the emphasis on “full co-operation” with the United Nations significantly reinforces Israel’s obligation to co-operate with UNRWA.

41. Third, while Israel’s obligations under international humanitarian law will be specifically addressed in the second part of this written statement<sup>36</sup>, it is worth noting here that “[t]he situation of military occupation imposes a number of positive obligations, the chief one being to protect the population subject to that occupation”<sup>37</sup>.

42. More specifically, pursuant to Article 59 of the Fourth Geneva Convention, “[i]f the whole or part of the population of an occupied territory is inadequately supplied, the Occupying Power shall agree to relief schemes on behalf of the said population, and shall facilitate them by all the means at its disposal”. This provision, whose content and scope were subsequently clarified<sup>38</sup>, does not identify the “humanitarian organizations” that can carry out such “relief schemes”. In principle, an occupying Power is thus free to choose the organizations capable of providing the assistance required for the implementation of this provision. In practice, however, an occupying Power must take into account the specific circumstances of the territories that it occupies when authorizing and facilitating the activities of suitable “humanitarian organizations”, i.e. those with a real capacity to adequately assist in providing supplies to the local population. The crucial role of UNRWA in providing humanitarian assistance and essential services in the Occupied Palestinian Territory must therefore be taken into account as a constituent element of Israel’s obligation to co-operate with the Agency.

43. In France’s opinion, it is clear from all the foregoing that Israel has an obligation to co-operate with UNRWA in relation to the Agency’s activities in the Occupied Palestinian Territory. This obligation to co-operate is thus, in principle, incompatible with the adoption of measures that systematically impede or prohibit UNRWA’s activities in the Occupied Palestinian Territory.

**(b) The limits to which Israel can refuse to allow UNRWA’s activities on its territory**

44. A distinction must be made between Israel’s obligations in respect of UNRWA in the Occupied Palestinian Territory and its obligations relating to the Agency’s presence on Israeli territory.

45. As recalled above, in its Advisory Opinion on the *Interpretation of the Agreement of 25 March 1951 between the WHO and Egypt*, the Court recognized States’ “sovereign power of decision” regarding their acceptance of the headquarters or a regional office of an international organization within their territories. That same sovereign power of decision applies to the withdrawal of a State’s consent to the presence of an international organization on its territory. That said, such

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<sup>35</sup> *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. 45.

<sup>36</sup> See below, Part II (A) and (B).

<sup>37</sup> *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*, written statement of France, 25 July 2023, para. 43.

<sup>38</sup> See below, Part II (A).

power is subject to Israel's obligations in respect of UNRWA. A distinction can be made between these obligations depending on whether they are procedural or substantive.

46. In terms of procedural obligations, on the one hand, in the above-mentioned Opinion, the Court identified three types of "mutual obligations . . . to co-operate" that are incumbent on a specialized agency of the United Nations and a host State "in the event of the transfer of the seat of a Regional Office from the territory of [that] host State"<sup>39</sup>.

47. First, the two parties must consult together and negotiate in good faith to determine by mutual agreement the conditions and modalities of the transfer of the organization's activities outside the territory of the Host State<sup>40</sup>.

48. Second, the party wishing to effect the transfer outside its territory must "give a reasonable period of notice to the other party for the termination of the existing situation . . . , taking due account of all the practical arrangements needed to effect an orderly and equitable transfer . . . to [the] new site"<sup>41</sup>. In this regard, the Court referred to the general rules of treaty interpretation in holding that

"when a right of denunciation is implied in a treaty by reason of its nature, the exercise of that right is conditional upon notice, and that of not less than twelve months. Clearly, these provisions also are based on an obligation to act in good faith and have reasonable regard to the interests of the other party to the treaty"<sup>42</sup>.

49. Finally, during this "transitional period", "the Organization itself would need to make full use of the privileges, immunities and facilities provided in the Agreement" being terminated, in order to "ensure a smooth and orderly transfer"<sup>43</sup>.

