

INTERNATIONAL COURT OF JUSTICE

**REQUEST FOR AN ADVISORY OPINION BY THE UNITED NATIONS GENERAL
ASSEMBLY IN RESOLUTION 79/232 OF 19 DECEMBER 2024**

**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**

WRITTEN STATEMENT OF THE STATE OF PALESTINE



28 February 2025

TABLE OF CONTENTS

Chapter 1.

INTRODUCTION	1
I. Terms of the Request and History of the Proceedings.....	1
II. The Context in Which the Urgent Request Arises.....	3
A. The Unprecedented Devastation of the Occupied Palestinian Territory as a Result of Israel’s Policies and practices.....	3
B. Israel’s Unprecedented Attacks on the United Nations, Notably UNRWA	12
III. Jurisdiction and Discretion of the Court.....	15
IV. The Structure of This Written Statement.....	16

Chapter 2.

ISRAEL’S UNLAWFUL OBSTRUCTION OF THIRD PARTIES’ PRESENCE AND ACTIVITIES IN THE OCCUPIED PALESTINIAN TERRITORY AND THE DENIAL OF RIGHT OF THE PALESTINIAN PEOPLE TO SELF-DETERMINATION	19
I. Israel Has No Legal Standing to Prevent or Obstruct Third Parties’ Presence or Activities in and in Relation to the Occupied Palestinian Territory	20
II. Israel Has Caused the Situation of Deprivation and Need in the Occupied Palestinian Territory that Makes Humanitarian Assistance from Third Parties Necessary	22
III. Israel’s Obstruction of the Presence and Activities of Third Parties in the Occupied Palestinian Territory Violates the Four Constituent Rights of the Palestinian People’s Right to Self-Determination.....	27
IV. Israel’s Obstruction of the Presence and Activities of Third Parties in the Occupied Palestinian Territory Impedes Compliance with Their Obligations to Support the Right of the Palestinian People to Self-Determination.....	30
A. The Obligations of Third Parties to Support the Palestinian People’s Right to Self-Determination.....	30
B. Israel’s Interference with the United Nations’ Fulfilment of Its Permanent Responsibility with Regard to the Question of Palestine.....	33
C. Israel’s Interference with the Presence and Activities of Other International Organizations	38
D. Israel’s Interference with the Presence and Activities of Other States.....	41
V. Conclusion	42

Chapter 3.

ISRAEL’S BREACHES OF ITS OBLIGATIONS UNDER INTERNATIONAL HUMANITARIAN LAW	43
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Chapter 4.

ISRAEL'S BREACHES OF ITS OBLIGATIONS AS A MEMBER OF THE UNITED NATIONS AND THE INTERNATIONAL COMMUNITY OF STATES..... 57

- I. Israel's Obstruction of and Restrictions on Third Parties' Presence are Breaches of its Obligations under the Charter 57
 - A. The Undertakings Made by Israel on Becoming a Member of the United Nations . 57
 - B. Violations of Israel's Undertakings Made When It Became a Member of the United Nations 61
- II. Israel's Breaches of United Nations Resolutions Pertaining to Third Parties' Presence and Activities in and in Relation to the Occupied Palestinian Territory 62
 - A. Israel's repeated violations of United Nations Security Council Resolutions Concerning the Provision of Emergency and Humanitarian Assistance and Basic Services to the Gaza Strip 62
 - B. Israel's Repeated Violations of United Nations General Assembly Resolutions Demanding an Immediate Ceasefire and Unhindered Humanitarian Assistance..... 77
- III. Israel's Breaches of the Most Fundamental Human Rights of the Palestinian People by Hindering Humanitarian Assistance 82
 - A. The Rights to Life 83
 - B. Other Fundamental Rights 84
- IV. Israel's Policy of Preventing and Hindering Humanitarian Assistance Contributes to its Genocide Against the Palestinian People..... 90

CHAPTER 5.

ISRAEL'S OBLIGATIONS TOWARDS THE UNITED NATIONS..... 105

- I. Israel's Duty to Cooperate with the United Nations in Good Faith..... 106
 - A. Israel's Obligation to Cooperate with the United Nations pursuant to Articles 2 (2) and 2 (5) of the Charter 106
 - 1. Israel's Failure to Cooperate in Good Faith with the Secretary-General..... 110
 - 2. Israel's Failure to Cooperate in Good Faith with the United Nations Human Rights Council 111
 - B. Israel's Obligation to Cooperate with the United Nations pursuant to Articles 55, 56 and 2 (2) of the Charter 113
 - C. Israel's Obligation to Cooperate with the United Nations pursuant to Binding Orders of the International Court of Justice..... 115
- II. Israel's Obligation to Ensure the Protection of United Nations Premises, Property and Assets in and in Relation to the Occupied Palestinian Territory 118
 - A. The Nature and Extent of Israel's Obligation to Ensure the Protection of United Nations Premises, Property and Assets..... 118

B. The Application of Israel’s Obligations to Situations of Occupation and Active Hostilities	121
C. The Consistent Position of the United Nations Regarding the Inviolability of Its Premises and the Immunity of Its Property and Assets	124
III. Israel’s Obligations towards United Nations Officials and Personnel.....	126
A. Israel’s Obligation to Ensure the Full Enjoyment of the Privileges and Immunities of United Nations Officials and Experts	126
B. Israel’s Obligation to Ensure Special Protections for United Nations Officials.....	130
C. Israel’s Persistent Egregious Violations of its Obligations towards United Nations Officials and Experts	132
IV. Conclusion	134

Chapter 6.

ISRAEL’S CAMPAIGN OF DELEGITIMISATION AGAINST UNRWA IN VIOLATION OF ITS OBLIGATIONS UNDER INTERNATIONAL LAW	135
I. Israel’s Attacks on UNRWA Premises, Property and Personnel since October 2023..	136
A. The Gaza Strip	137
B. West Bank, including East Jerusalem.....	140
C. Violations of International Law	141
II. Obstruction of UNRWA’s Mandate in and in Relation to the Occupied Palestinian Territory since October 2023	141
A. Israel’s Obstruction of UNRWA’s Mandate in the Gaza Strip since October 2023	142
B. The West Bank, including East Jerusalem.....	144
C. Violations of International Law	145
III. Elimination of UNRWA and Its Mandate	146
A. Israel’s Recent Focused Attempts to Defund UNRWA	147
B. Israeli National Anti-UNRWA Legislation	152
C. Israel’s End Game.....	155

Chapter 7.

LEGAL CONSEQUENCES RESULTING FROM ISRAEL’S BREACHES OF ITS INTERNATIONAL OBLIGATIONS	159
I. Legal Consequences of Israel’s Obstruction of Humanitarian Assistance in the Occupied Palestinian Territory	159
A. Israel is under an Obligation to Cease Its Wrongful Acts and to Give Assurances and Guarantees of Non-Repetition.....	160
1. Israel’s Obligation to Cease Its Wrongful Acts	161

2. Israel’s Obligation to Give Assurances and Guarantees of Non-Repetition.....	164
B. Israel is under an Obligation to Make Full Reparation.....	167
1. Israel’s Obligation to Make Restitution.....	168
2. Israel’s Obligation to Compensate.....	171
3. Israel’s Obligation to Give Satisfaction.....	172
II. Third States’ and International Organizations’ Obligations in Relation to Israel’s Internationally Wrongful Acts	173
A. Third States and International Organizations are under an Obligation of Non-Recognition.....	175
B. Third States and International Organizations are under an Obligation Not to Contribute to Israel’s Violations.....	177
C. Third States and International Organizations are Under an Obligation to Cooperate to Put an End to Israel’s Violations of Its Obligations.....	179
SUBMISSIONS	183

WRITTEN STATEMENT OF THE STATE OF PALESTINE

Chapter 1.