50. In the absence of any provisions in the 1967 Agreement relating to the procedure for its termination, it would appear that the above procedural obligations can be transposed in the present case; the two parties must negotiate in good faith the conditions for the transfer of UNRWA's activities outside Israeli territory, Israel must give the Agency sufficient advance notice, and it must accord the Agency and its personnel the privileges, immunities and facilities necessary for the smooth handling of this transitional period.

51. The substantive obligations affecting Israel's right to withdraw its consent to UNRWA's activities on its own territory arise from the consequences that such a decision entails for the Occupied Palestinian Territory.

52. Indeed, some of UNRWA's activities in the Occupied Palestinian Territory are reliant on facilities provided or authorizations issued by Israel on its own territory, including for any transit to or from the Occupied Palestinian Territory. The elimination of such facilities could concretely and

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<sup>39</sup> *Interpretation of the Agreement of 25 March 1951 between the WHO and Egypt, Advisory Opinion, I.C.J. Reports 1980*, pp. 95-96, para. 49.

<sup>40</sup> *Ibid.*, p. 95, para. 49.

<sup>41</sup> *Ibid.*, p. 96, para. 49.

<sup>42</sup> *Ibid.*, p. 95, para. 47.

<sup>43</sup> *Ibid.*, p. 93, para. 44.

durably obstruct physical access to the Occupied Palestinian Territory, and thus hamper UNRWA's ability to operate there. Such a decision should thus be considered a measure taken "in relation to" the Occupied Palestinian Territory, within the meaning of the question put to the Court.

53. Therefore, although Israel can in principle put an end to UNRWA's activities on its territory, in practice such a decision must accord with and take into account Israel's obligations in the Occupied Palestinian Territory, in particular the obligation to co-operate with UNRWA in relation to its activities in that territory.

## **B. The obligation to respect the privileges, immunities and facilities accorded to UNRWA**

54. Article 105, paragraph 1, of the United Nations Charter provides that the Organization "shall enjoy in the territory of each of its Members such privileges and immunities as are necessary for the fulfilment of its purposes". The Convention on the Privileges and Immunities of the United Nations (hereinafter the "General Convention")<sup>44</sup>, to which Israel has been a party since 21 September 1949, sets out the privileges, immunities and facilities that Member States of the United Nations must accord to the Organization and its officials.

55. These two texts establish obligations for Israel whose geographical scope could usefully be clarified by the Court.

56. It should be noted that the scope of the General Convention was explicitly extended to the Occupied Palestinian Territory by the 1967 Agreement between Israel and UNRWA. The latter instrument indeed provides that Israel agrees in particular:

- “(a) To ensure the protection and security of the personnel, installations and property of UNRWA;
- (b) To permit the free movement of UNRWA vehicles into, within and out of Israel and the areas in question;
- (c) To permit the international staff of the Agency to move in, out and within Israel and the areas in question; they will be provided with identity documents and any other passes which might be required;
- (d) To permit the local staff of the Agency to move within the areas in question under arrangements made or to be made with the military authorities;
- .....
- (g) 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”.

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<sup>44</sup> New York, 13 Feb. 1946, United Nations, *Treaty Series*, Vol. 1, No. 4, and Vol. 90.

57. Even if the 1967 Agreement were to be considered as having ceased to produce any effect as a result of Israel's withdrawal from it, the General Convention would remain applicable in respect of UNRWA, both in Israel and in the Occupied Palestinian Territory.

58. Indeed, while Article 105, paragraph [1], of the Charter refers to "the territory of each of its Members", Article II of the General Convention is drafted in particularly open terms, referring to the property and assets of the United Nations "wherever located" (Section 2), "wherever located and by whomsoever held" (Section 3) and the archives and documents of the United Nations "wherever located" (Section 4). Given that the object and purpose of the General Convention is to protect United Nations assets and officials so that the Organization can effectively carry out the missions with which it has been entrusted by its Members, it would be paradoxical and contrary to that object and purpose to deprive the Organization of any form of protection on the grounds that it is acting in occupied territory — territory in respect of which it moreover bears a special responsibility. Therefore, as one learned author has noted, "[i]t is arguable that Israel would have had the duty under Article II to apply this Convention to UNRWA on the West Bank even in the absence of such a special agreement"<sup>45</sup>.