INTRODUCTION

1.1. This Written Statement is filed by the State of Palestine in accordance with the Order of the Court dated 24 December 2024, pursuant to the United Nations General Assembly's request for an Advisory Opinion regarding 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*.

I. Terms of the Request and History of the Proceedings

1.2. The Request was made in General Assembly resolution 79/232 of 19 December 2024¹. In that resolution, the General Assembly requested the Court, on a priority basis and with the utmost urgency, to render an Advisory Opinion 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?”

1.3. To answer this question the Court was requested to take into consideration:

“[T]he rules and principles of international law, as regards in particular the Charter of the United Nations, international humanitarian law, international human rights law, the privileges and immunities applicable under international law for international organizations and States, as provided for in relevant treaties, conventions, and resolutions of the Security Council, the General Assembly and the Human Rights

¹ General Assembly, Resolution 79/232, 19 December 2024, para. 10.

Council, the Advisory Opinion of the Court of 9 July 2004^[2], and the Advisory Opinion of the Court of 19 July 2024^[3].”

1.4. As apparent from the terms of the question, the request for the Advisory Opinion pertains to the entirety of the Occupied Palestinian Territory – the State of Palestine – consisting of the Gaza Strip and the West Bank, including East Jerusalem, which, as this Court has determined, constitute a single territorial unit, in which Israel maintains an illegal presence, and the request is not bound by a given temporal scope. The question concerns Israel’s obligations as military occupier on the one hand, and as a Member of the United Nations on the other, notwithstanding the fact that this Court has already determined its presence and occupation of the Occupied Palestinian Territory is in fact illegal and must end.

1.5. Resolution 79/232 was put forward by a core group of 14 United Nations Member States, led by the Kingdom of Norway and including Chile, Egypt, Guyana, Indonesia, Ireland, Jordan, Malaysia, Namibia, Qatar, Saudi Arabia, Slovenia, South Africa, and Spain. The resolution recalls the Court’s findings in its 2024 Advisory Opinion on the *Legal consequences arising from Israel’s policies and practices in the Occupied Palestinian Territory, including East Jerusalem, and from the illegality of Israel’s continued presence in the Occupied Palestinian Territory*, noting that the matters in issue are of particular interest and concern to the United Nations, and emphasizing the right of the Palestinian people to self-determination, the illegality of Israel’s continued presence in the Occupied Palestinian Territory, as well as the obligations for all States to ensure that any impediment to the exercise of the right to self-determination of the Palestinian people is brought to an end.

1.6. The Request was duly transmitted to the Court by the United Nations Secretary-General in a letter dated 23 December 2024.

1.7. By an Order dated 24 December 2024, the Court fixed 28 February 2025 as the time-limit within which Written Statements may be presented to the Court and indicated that the State of Palestine may provide such a Statement.

² *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, I.C.J. Reports 2004*, p. 136 (“Wall Opinion”).

³ *Legal Consequences Arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem, Advisory Opinion of 19 July 2024* (“2024 Advisory Opinion”).

1.8. The State of Palestine submits this Written Statement in accordance with that Order.

II. The Context in Which the Urgent Request Arises

A. THE UNPRECEDENTED DEVASTATION OF THE OCCUPIED PALESTINIAN TERRITORY AS A RESULT OF ISRAEL'S POLICIES AND PRACTICES

1.9. The question which the Court has been asked by the General Assembly arises in the context of Israel's decades-long policy of displacement and replacement of the Palestinian people, annexation of Palestinian land, discrimination against and persecution of the Palestinian people, as well as denial of the right of Palestine refugees to return, and continued military assault, occupation and blockade against the Palestinian civilian population, and the obstruction over the years, in furtherance of these unlawful policies and objectives, of third parties' presence and activities.

1.10. The Israeli policy of denying, obstructing and hindering humanitarian aid and development assistance is thus neither new nor confined to the Gaza Strip, where this policy has reached unprecedented levels in the last year and a half, becoming an integral part of the genocide perpetrated by Israel against the Palestinian people. For decades, Israel has repeatedly restricted humanitarian access and destroyed humanitarian and development projects supported by third parties, whether as collective punishment, or against Palestinian communities it has aimed to forcibly displace to advance its annexation plans.

1.11. As such, this enhanced denial or hindrance of third parties' presence and activities constitute further breaches by Israel of the right of the Palestinian people to self-determination, the inadmissibility of the acquisition of territory by force, the key tenets of international humanitarian law, the most fundamental human rights of the Palestinian people, and a host of United Nations resolutions pertaining to the question of Palestine and to the inalienable rights of the Palestinian people, including their right to their independent State over the entirety of the Occupied Palestinian Territory and their right of return.

1.12. The General Assembly's urgent request was made in the context of an unprecedented and worsening legal, protection and humanitarian crisis throughout the Occupied Palestinian Territory, especially the Gaza Strip, where the Palestinian civilian

population has been subjected to a full-blown Israeli assault at a scale never seen before, as described by the United Nations Secretary-General in these terms:

“[N]othing justifies the collective punishment of the Palestinian people. Yet conditions for Palestinians in Gaza are appalling and apocalyptic. More than 44,000 Palestinians – mostly women and children – have been reportedly killed. Virtually the entire population of Gaza has been displaced – often multiple times. Malnutrition is rampant. In the past four months alone, nearly 19,000 children were hospitalized due to acute malnutrition – nearly double the cases in the first half of the year. Famine is imminent. Meanwhile, the health system has collapsed. And Gaza now has the highest number of child amputees per capita anywhere in the world – many losing limbs and undergoing surgeries without even anesthesia. What we are seeing may well amount to the gravest international crimes.”⁴

1.13. The request for the Court’s Opinion was made as humanitarian aid continues to be blocked by Israel, including the aid essential to the survival of the Palestinian civilian population and their sustenance, and humanitarian access was persistently denied, leading to mass forcible displacement, widespread starvation and inhumane conditions of life, and while humanitarian officials and workers were killed, maimed, detained and tortured at a level unprecedented in the post-Second World War era. All this occurred despite repeated demands by the Security Council and the General Assembly to ensure unhindered humanitarian aid and the safety of the United Nations and other humanitarian personnel, and despite the binding orders of this Court, as highlighted by the Secretary-General:

“In the face of the gigantic needs, humanitarian aid is – outrageously – being blocked. This flies in the face of the clear requirements under international humanitarian law to respect and to protect civilians and to ensure their essential needs are met. It defies numerous General Assembly and Security Council resolutions demanding a ceasefire and unhindered humanitarian access. And it ignores the International Court of Justice, which issued binding provisional orders that must be complied with. At best, the entry of goods into Gaza is grossly insufficient, inconsistent and unpredictable – a drop in an ocean of need. ‘Aid by exception’ is neither humane nor effective in saving lives.”⁵

1.14. This collapse of the humanitarian situation is a result of a meticulously planned and deliberately executed strategy, to drastically cut humanitarian assistance to the Palestinian people. The United Nations Secretary-General warned more than a year ago what was at stake,

⁴ Remarks of the United Nations Secretary-General to the Cairo Ministerial Conference to Enhance the Humanitarian Response in Gaza, 2 December 2024 (<https://www.un.org/unispal/document/secretary-generals-remarks-02dec24/>).

⁵ *Ibid.*

in his letter of 6 December 2023 to the President of the Security Council, invoking Article 99 of the United Nations Charter and calling for an immediate humanitarian ceasefire:

“The current conditions are making it impossible for meaningful humanitarian operations to be conducted ... The capacity of the United Nations and its humanitarian partners has been decimated by supply shortages, lack of fuel, interrupted communications, and growing insecurity. ...

We are facing a severe risk of collapse of the humanitarian system. The situation is fast deteriorating into a catastrophe with potentially irreversible implications for Palestinians as a whole and for peace and security in the region. Such an outcome must be avoided at all cost.

The international community has a responsibility to use all its influence to prevent further escalation and end this crisis.”⁶

1.15. Since the Secretary-General’s letter was written, and in spite of Security Council resolutions 2712 (2023), 2720 (2023), 2728 (2024), 2735 (2024) and General Assembly emergency session resolutions ES-10/21 (2023), ES-10/22 (2023), ES-10/24 (2024), ES-10/25 (2024), ES-10/26 (2024), and the Court’s three successive provisional measures orders in the case concerning the *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)*, Israel has taken full and direct control of all entry and exit points, and the flow of people and goods – including all humanitarian aid – to and from the whole of the Gaza Strip⁷, and it has denied the provision of essential goods and services indispensable to the survival of the Palestinian people and impeded the humanitarian access of United Nations agencies and their implementing partners and other humanitarian organizations, in violation of its obligations under international law.

⁶ Letter from the Secretary-General addressed to the President of the Security Council, 6 December 2023, S/2023/962 (<https://docs.un.org/en/S/2023/962>).

⁷ Office for the Coordination of Humanitarian Affairs (OCHA), Humanitarian Access Snapshot – Gaza Strip 1-31 March 2024, 6 April 2024 (<https://www.ochaopt.org/content/humanitarian-access-snapshot-gaza-strip-1-31-may-2024>); United Nations Web TV, Geneva Press Briefing: OCHA, UNICEF, OHCHR, WHO, UN WOMEN, 7 May 2024 (<https://webtv.un.org/en/asset/k1g/k1g9eajpmk>); OCHA, Humanitarian Access Snapshot – Gaza Strip September 2024, 29 October 2024 (<https://www.unocha.org/publications/report/occupied-palestinian-territory/humanitarian-access-snapshot-gaza-strip-september-2024>). See also Gaza Humanitarian Access Snapshot #8 (13 November – 10 December 2024), 13 December 2024 (<https://reliefweb.int/report/occupied-palestinian-territory/gaza-humanitarian-access-snapshot-8-13-november-10-december-2024>).

1.16. Israel’s deliberate policies of blocking, restricting, and denying humanitarian aid⁸, deliberate killing and targeting of humanitarian aid workers⁹, denial of humanitarian missions, together with its deliberate destruction of basic services¹⁰, Palestinian crops and arable land¹¹, its killing of Palestinian livestock¹², forcible displacement and evacuation orders¹³, and attacks against, and criminalization of, the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA), which is widely recognized as serving as the backbone of United Nations humanitarian relief operations, have put the entire population of the Gaza Strip “at imminent risk of famine”, with “the highest share of people facing high levels of acute

⁸ Association of International Development Agencies (AIDA), Snapshot of Deprivation of Humanitarian Aid in the Gaza Strip, 20 February 2024 (<https://aidajerusalem.org/download/snapshot-of-deprivation-of-humanitarian-aid-in-the-gaza-strip/>); UNICEF, Statement by Adele Khodr, UNICEF Regional Director for the Middle East and North Africa, “Malnourished babies in Gaza slowly perishing under the world’s gaze”, 3 March 2024 (<https://www.unicef.org/press-releases/statement-adele-khodr-unicef-regional-director-middle-east-and-north-africa-0>); OCHA, Statement by Principals of the Inter-Agency Standing Committee, “Civilians in Gaza in extreme peril while the world watches on: Ten requirements to avoid an even worse catastrophe”, 21 February 2024 (<https://interagencystandingcommittee.org/inter-agency-standing-committee/statement-principals-inter-agency-standing-committee-civilians-gaza-extreme-peril-while-world>); OCHA, Humanitarian Access Snapshot - Gaza Strip, 11 November 2024 (<https://www.ochaopt.org/content/humanitarian-access-snapshot-gaza-strip-october-2024>).

⁹ Médecins sans Frontières (MSF), “MSF to Security Council: The people of Gaza need an immediate ceasefire”, Press Release, 23 February 2024 (<https://www.msf.org/za/news-and-resources/press-release/msf-un-security-council-people-gaza-need-immediate-ceasefire>); UNRWA Situation report #82 on the situation in the Gaza Strip and the West Bank, including East Jerusalem, 26 February 2024 (<https://www.unrwa.org/resources/reports/unrwa-situation-report-82-situation-gaza-strip-and-west-bank-including-east-jerusalem>); UNRWA Situation report #70 on the situation in the Gaza Strip and the West Bank, including East Jerusalem, 29 January 2024 (<https://www.unrwa.org/resources/reports/unrwa-situation-report-70-situation-gaza-strip-and-west-bank-including-east-jerusalem>); OCHA, “UN relief chief decries ‘bullets and bombs’ against aid workers”, 22 November 2024 (<https://www.unocha.org/news/un-relief-chief-decries-bullets-and-bombs-against-aid-workers>).

¹⁰ OCHA, “Conditions in Gaza unfit for human survival, acting UN relief chief tells Security Council”, 12 November 2024 (<https://www.unocha.org/news/conditions-gaza-unfit-human-survival-acting-un-relief-chief-tells-security-council>).

¹¹ United Nations Satellite Center (UNOSAT), Gaza Strip Agricultural Damage Assessment, 1 February 2024 (<https://unosat.org/products/3792>); Food and Agriculture Organization of the United Nations (FAO), Gaza: Every day, more and more people are on the brink of famine-like conditions, 12 February 2024 (<https://www.fao.org/newsroom/detail/gaza-every-day-more-and-more-people-are-on-the-brink-of-famine-like-conditions/en>); FAO, Agricultural Damage Assessment in the Gaza Strip from October 7th 2023 to September 1st 2024, 3 October 2024 (<https://www.un.org/unispal/wp-content/uploads/2024/10/Agricultural-Damage-Assessment-in-the-Gaza-Strip-FAO-report.pdf>).

¹² FAO, “Gaza: In a briefing to the UN Security Council, FAO calls for immediate cessation of hostilities and restoration of humanitarian space to eliminate the risk of famine”, 27 February 2024 (<https://www.fao.org/newsroom/detail/gaza-in-a-briefing-to-the-un-security-council-fao-calls-for-immediate-cessation-of-hostilities-and-restoration-of-humanitarian-space-to-eliminate-the-risk-of-famine>); FAO, Protecting livelihoods and lives in Gaza, 28 October 2024 (<https://www.fao.org/newsroom/story/protecting-livelihoods-and-lives-in-gaza>).

¹³ UNRWA Situation Report #154 on the Humanitarian Crisis in the Gaza Strip and the West Bank, including East Jerusalem, 4 January 2025 (“According to OCHA, around 80.5 per cent of the Gaza Strip is under active evacuation orders from the Israeli authorities. According to the UN, at least 1.9 million people – or about 90 per cent of the population – across the Gaza Strip are displaced. Many have been displaced repeatedly, some 10 times or more”) (<https://www.unrwa.org/resources/reports/unrwa-situation-report-154-humanitarian-crisis-gaza-strip-and-west-bank-including>).

food insecurity that the IPC initiative has ever classified for any given area or country”¹⁴. This has resulted in what the Director-General of the World Health Organization described as “severe levels of malnutrition, children dying of starvation, serious shortages of fuel, food and medical supplies”¹⁵.