## **II. The obligations deriving from international humanitarian law and international human rights law**

59. In this written statement, France will address in turn the obligations of Israel under international humanitarian law (A and B) and under international human rights law (C) that are applicable in the context of the request at hand.

### **A. The obligation to ensure and facilitate the unhindered provision of urgently needed supplies essential to the survival of the Palestinian civilian population**

60. With regard to international humanitarian law, France would note as a preliminary matter that Israel — like all States, moreover — has an obligation to respect and ensure respect for the Geneva Conventions in all circumstances. As the Court has noted, "such an obligation does not derive only from the Conventions themselves, but from the general principles of humanitarian law to which the Conventions merely give specific expression"<sup>46</sup>.

61. Moreover, the illegality of Israel's occupation of the Occupied Palestinian Territory, which has been established by the Court, does not have the effect of releasing the occupying Power from its obligations under international humanitarian law. Indeed, the "basic duty to administer the territory for the benefit of the local population, and all the individual obligations arising thereunder, endures", regardless of the occupation's duration<sup>47</sup> or legality<sup>48</sup>.

62. In this context, the obligation to ensure and facilitate the unhindered provision of urgently needed supplies essential to the survival of the civilian population is of paramount importance. It has

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<sup>45</sup> T. Meron, "Applicability of Multilateral Conventions to Occupied Territories", *American Journal of International Law*, Vol. 72, 1978, p. 543.

<sup>46</sup> *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America)*, Merits, Judgment, I.C.J. Reports 1986, p. 114, para. 220.

<sup>47</sup> *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*, Advisory Opinion of 19 July 2024, paras. 106-107.

<sup>48</sup> *Ibid.*, para. 264.



its origin in Article 59 of the Fourth Geneva Convention, to which Israel is a party, and which provides:

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

Such schemes, which may be undertaken either by States or by impartial humanitarian organizations such as the International Committee of the Red Cross, shall consist, in particular, of the provision of consignments of foodstuffs, medical supplies and clothing.

All Contracting Parties shall permit the free passage of these consignments and shall guarantee their protection.

A Power granting free passage to consignments on their way to territory occupied by an adverse Party to the conflict shall, however, have the 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.”

63. This obligation supplements the one established in Article 55 of the Fourth Geneva Convention, which provides:

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

64. The fundamental obligation provided for by Article 59 of the Fourth Geneva Convention has, moreover, been recalled repeatedly by United Nations organs. In its resolution 2720 (2023) of 22 December 2023, the Security Council demanded

“that [the parties to the conflict] 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”<sup>49</sup>.

65. In its resolution 2728 (2024) of 25 March 2024, the Security Council “reiterate[d] its demand for the lifting of all barriers to the provision of humanitarian assistance at scale, in line with international humanitarian law as well as resolutions 2712 (2023) and 2720 (2023)”<sup>50</sup>. The General Assembly has done the same<sup>51</sup>.

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<sup>49</sup> United Nations, Security Council, resolution 2720 (2023), S/RES/2720 (2023), 22 Dec. 2023.

<sup>50</sup> United Nations, Security Council, resolution 2728 (2024), S/RES/2728 (2024), 25 Mar. 2024.

<sup>51</sup> See e.g. United Nations, General Assembly, Assistance to Palestine refugees, A/RES/77/123, 12 Dec. 2022; Assistance to the Palestinian people, A/RES/79/141, 12 Dec. 2024; Support for the mandate of the United Nations Relief and Works Agency for Palestine Refugees in the Near East, A/ES-10/L.32, 16 Dec. 2024.

66. Thus, Article 59 places a real obligation on the occupying Power that cannot be evaded where it is established that the population of the occupied territory is inadequately supplied. As the International Committee of the Red Cross (hereinafter the “ICRC”) put it in its Commentary to Article 59, “[t]he obligation on the Occupying Power to accept [collective] relief is unconditional”<sup>52</sup>.