1.17. In its Provisional Measures Orders of 26 January 2024 and 28 March 2024 in the case concerning the *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)*, the Court found that “many Palestinians in the Gaza Strip have no access to the most basic foodstuffs, potable water, electricity, essential medicines or heating”¹⁶ and that “famine is setting in”¹⁷.

1.18. Israel’s policy of denial of humanitarian aid and assistance and essential goods and services indispensable to the survival of the Palestinian people, among other crimes, led the International Criminal Court to issue arrest warrants for both Israeli Prime Minister Benjamin Netanyahu, and former Minister of Defence Yoav Gallant, for war crimes and crimes against humanity, including starvation of civilians as a method of warfare. The Office of the Prosecutor concluded that “Israel has intentionally and systematically deprived the civilian population in all parts of the Gaza Strip of objects indispensable to human survival” and that:

“This occurred through the imposition of a total siege over Gaza that involved completely closing the three border crossing points, Rafah, Kerem Shalom and Erez, from 8 October 2023 for extended periods and then by arbitrarily restricting the transfer of essential supplies – including food and medicine – through the border crossings after they were reopened. The siege also included cutting off cross-border water pipelines from Israel to Gaza – Gazans’ principal source of clean water – for a prolonged period beginning 9 October 2023, and cutting off and hindering electricity supplies from at least 8 October 2023 until today. This took place alongside other attacks on civilians, including those queuing for food; obstruction of aid delivery by humanitarian agencies;

¹⁴ Integrated Food Security Phase Classification (IPC), Gaza Strip: Acute Food Insecurity Situation for 24 November – 7 December 2023 and Projection for 8 December 2023 – 7 February 2024, 21 December 2023 (<https://www.ipcinfo.org/ipc-country-analysis/details-map/en/c/1156749/?iso3=PSE>).

¹⁵ Post of Director-General of the World Health Organization (WHO), Tedros Adhanom Ghebreyesus, @DrTedros, 3:02pm, 4 March 2024 (<https://x.com/DrTedros/status/1764652624492515832>); Save the Children, “It’s not fair to die of hunger’ – The lives of malnourished children in Gaza endangered by obliteration and obstruction of medical care”, 2 April 2024 (<https://www.savethechildren.net/news/it-s-not-fair-die-hunger-lives-malnourished-children-gaza-endangered-obliteration-and>); OCHA, Hostilities in the Gaza Strip and Israel | Flash Update #131, 4 March 2024 (“15 children died of malnutrition in one week”) (<https://www.unocha.org/publications/report/occupied-palestinian-territory/hostilities-gaza-strip-and-israel-flash-update-131-enarhe>).

¹⁶ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)*, Provisional Measures, Order of 26 January 2024, para. 70.

¹⁷ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)*, Request for the modification of the Order of 26 January 2024 indicating provisional measures, Order of 28 March 2024, para. 21.

and attacks on and killing of aid workers, which forced many agencies to cease or limit their operations in Gaza. My Office submits that these acts were committed as part of a common plan to use starvation as a method of war and other acts of violence against the Gazan civilian population”¹⁸.

1.19. Israel’s prevention, hinderance and interference with the delivery of essential humanitarian supplies and services started long before 7 October 2023. During the 16 preceding years, Israel has imposed and steadily tightened a suffocating blockade on the provision of goods and services to the Palestinian people in the Gaza Strip, rendering the Gaza Strip a case of “development in reverse”¹⁹, which “suppressed human potential and the right to development”²⁰. As reported by the United Nations Conference on Trade and Development (UNCTAD):

“Since the early 1990s, and greatly amplified after 2007, the Palestinian people in Gaza have been subjected to prolonged and severe restrictions on their movement that, in combination with tight restrictions on trade in goods, in effect amount to a blockade on the densely populated 365 km² Gaza Strip. Furthermore, Israel does not allow the construction and operation of air or seaports and bans or restricts the importation of critical production inputs and technology.

Several Israeli military operations have taken place in Gaza, in 2008, 2012, 2014, 2021, 2022, May 2023 and October 2023. The operations caused internal displacement and recurrent destruction of physical infrastructure, residential buildings, capital stock and productive assets, including agricultural land, crops, livestock sheds, greenhouses, fruit trees, storage facilities, boats, fishing equipment, agribusinesses, irrigation canals, water pumping systems, electricity networks, Internet networks, factories, office buildings, housing units, educational facilities and health-care centers.

Prior to the outbreak of the latest Israeli military operation in October 2023, much of the damage from previous military operations remained unrepaired, while the inhabitants of Gaza were confined in one of the most densely populated spaces in the world, in chronic conflict conditions, with inadequate access to clean water, without electricity for half the day and without a proper sewage system. Close to half the workforce was unemployed and two thirds of the population lived in poverty.”²¹

1.20. As of October 2023, Israel turned its blockade of the Gaza Strip into an even deadlier and more destructive form of collective punishment of the Palestinian civilian population by

¹⁸ International Criminal Court (ICC), Statement of ICC Prosecutor Karim A.A. Khan KC: Applications for arrest warrants in the situation in the State of Palestine, 20 May 2024 (<https://www.icc-cpi.int/news/statement-icc-prosecutor-karim-aa-khan-kc-applications-arrest-warrants-situation-state>).

¹⁹ UNCTAD, Developments in the economy of the Occupied Palestinian Territory, 11 September 2023, TD/B/EX(74)/2, para. 52 (https://unctad.org/system/files/official-document/tdbex74d2_en.pdf).

²⁰ *Ibid.*, para. 53.

²¹ UNCTAD, Preliminary assessment of the economic impact of the destruction in Gaza and prospects for economic recovery – UNCTAD rapid assessment (January 2024), 31 January 2024, pp. 3-4 (https://unctad.org/system/files/official-document/osginf2024d1_en.pdf).

preventing or obstructing the entry and circulation of humanitarian aid – including food, water, medicines and medical supplies, fuel, electricity, shelter – and impeding the presence and humanitarian and developmental assistance of the United Nations, its bodies and agencies, other international organizations and third States.

1.21. In the rest of the Occupied Palestinian Territory, including East Jerusalem, Israel escalated and intensified its policies and practices of impeding assistance and preventing development for the benefit of the Palestinian people. Notably, Israel has escalated its policies of illegal settlement building and expansion and the associated regime, including attacks on Palestinian villages, demolition of homes, land theft, destruction of Palestinian assets and natural resources, geographic division, and administrative and physical mechanisms that restrict trade flows and the movement of the Palestinian people and limit access to natural and economic resources, with the aim to “alter the demographic composition” of the West Bank, including East Jerusalem, “by worsening the coercive environment that forces Palestinians to leave their homes”²². UNCTAD concluded that:

“The damage inflicted under occupation extends to all sectors of the economy through several other channels, most salient among which is the loss of land and natural resources to settlements, the ban or restrictions on the importation of certain technology and inputs under the dual-use list system and the barriers to movement that elevate production, transaction and trade costs and thereby erode and stunt the competitiveness of all Palestinian producers.”²³

1.22. Israel’s policies and restrictions on humanitarian and developmental assistance throughout the Occupied Palestinian Territory “intensified following the outbreak of the second intifada in 2000”²⁴. Since then, Israel has maintained and expanded its restrictions on humanitarian and developmental assistance to the Palestinian people, exacerbating human suffering, by means of legislation banning or restricting United Nations and other humanitarian and international organizations, or denying registration and work visas to international humanitarian organizations to enter the Occupied Palestinian Territory, including East

²² UNCTAD, Developments in the economy of the Occupied Palestinian Territory, 11 September 2023, TD/B/EX(74)/2, para. 20 (https://unctad.org/system/files/official-document/tdbex74d2_en.pdf).

²³ *Ibid.*, para. 32.

²⁴ UNCTAD, Occupation, fragmentation and poverty in the West Bank, Policy Review, 2 December 2024, UNCTAD/GDS/APP/2024/1, p. 7 (https://unctad.org/system/files/official-document/gdsapp2024d1_en.pdf).

Jerusalem, carrying out demolitions and confiscations of humanitarian structures and assets, military incursions and aggressions, and forcible displacements.

1.23. In the past 16 months, in addition to unprecedented levels of killing, injury, destruction and devastation inflicted on the Gaza Strip, which resulted in the reported killing of at least 48,291 Palestinians, including at least 13,319 children, and the deliberate destruction of over 92 percent of the Gaza Strip houses, 88 percent of schools²⁵, 84 percent of health facilities, 95 percent of water and sanitation systems, and 92 percent of roads²⁶, Israel's policies have intensified leading to the largest number of Palestinians killed in the West Bank in the last 20 years, the largest number of people displaced since the onset of the occupation in 1967, and the number of demolitions in the West Bank, including East Jerusalem, "not only exceeded projections but also surpassed the highest on record"²⁷ with a total of 2,427 demolitions recorded, including 138 donor funded structures, 335 livelihood, 591 agriculture, and 175 water, sanitation and hygiene, affecting over 537,609 Palestinians, worsening an already dire humanitarian situation for many communities²⁸.

1.24. The policy of depriving the Palestinian people of humanitarian aid and assistance has affected millions of Palestinians in all of the Occupied Palestinian Territory. This include thousands of arbitrarily detained Palestinian prisoners, among them children, many detained in Israel proper in breach of international humanitarian law, who have endured new levels of ill-treatment, including deprivation of food and medical care, and torture, while being denied any visit by the International Committee of the Red Cross (ICRC) or any support from the organization to ensure respect for legal safeguards, to address the violations affecting their human rights, or to improve their conditions of detention.

1.25. While the humanitarian situation has moderately improved in the Gaza Strip following the conclusion of a six-week ceasefire agreement in January 2025, the agreement

²⁵ OCHA, Reported impact snapshot | Gaza Strip, 18 February 2025 (<https://www.ochaopt.org/content/reported-impact-snapshot-gaza-strip-18-february-2025>).

²⁶ World Bank, "Joint World Bank, UN Report Assesses Damage to Gaza's Infrastructure", Press Release, 2 April 2024 (<https://www.worldbank.org/en/news/press-release/2024/04/02/joint-world-bank-un-report-assesses-damage-to-gaza-s-infrastructure>).

²⁷ European Commission, "Tearing down your family home: Palestinians facing demolitions in East Jerusalem", 17 January 2025 (https://civil-protection-humanitarian-aid.ec.europa.eu/news-stories/stories/tearing-down-your-family-home-palestinians-facing-demolitions-east-jerusalem_en).

²⁸ Power BI, Breakdown of Date on Demolition and Displacement in the West Bank (<https://tinyurl.com/2c4wyrmd>).

does not come close to resolving the concerns that led the General Assembly to request an advisory opinion from the Court on Israel's legal obligations, given the context of the continued humanitarian catastrophe prevailing in the Gaza Strip and the worsening humanitarian situation in the West Bank, including East Jerusalem. In particular:

- Israel's restrictions on the provision of humanitarian assistance are still in place, affecting notably the ability of third parties to help in the removal of rubble and the repair the vital infrastructure destroyed during the 15-month Israeli assault on the Gaza Strip, including as it relates to water, sanitation, roads, hospitals, homes and schools.
- While the agreement obliges Israel to allow humanitarian assistance to reach the civilian population of the Gaza Strip, the quantities of food, water, medicines, fuel, shelters and building equipment that have been provided are far below the levels that the population requires.
- Israel, the occupying Power, remains in effective control of the Gaza Strip and of the delivery of assistance within it, in violation of its obligations to end its presence in the Occupied Palestinian Territory and to respect the right of the Palestinian people to self-determination, and its obligations under international humanitarian law to ensure the welfare of the civilian population under its occupation. Moreover, it has exploited its illegal presence there during the ceasefire to severely restrict the provision of essential supplies, including fuel which is essential for the rehabilitation and operation of hospitals and desalination facilities, all of which Israel destroyed between October 2023 and December 2024, as well as tents and prefabricated temporary shelters which are urgently needed as a result of Israel's destruction of most of the Gaza Strip's residences.
- Israel's restrictions are maintained against the backdrop of its ongoing forcible displacement of the Palestinian people from the Gaza Strip, the latest element of which is the establishment of a new directorate in the so-called Israeli Defence Ministry tasked with promoting the so-called "voluntary emigration" of the Palestinian people from the Gaza Strip, which is in fact aimed at forcibly transferring them out of the Occupied Palestinian Territory.
- Since the ceasefire, Israel has brought into effect measures to expel UNRWA – the principal Agency responsible for humanitarian relief in the Occupied Palestinian Territory, including the Gaza Strip – and to prevent it from delivering the humanitarian

goods, services and assistance upon which the civilian population has relied for decades and which are now more indispensable than ever. Other humanitarian organizations and third States, considered by Israel to be insufficiently supportive of its unlawful policies in the Occupied Palestinian Territory, have also been disqualified or restricted from providing humanitarian assistance to the Palestinian civilian population.

- The ceasefire agreement is limited territorially to the Gaza Strip, leaving outside its scope the other parts of the Occupied Palestinian Territory – the West Bank, including East Jerusalem – which are also in great need of humanitarian assistance, and which face similar policies of prevention, hinderance and interference by Israel, and where Israel has since significantly increased its military assaults and restrictions aimed at the forcible transfer of the Palestinian people, including in Jenin refugee camp, where Israel, since January 2025, has evacuated over 40,000 Ager followed by a declaration of the Israel’s Minister of Defence that Israel will “prevent the return of [Palestinian] residents” to their homes²⁹.
- There are concerns regarding the implementation and respect for the ceasefire through its three phases, including negotiations of the second phase which have been repeatedly delayed, compounding the vulnerability of the population as the risks of further aggression and deprivation continue to loom.

B. ISRAEL’S UNPRECEDENTED ATTACKS ON THE UNITED NATIONS, NOTABLY UNRWA

1.26. Israel’s efforts to deprive the Palestinian people of the humanitarian goods, services and assistance that they urgently require – and to forcibly displace them from their sovereign territory to facilitate further Israeli annexation and settlement of that territory – are epitomized by its relentless attack on UNRWA. UNRWA was established by General Assembly resolution 302 (IV) of 8 December 1949 “to carry out ... direct relief and works programmes” for Palestine refugees. It is the only United Nations agency specifically mandated to serve Palestine refugees and their descendants as well as other Palestinians who require humanitarian assistance, on an emergency basis as and when required³⁰. UNRWA was created as a result of the *Nakba* and the dispossession of the Palestinian people and the forcible displacement of

²⁹ “Israel expands West Bank offensive, says troops to remain ‘for next year’”, *Aljazeera News*, 23 February 2025 (<https://www.aljazeera.com/news/2025/2/23/israel-expands-west-bank-offensive-says-troops-to-remain-for-next-year>).