67. This provision contains two obligations: if the population of the occupied territory is inadequately supplied — be it, as the text of the provision expressly states<sup>53</sup>, the whole or part of the population — the occupying Power must, on the one hand, “accept” humanitarian assistance and, on the other hand, “facilitate [it] by all the means at its disposal”. The first is an obligation of result, in that the occupying Power must not refuse humanitarian assistance when the population is inadequately supplied. The second is an obligation of means, in so far as the occupying Power must implement in good faith all means at its disposal to facilitate the provision of previously authorized assistance. As noted in the ICRC Commentary,

“[t]he Convention not only lays down that the Occupying Power must ‘agree’ to relief schemes on behalf of the population, but insists that it must ‘facilitate’ them by all the means at its disposal. The occupation authorities must therefore co-operate wholeheartedly in the rapid and scrupulous execution of these schemes. For that purpose they have many and varied means at their disposal (transport, stores, facilities for distributing and supervising agencies).”<sup>54</sup>

68. Article 59 is formulated in terms that may refer to collective relief provided by both States and impartial humanitarian organizations. Although, as previously mentioned<sup>55</sup>, the occupying Power has some margin of discretion in accepting and facilitating humanitarian assistance, particularly as regards the choice of humanitarian actors where various options would ultimately enable it to fulfil its obligation under Article 59, it is essential for the occupying Power to take into account the specific needs of the occupied territory’s population and the operational possibilities that would enable effective assistance to be provided. The fact that the humanitarian situation is catastrophic in the Gaza Strip and that UNRWA is the principal provider of humanitarian assistance and essential services in the Occupied Palestinian Territory significantly reduces the margin of discretion relating to performance of the obligation under Article 59. Indeed, in the absence of other actors with the capacity to effectively ensure that the population is adequately supplied, Israel, as an occupying Power, is required, for as long as the situation persists, to grant humanitarian access to UNRWA and to make every effort to facilitate its relief activities in the Occupied Palestinian Territory.

69. In this context, France notes that UNRWA is in fact an “impartial” organization within the meaning of Article 59. Although the concepts of impartiality and neutrality are not perfectly equivalent in international humanitarian law, France has taken note of the Colonna Report’s conclusions regarding UNRWA’s adherence to the principle of neutrality. It observes that the

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<sup>52</sup> ICRC, Convention (IV) relative to the Protection of Civilian Persons in Time of War, 12 Aug. 1949, Commentary of 1958, p. 344.

<sup>53</sup> See also the ICRC Commentary to Art. 59, according to which “[s]anction is thus given not only to schemes of assistance to the population as a whole, but also to those which are intended either for the population in certain localities only, or for particular classes of the population, such as women and children throughout the territory” (ICRC, Convention (IV) relative to the Protection of Civilian Persons in Time of War, 12 Aug. 1949, Commentary of 1958, p. 345).

<sup>54</sup> ICRC, Convention (IV) relative to the Protection of Civilian Persons in Time of War, 12 Aug. 1949, Commentary of 1958, p. 345.

<sup>55</sup> See above, Part I (A) (2) (a).

Agency has undertaken to implement this principle and to apply a “zero tolerance” policy in this regard.

70. Finally, it should be noted that Article 59 contains an important safeguard clause which notably enables the occupying Power to “search the consignments” and “regulate their passage according to prescribed times and routes”. This makes it possible, in particular, to deter third parties from attempting to bring military equipment into the occupied territory or seeking to misuse humanitarian assistance networks for terrorist purposes. Safeguards may thus be justified, so long as they do not leave Article 59 devoid of substance. As the ICRC has observed, these safeguards “must in no case be misused in order to make the rule itself inoperative or unduly delay the forwarding of relief”<sup>56</sup>.

71. In short, Israel, as an occupying Power, has an obligation to accept and facilitate, by all the means at its disposal, the provision of humanitarian assistance to the civilian populations in the Gaza Strip, and the Occupied Palestinian Territory more broadly, which have been established to be inadequately supplied. In light of the essential role of UNRWA in the Occupied Palestinian Territory, and the catastrophic humanitarian situation in the Gaza Strip, Israel has an obligation, for as long as this situation persists, to authorize and facilitate the Agency’s activities in the Occupied Palestinian Territory in accordance with Article 59 of the Fourth Geneva Convention.