³⁰ General Assembly, Resolution 302 (IV), 8 December 1949, para. 7 (a).

750,000 to 900,000 Palestinians, now numbering with their descendants over 7 million refugees. The need to renew its mandate over decades is directly caused by Israel’s refusal to comply with United Nations resolutions, notably General Assembly resolution 194 (III). For the past seven decades UNRWA has provided “humanitarian assistance and contributes to protection of refugees through essential service delivery, primarily in the areas of basic education, primary health care and mental health care, relief and social services, microcredit, and emergency assistance”, throughout the Occupied Palestinian Territory³¹.

1.27. The role UNRWA plays in providing and coordinating humanitarian assistance to the Palestinian civilian population is unique and irreplaceable. The General Assembly has repeatedly affirmed the necessity of the Agency’s work and reiterated the “essential” and “vital” role it plays³² as a “lifeline” for the Palestinian people³³. The General Assembly has also repeatedly and overwhelmingly reaffirmed its full support for the mandate of UNRWA, including most recently in resolution 77/123, extending the Agency’s mandate for another renewable period of three years to 30 June 2026. Both the General Assembly and the Secretary-General have warned that attempts to dismantle or diminish the operations and mandate of UNRWA “would have severe humanitarian consequences”³⁴.

1.28. Precisely because of the Agency’s “vital” role towards Palestine refugees, in particular Israel has targeted UNRWA for destruction. Its physical, political, financial, and operational attacks against UNRWA, the inviolability of its premises, and its staff are “unprecedented in the United Nations history”³⁵, rendering the implementation of the Agency’s mandate to “*provide assistance and protection to Palestine refugees pending a just and lasting solution to their plight*” virtually impossible.

1.29. The adoption by the Israeli Knesset of two laws regarding UNRWA on 28 October 2024, namely, a law “for the cessation of UNRWA activities”, and a law “for the

³¹ UNRWA, Frequently Asked Questions, What is the mandate of UNRWA? (<https://www.unrwa.org/what-mandate-unrwa-0>).

³² General Assembly, Resolution ES-10/25, 11 December 2024, preamble.

³³ General Assembly, Dismantling UNRWA – Gazans’ Lifeline – Would Breed ‘Resentment and Hatred’, Fourth Committee Speakers Warn, Urging Israel to Cease Attempts to Do So, Meetings Coverage, 15 November 2024, GA/SPD/825 (<https://press.un.org/en/2024/gaspd825.doc.htm>).

³⁴ General Assembly, Resolution ES-10/25, 11 December 2024, para. 9.

³⁵ UNRWA, Letter from the Commissioner-General to the President of the United Nations General, 28 October 2024 (https://www.unrwa.org/sites/default/files/content/resources/letter_from_unrwa_cg_plazzarini_to_president_of_the_ga_philemon_yang-28_oct_2024.pdf).

cessation of its activities in the State of Israel”, in effect denies the protections and means essential for UNRWA to operate, including by forbidding Israeli state officials from contact with UNRWA or its representatives, which is necessary for the coordination and unhindered distribution of humanitarian assistance, and preventing UNRWA operations throughout the Occupied Palestinian Territory, including East Jerusalem, and more broadly in the region. As warned by the UNRWA Commissioner-General prior to their adoption, these laws will have “catastrophic impact on the international response to the humanitarian crisis” and “harm Palestinians’ right to self-determination and aspiration for a political solution”³⁶.

1.30. Acting unlawfully as purported “sovereign” over illegally occupied and annexed Jerusalem, on 24 January 2025 in a letter to the United Nations Secretary-General, Israel’s Ambassador to the United Nations stated that, “[i]n accordance with applicable Israeli law, ... UNRWA is required to cease its operations in Jerusalem, and evacuate all premises in which it operates in the city, no later than 30 January 2025”³⁷. This decision directly affects over 2,000 Palestinian students and 40,000 patients in East Jerusalem, as well as an estimated 1.2 million Palestinians in the West Bank who rely on UNRWA for vital poverty relief, social services, emergency assistance and food vouchers³⁸. On 18 February, Israeli occupation forces and so-called Jerusalem municipality staff forcefully entered UNRWA’s training center in the Kalandia training center and other UNRWA schools to order their immediate evacuation³⁹.

1.31. This assault on UNRWA comes against the backdrop of an unprecedented attack by a Member State of the United Nations against the Organization as a whole. From declaring the Secretary-General *persona non grata*, to attacks against the main bodies of the United Nations and their decisions, including this Court, the principal judicial organ of the United Nations, to denial of visas and access to United Nations staff, Israel’s anti-United Nations campaign has dramatically escalated in recent months. Beyond smearing the Organization and those delivering on its indispensable mandate, Israel, through its occupation forces, has been killing and maiming hundreds of United Nations personnel as well as detaining and torturing dozens

³⁶ *Ibid.*

³⁷ Letter from the Permanent Representative of Israel to the United Nations addressed to the Secretary-General, 24 January 2025 [Dossier No. N307].

³⁸ Identical letters from the Secretary-General to the President of the General Assembly and the President of the Security Council, 9 December 2024 (<https://docs.un.org/en/A/79/684>).

³⁹ UNRWA Situation Report #160 on the humanitarian crisis in the Gaza Strip and the West Bank, including East Jerusalem, 21 February 2025 (<https://www.unrwa.org/resources/reports/unrwa-situation-report-160-situation-gaza-strip-and-west-bank-including-east-jerusalem>).

of others. Never before, in the history of the United Nations, has a Member State not only breached all the obligations that derive from its membership, but also attacked the Organization itself in this way, as well as its officials and employees.

1.32. Israel's efforts unlawfully to deprive the Palestinian people of urgently needed humanitarian and developmental assistance are thus not limited to the destruction of UNRWA. They target the United Nations as a whole, its bodies and agencies, as well as other international organizations, and third States that are attempting to fulfil their *erga omnes* obligations – recognized by the Court in its Advisory Opinion of 19 July 2024 – to assist the Palestinian people in the early realization of its right of self-determination⁴⁰.

1.33. It is within this context that the urgency and importance of the Court's authoritative determination of, *inter alia*, Israel's obligations in relation to the presence and activities of the United Nations, including its bodies and agencies, other international organizations and third States, and their provision of humanitarian and developmental assistance for the benefit of the Palestinian civilian population and in support of the right of the Palestinian people to self-determination, led the core group of 14 Member States to request an advisory opinion from the Court, and 137 States to join in their request.

III. Jurisdiction and Discretion of the Court

1.34. It cannot seriously be disputed that the subject matter of the General Assembly's request falls within the purview of its mandate and concerns a matter that has drawn its special attention for more than 77 years, or that the question addressed to the Court is of a legal nature. The permanent responsibility of the United Nations towards the question of Palestine until it is justly resolved was recognized by the Court in its 2004 Advisory Opinion in the *Wall* case:

“This responsibility has been described by the General Assembly as ‘a permanent responsibility towards the question of Palestine until the question is resolved in all its aspects in a satisfactory manner in accordance with international legitimacy’ Within the institutional framework of the Organization, this responsibility has been manifested by the adoption of many Security Council and General Assembly resolutions, and by the creation of several subsidiary bodies specifically established to assist in the realization of the inalienable rights of the Palestinian people.”⁴¹

⁴⁰ 2024 Advisory Opinion, para. 280. See also *Wall* Opinion, p. 200, para. 162.

⁴¹ *Wall* Opinion, p. 159, para. 49.

1.35. This was confirmed in the Court’s Advisory Opinion of 19 July 2024, in which it determined, again, that the question of Palestine is “a matter of particular interest and concern to the United Nations”⁴².

1.36. Article 96(1) of the United Nations Charter provides that “[t]he General Assembly ... may request the International Court of Justice to give an advisory opinion on any legal question”. The question before the Court forms the operative paragraph of General Assembly resolution 79/232, which garnered the votes of an overwhelming majority of the Members of the United Nations, and it must therefore be considered as the expression of the legally valid will of the General Assembly. Further, the question presented by the General Assembly is plainly a legal question. It asks the Court to identify the *legal obligations* of the State of Israel, as an occupying Power and as a Member of the United Nations, in and in relation to the presence and activities of the United Nations, including its bodies and agencies, other international organizations and third States in the Occupied Palestinian Territory, and to their unhindered provision of humanitarian and developmental assistance for the benefit of the Palestinian people and in support of their right to self-determination.

1.37. There is no compelling reason for the Court to decline to give its opinion in response to the request by the General Assembly plainly falling within its jurisdiction. On the contrary, the gravity of the situation on the ground at which the question is directed compels urgent and expedited consideration of the question by the Court.

IV. The Structure of This Written Statement

1.38. Following this Introduction, the State of Palestine’s Written Statement is structured in the following way:

- Chapter 2 addresses Israel’s unlawful obstruction of the presence and activities of third parties in and in relation to the Occupied Palestinian Territory as an integral part of its denial of the right of the Palestinian people to self-determination. It demonstrates that Israel, whose presence in the Occupied Palestinian Territory has been deemed unlawful by the Court, and which is precluded from exercising sovereignty in or over the Occupied Palestinian Territory, has no legal standing or authority to control, prevent, hinder or

⁴² 2024 Advisory Opinion, para. 35.

interfere with the provision of humanitarian goods, services or assistance to the Palestinian civilian population; and that any such control, prevention, hinderance or interference violates the inalienable right of the Palestinian people to self-determination, alongside the violation of numerous provisions of international law.

- Chapter 3 identifies Israel's obligations under international humanitarian law as an occupying Power, which remain intact notwithstanding the illegality of its presence in the Occupied Palestinian Territory, in relation to the provision of humanitarian goods, services or assistance to the Palestinian civilian population, and demonstrates that it has flagrantly violated those obligations and continues to do so.
- Chapter 4 sets out Israel's breaches of its obligations as a member of the international community of States, including its serious and ongoing violations of the United Nations Charter, United Nations resolutions, the fundamental human rights of the Palestinian people and their right to be protected from acts of genocide.
- Chapter 5 addresses Israel's violations of its obligations under the Charter and relevant treaties to cooperate in good faith with the United Nations, its bodies and agencies, and to ensure the privileges, immunities and protection of United Nation premises, property and personnel.
- Chapter 6 addresses Israel's egregious conduct in relation to UNRWA, including its attempts to destroy that United Nations Agency, which brings into sharp relief Israel's violations of its obligations as detailed in Chapters 2 to 5.
- Chapter 7 sets out the legal consequences for Israel, the United Nations and third States of Israel's violations of its obligations under of international law, as set out in the previous Chapters.

1.39. The Written Statement concludes with the Submissions on behalf of the State of Palestine.

Chapter 2.

ISRAEL'S UNLAWFUL OBSTRUCTION OF THIRD PARTIES' PRESENCE AND ACTIVITIES IN THE OCCUPIED PALESTINIAN TERRITORY AND THE DENIAL OF RIGHT OF THE PALESTINIAN PEOPLE TO SELF-DETERMINATION

2.1. The request to the Court asks it to complement its 2024 Advisory Opinion by determining the legal 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, including East Jerusalem, for the benefit of the Palestinian civilian population, and in support of the Palestinian people's right to self-determination.

2.2. It is settled that the Palestinian people have the right to self-determination⁴³, and that all States⁴⁴ and the United Nations⁴⁵ have an obligation *erga omnes* to support and assist them in the early realization of that right, including in the Occupied Palestinian Territory. In its 2024 Advisory Opinion the Court found “that, in cases of foreign occupation such as the present case, the right to self-determination constitutes a peremptory norm of international law”⁴⁶.

2.3. The Court determined that this peremptory norm imposes a two-fold obligation on Israel.

2.4. First, Israel has a *positive* obligation to respect the right of the Palestinian people to self-determination⁴⁷, the exercise of which “cannot be subject to conditions on the part of the occupying Power, in view of its character as an inalienable right”⁴⁸. The Court held that “[t]he sustained abuse by Israel of its position as an occupying Power, through annexation and an assertion of permanent control over the Occupied Palestinian Territory and continued frustration of the right of the Palestinian people to self-determination, violates fundamental principles of international law and renders Israel's presence in the Occupied Palestinian Territory unlawful”⁴⁹. The Court further held that Israel is under an obligation to terminate its

⁴³ *Wall* Opinion, p. 182, para. 118; 2024 Advisory Opinion, para. 230; General Assembly, Resolution 79/81, 3 December 2024; and General Assembly, Resolution ES-10/24, 18 September 2024.

⁴⁴ *Wall* Opinion, p. 199, para. 156; 2024 Advisory Opinion, paras. 274, 275 and 279.

⁴⁵ General Assembly, Resolution ES-10/24, 18 September 2024, para. 16.

⁴⁶ 2024 Advisory Opinion, para. 233.

⁴⁷ *Ibid.*, paras. 243 and 272.

⁴⁸ *Ibid.*, para. 257.

⁴⁹ *Ibid.*, para. 261.

presence in the Occupied Palestinian Territory “as rapidly as possible”, which has been determined by the General Assembly to require ending its unlawful presence in the Occupied Palestinian Territory no later than 18 September 2025⁵⁰.

2.5. Second, Israel has a *negative* obligation “*not to impede* the Palestinian people from exercising its right to self-determination, including its right to an independent and sovereign State, over the entirety of the Occupied Palestinian Territory”⁵¹. This obligation is directly connected to the ability of third parties to discharge their obligations to promote or otherwise support the realization of the right of the Palestinian people to self-determination, and obligates Israel not to impede their actions in this regard.

2.6. This Chapter addresses Israel’s legal obligations in relation to third parties’ presence and activities in the Occupied Palestinian Territory and the right of the Palestinian people to self-determination arising from these determinations by the Court.

I. Israel Has No Legal Standing to Prevent or Obstruct Third Parties’ Presence or Activities in and in Relation to the Occupied Palestinian Territory

2.7. An occupying Power is not sovereign over occupied territory⁵². To the contrary, sovereignty is always retained by the people of the occupied territory and may be exercised only by them or their legitimate governmental representatives⁵³.

2.8. In the Occupied Palestinian Territory, therefore, sovereignty belongs to the Palestinian people, who possess the right to an independent and sovereign State over the entirety of the Occupied Palestinian Territory, which Israel is obligated not only to respect, as part of its duty to respect the right of the Palestinian people to self-determination, but also not to impede. As the Court explained in its 2024 Advisory Opinion:

“The Court considers that Israel, as the occupying Power, has the obligation not to impede the Palestinian people from exercising its right to self-determination, including

⁵⁰ General Assembly, Resolution ES-10/24, 18 September 2024, para. 2.

⁵¹ 2024 Advisory Opinion, para. 237 (emphasis added). See also General Assembly, Resolution ES-10/24, 18 September 2024, para. 3 (g).

⁵² General Assembly, Resolution 77/126, 12 December 2022, para. 7.