72. In this regard, France reiterates the appeal made with its partners on 31 January 2025, in which it

“ask[ed] the Government of Israel to abide by its international obligations and live up to its responsibility to ensure full, rapid, safe and unhindered humanitarian assistance and the provision of basic services to the civilian population”<sup>57</sup>.

## **B. The obligation to protect humanitarian aid workers**

73. In order for humanitarian assistance to be effectively provided to civilian populations, the safety of personnel working for the organization providing that assistance must be ensured on the ground, and the parties to the conflict must take such protection into account while conducting hostilities. In this respect, the obligation to protect humanitarian aid workers can be considered a “corollary to the right of the civilian population to receive vital assistance”<sup>58</sup>.

74. In France’s view, it is important to recall the protection that must be accorded to humanitarian aid workers under international law, which must be ensured in all circumstances. It is all the more necessary to recall this given that, according to the United Nations Office for the Coordination of Humanitarian Affairs, as of 18 February 2025, at least 384 humanitarian aid workers

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<sup>56</sup> ICRC, Convention (IV) relative to the Protection of Civilian Persons in Time of War, 12 Aug. 1949, Commentary of 1958, p. 347.

<sup>57</sup> E3 Foreign ministers’ statement on the implementation of legislation against United Nations Relief and Works Agency for Palestine Refugees in the Near East, 31 Jan. 2025, accessible at <https://www.diplomatie.gouv.fr/en/country-files/israel-palestinian-territories/news/2025/article/e3-foreign-ministers-statement-on-the-implementation-of-legislation-against>.

<sup>58</sup> French National Human Rights Commission, Statement: “Reminder of the fundamental rules of International Humanitarian Law applicable in the context of the conflict between Hamas, other armed groups, and Israel”, D-2023-7, 30 Nov. 2024, accessible at <https://www.cncdh.fr/sites/default/files/2023-12/D%20-%202023%20-%207%20-%20EN%20-%20Statement%20Reminder%20of%20the%20fundamental%20rules%20IHL%2C%20nov%202023.pdf>.

have been killed in the Gaza Strip alone since the war broke out in October 2023<sup>59</sup>. Over 200 of these individuals were UNRWA staff members<sup>60</sup>.

75. It is true that the Geneva Conventions do not contain any provisions specifically devoted to the protection of personnel participating in relief schemes. However, the rule that “humanitarian relief personnel must be respected and protected” is a norm of customary international law that is applicable in both international and non-international armed conflicts<sup>61</sup>. Moreover, while Israel is not a party to Additional Protocol I, Article 71 thereof provides for personnel participating in relief actions to be accorded certain guarantees, including being “respected and protected”.

76. The Security Council regularly recalls the need for the parties to the conflict to respect and protect humanitarian personnel. In its resolution 2730 (2024), for example, it “[c]alls upon all States to respect and protect humanitarian personnel and United Nations and associated personnel, including national and locally recruited personnel, in accordance with their obligations under international law”<sup>62</sup>.

77. In any event, regardless of the organization with which they are affiliated, humanitarian aid workers must at the very least be considered civilians and must enjoy all the protections attached to that status. As France again recalled before the Security Council on 5 April 2024, “the protection of humanitarian aid workers must be upheld in all circumstances”, in accordance with international humanitarian law<sup>63</sup>. To ensure rapid, safe and unhindered humanitarian access, Israel must thus also respect its obligation to conduct hostilities in accordance with international humanitarian law and, in particular, the principle of distinction between civilians and combatants and between civilian objects and military objectives.

### **C. The obligation to respect international human rights law**

78. Although the human rights obligations of States apply above all in respect of persons located in their territory, the Court has had occasion to hold that the International Covenant on Civil and Political Rights (hereinafter the “ICCPR”)<sup>64</sup>, the International Covenant on Economic, Social and Cultural Rights (hereinafter the “ICESCR”)<sup>65</sup> and the United Nations Convention on the Rights of the Child (hereinafter the “UNCRC”)<sup>66</sup> may apply in situations in which the State exercises its

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<sup>59</sup> United Nations Office for the Coordination of Humanitarian Affairs, “Reported impact snapshot | Gaza Strip (18 February 2025)”, accessible at <https://www.ochaopt.org/content/reported-impact-snapshot-gaza-strip-18-february-2025>.

<sup>60</sup> United Nations, General Assembly, Report of the Commissioner-General for the United Nations Relief and Works Agency for Palestine Refugees in the Near East, UN doc. A/79/13, 14 Aug. 2024, p. 5.

<sup>61</sup> ICRC, International Humanitarian Law Databases, “Rule 31. Humanitarian Relief Personnel”, accessible at <https://ihl-databases.icrc.org/en/customary-ihl/v1/rule31>.

<sup>62</sup> United Nations, Security Council, resolution 2730 (2024), S/RES/2730 (2024), 24 May 2024.

<sup>63</sup> Statement by Mr Nicolas de Rivière, Permanent Representative of France to the United Nations, Security Council, New York, 5 Apr. 2024, accessible at <https://onu.delegfrance.org/the-protection-of-humanitarian-aid-workers-must-be-upheld-in-all-circumstances>.

<sup>64</sup> New York, 16 Dec. 1966, United Nations, *Treaty Series*, Vol. 999, No. 14668.

<sup>65</sup> New York, 16 Dec. 1966, United Nations, *Treaty Series*, Vol. 993, No. 14531.

<sup>66</sup> New York, 20 Nov. 1989, United Nations, *Treaty Series*, Vol. 1577, No. 27531.

jurisdiction abroad. It has also previously held that these three instruments, to which Israel is a party, are applicable in the Occupied Palestinian Territory<sup>67</sup>.

79. As the Court has recalled, “the protection offered by human rights conventions does not cease in case of armed conflict or of occupation”<sup>68</sup>, and

“[a]s regards the relationship between international humanitarian law and human rights law, there are . . . 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 be matters of both these branches of international law”<sup>69</sup>.

80. The Court has also affirmed that

“both branches of international law, namely international human rights law and international humanitarian law, would have to be taken into consideration. The Court further concluded 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”<sup>70</sup>.

81. Thus, as France has already had occasion to note, in the absence of any conflict between their provisions, international humanitarian law and international human rights law are complementary<sup>71</sup>. In the present case, therefore, in addition to its obligation to ensure humanitarian access pursuant to international humanitarian law, Israel has various obligations deriving from international human rights law.

82. The ICCPR, the ICESCR and the UNCRC indeed contain several provisions that are relevant in the context of the humanitarian and development assistance provided by the United Nations, including its agencies and bodies, other international organizations and third States, in and in relation to the Occupied Palestinian Territory. These provisions, which supplement, where relevant, those deriving from international humanitarian law, namely concern the right to life (Article 6 of the ICCPR and Article 6 of the UNCRC), the right to an adequate standard of living, including adequate food and clothing (Article 11 of the ICESCR and Article 27 of the UNCRC), the right to health (Article 12 of the ICESCR and Article 24 of the UNCRC) and the right to water (Articles 11 and 12 of the ICESCR and Article 24 of the UNCRC).

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<sup>67</sup> *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, I.C.J. Reports 2004 (I)*, pp. 177-181, paras. 102-113; *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem, Advisory Opinion of 19 July 2024*, para. 100.

<sup>68</sup> *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem, Advisory Opinion of 19 July 2024*, para. 99; *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.

<sup>69</sup> *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. See also *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem, Advisory Opinion of 19 July 2024*, para. 99.

<sup>70</sup> *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.

<sup>71</sup> Written comments of the Government of the French Republic as a third-party intervener in the case of *Ukraine and the Netherlands v. Russia* (Applications Nos. 8019/16, 43800/14, 28525/20 and 11055/22) before the European Court of Human Rights, 28 June 2023, paras. 32-45.

83. The relationship between the provision of humanitarian and development assistance, on the one hand, and the enjoyment of the rights guaranteed by human rights instruments, on the other, is especially clear as regards economic, social and cultural rights.

84. Indeed, in accordance with Article 2, paragraph 1, of the ICESCR, each State party undertakes to take steps “individually and through international assistance and co-operation, . . . with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means”. Each State thus enjoys, in light of its particular circumstances, some discretion in choosing those “means”, provided they are “appropriate”, i.e. they are able to achieve the objective of full realization of the rights guaranteed. Each State party also has an obligation to respect those rights, which requires refraining from taking any measures that would, in practice, affect their full realization.

85. Therefore, if, in a given situation, humanitarian and development assistance are indispensable for the realization of the economic, social and cultural rights of the individuals concerned, States must not only consider such assistance an appropriate measure to achieve the progressive realization of the rights guaranteed by the ICESCR, but must, moreover, refrain from restricting access to it.

86. In this regard, in analysing the practice of the United Nations treaty-monitoring bodies, the United Nations High Commissioner for Human Rights has considered that

“States need to take measures to enable individuals to fulfil their economic and social rights themselves or, if necessary, to ensure direct provision of certain goods and services. In a conflict, the destruction of social infrastructure might mean that people are not in a position to feed themselves. In such cases, States should make sure that food aid reaches the population, as this will be both an underlying determinant for the enjoyment of the right to health, and will ensure freedom from hunger, and respect for the minimum core content of the right to food”<sup>72</sup>.

87. This assertion is based on General Comment No. [12] of the Committee on Economic, Social and Cultural Rights, which states that

“[v]iolations of the right to food can occur through the direct action of States or other entities insufficiently regulated by States. These include: the formal repeal or suspension of legislation necessary for the continued enjoyment of the right to food; denial of access to food to particular individuals or groups, whether the discrimination is based on legislation or is proactive; the prevention of access to humanitarian food aid in internal conflicts or other emergency situations; adoption of legislation or policies which are manifestly incompatible with pre-existing legal obligations relating to the right to food”<sup>73</sup>.

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<sup>72</sup> United Nations, Report of the United Nations High Commissioner for Human Rights relating to the protection of economic, social and cultural rights in situations of armed conflict, E/2015/59, [19 May 2015], para. 19.

<sup>73</sup> United Nations, Committee on Economic, Social and Cultural Rights, General Comment [12 (Twentieth session, 1999), The right to adequate food (art. 11), E/C.12/1999/5, 12 May 1999], para. 19. See also United Nations, [Committee on Economic, Social and Cultural Rights], Concluding observations on the fourth periodic report of Israel, E/C.12/ISR/CO/4, 12 Nov. 2019, paras. 10-11.

88. The same conclusion can also be drawn with regard to the right to health. Indeed, basing himself on General Comment No. 14, the United Nations High Commissioner for Human Rights has considered that

“[v]iolations of the right to health during armed conflict and other situations of instability can take a number of forms, including the decimation of health-care systems; direct attacks on medical personnel, facilities and transports, as well as on the wounded and sick; the criminalization of the provision of health care and the obstruction of access to health care”<sup>74</sup>.

89. These examples relating to the right to food and the right to health — which, it is important to note, are not exhaustive — show that humanitarian and development assistance can be measures in keeping with the implementation by Israel of its obligations under the ICESCR, which is applicable including in situations of occupation. They also demonstrate that if such assistance is essential for Palestinians’ enjoyment of their economic, social and cultural rights, Israel cannot restrict access to it without acting in breach of the above-mentioned obligations.

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90. In conclusion, the obligations of Israel in relation to the presence and activities of the United Nations, other international organizations and third States, in and in relation to the Occupied Palestinian Territory, derive in particular from three bodies of rules: United Nations law, international humanitarian law and international human rights law. In essence, these obligations limit the margin of discretion enjoyed by Israel, as a Member of the United Nations and as an occupying Power, in relation to the presence and the humanitarian and development assistance activities of the above-mentioned organizations in and in relation to the Occupied Palestinian Territory.

91. Finally, France reiterates its appeal to the Israeli authorities to co-operate with its international partners, including the United Nations, in order to ensure the continuity of humanitarian operations in the Gaza Strip. France reaffirms its total commitment to the two-State solution, which would enable Israelis and Palestinians to live side by side in peace.

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<sup>74</sup> United Nations, Report of the United Nations High Commissioner for Human Rights relating to the protection of economic, social and cultural rights in situations of armed conflict, E/2015/59, [19 May 2015], para. 37.