⁵³ Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, 23 October 2017, A/72/556, para. 24 (<https://docs.un.org/en/A/72/556>).

its right to an independent and sovereign State, over the entirety of the Occupied Palestinian Territory.”⁵⁴

2.9. This is particularly true in light of the Court’s determination that Israel is under a legal obligation to bring its unlawful presence in the Occupied Palestinian Territory to an end as rapidly as possible:

“With regard to the Court’s finding that Israel’s continued presence in the Occupied Palestinian Territory is illegal, the Court considers that such presence constitutes a wrongful act entailing its international responsibility. It is a wrongful act of a continuing character which has been brought about by Israel’s violations, through its policies and practices, of the prohibition on the acquisition of territory by force and the right to self-determination of the Palestinian people. Consequently, Israel has an obligation to bring an end to its presence in the Occupied Palestinian Territory as rapidly as possible.”⁵⁵

2.10. In resolution ES-10/24, the General Assembly, to which the Court entrusted the formulation of “modalities” for ending the illegal Israeli presence in the Occupied Palestinian Territory “as rapidly as possible”, set a deadline of 18 September 2025 for the termination of the occupation and the end of Israel’s unlawful presence in the Occupied Palestinian Territory.

2.11. As the Court determined, Israel remains precluded from exercising sovereign powers in the Occupied Palestinian Territory:

“The Court considers that Israel is not entitled to sovereignty over or to exercise sovereign powers in any part of the Occupied Palestinian Territory on account of its occupation. Nor can Israel’s security concerns override the principle of the prohibition of the acquisition of territory by force.”⁵⁶

2.12. Since Israel may not exercise sovereignty or sovereign powers in the Occupied Palestinian Territory, there is no lawful basis on which it can prevent, hinder or interfere with the provision of humanitarian or developmental assistance for the benefit of the Palestinian civilian population and in support of the Palestinian people’s right to self-determination. Any prevention, hinderance or interference by Israel in relation to these activities inevitably violates, *inter alia*, the sovereignty of the Palestinian people and their right to self-determination. It also serves to maintain and entrench Israel’s unlawful presence in the

⁵⁴ 2024 Advisory Opinion, para. 237.

⁵⁵ *Ibid.*, para. 267.

⁵⁶ *Ibid.*, para. 254.

Occupied Palestinian Territory, rather than end it, in violation of Israel's obligation to bring its presence to an end as rapidly as possible.

II. Israel Has Caused the Situation of Deprivation and Need in the Occupied Palestinian Territory that Makes Humanitarian Assistance from Third Parties Necessary

2.13. The evidence is indisputable that Israel has, in fact, prevented, obstructed and interfered with the provision of humanitarian supplies, goods, services and assistance by third parties to the civilian population of the Occupied Palestinian Territory in violation of its legal obligations not to do so. It is equally undeniable that Israel itself created the conditions of displacement, deprivation and impoverishment in the Occupied Palestinian Territory that make the provision of these supplies, goods, services and assistance so necessary. Both the creation of coercive and unliveable conditions for the Palestinians people in the Occupied Palestinian Territory and the cutoff of supplies needed for their survival serve the same ends: prolongation of Israel's unlawful presence, acquisition of Palestinian territory and denial of the Palestinian people's right of self-determination.

2.14. Israel has made clear by its actions, and by the declarations of its senior government officials, that its restrictions on the provision of urgently needed supplies and assistance and basic services to the Palestinian civilian population are intended to collectively punish them and to tighten, rather than loosen, its grip on the Occupied Palestinian Territory and to facilitate further annexation of the territory it covets. The Court has already found that, in pursuance of the same unlawful objectives, Israel has, over the course of its prolonged occupation, forcibly displaced and expelled thousands of Palestinians and demolished their homes and entire villages to prevent their return; destroyed farms, crops, arable land and livestock to eliminate their livelihoods and sources of sustenance; destroyed water and water treatment facilities and denied access to water and other natural resources; and facilitated violent attacks by Israeli settlers to drive away those Palestinians who, despite Israel's efforts, insist on their inalienable rights to remain in their ancestral land⁵⁷.

2.15. Such has been the case, especially, in the part of the Occupied Palestinian Territory, comprising more than 60 percent of the West Bank, (so-called "Area C")⁵⁸, where Israel has

⁵⁷ *Ibid.*, para. 257.

⁵⁸ *Ibid.*, para. 65.

forcibly displaced thousands of Palestinians for eventual replacement with new or expanded Israeli settlements. The methods are persistent and systematic in denying them the basic necessities of life: food, water, medicines and health care, shelter and fuel, access to livelihoods and education, among others, alongside further measures of coercion. This is also the case in East Jerusalem where Israel has demolished donor funded properties and projects, obstructed aid, restricted access and civic space through threats and actions to dissuade international support⁵⁹. It has also been Israel's clear policy in the Gaza Strip for the past 16 months, with over 90 percent of the population displaced at one time, and with huge areas of the Gaza Strip, notably in Northern Gaza, having been almost completely wiped from the map.

2.16. Israel's interference with humanitarian assistance in the Gaza Strip, in particular, has devastated the civilian population. On 27 October 2024, the Secretary-General indicated that he was "shocked by the harrowing levels of death, injury and destruction in the north, with civilians trapped under the rubble, the sick and wounded going without life-saving health care, and families lacking food and shelter, amid reports of families being separated and many people detained"⁶⁰. Notwithstanding the urgent needs of the population, the Secretary-General found that: "Repeated efforts to deliver humanitarian supplies essential to survive – food, medicine and shelter – continue to be denied by the Israeli authorities, with few exceptions, putting countless lives in peril."⁶¹

2.17. On 26 October 2024, the acting Under-Secretary-General for Humanitarian Affairs and United Nations Emergency Relief Coordinator also warned that "[t]he entire population of

⁵⁹ Examples of donor funded projects confiscated or demolished by Israel throughout the Occupied Palestinian Territory: "Belgium summons Israeli ambassador after its building in Gaza is bombed", *Reuters*, 2 February 2024 (<https://www.reuters.com/world/middle-east/belgium-summons-israeli-ambassador-after-its-building-gaza-is-bombed-2024-02-02/>); Office of the European Union Representative (West Bank and Gaza Strip, UNRWA), "One Year Report on Demolitions and Seizures in the West Bank, including East Jerusalem Reporting Period: 1 January 31 December 2023", 20 November 2024 (https://www.eeas.europa.eu/delegations/palestine-occupied-palestinian-territory-west-bank-and-gaza-strip/one-year-report-demolitions-and-seizures-west-bank-including-east-jerusalem-reporting-period-1-0_en); *ibid.*, "One Year Report on Demolitions and Seizures in the West Bank, including East Jerusalem Reporting Period: 1 January – 31 December 2022", 28 March 2023 (<https://www.eeas.europa.eu/sites/default/files/documents/2023/One Year Report on Demolitions and Seizures in the West Bank including East Jerusalem - 1 January – 31 December 2022.pdf>); "Palestinians prepare to lose the solar panels that provide a lifeline", *The Guardian*, 14 March 2012 (<https://www.theguardian.com/global-development/2012/mar/14/palestinians-prepare-to-lose-solar-panels>); "Compensation calls as Israel seizes EU-funded aid projects", *Euractiv*, 11 April 2014 (<https://www.euractiv.com/section/development-policy/news/compensation-calls-as-israel-seizes-eu-funded-aid-projects/>).

⁶⁰ Stéphane Dujarric, Spokesman for the Secretary-General, Statement attributable to the Spokesperson for the Secretary-General – on North Gaza, 27 October 2024 (<https://www.un.org/sg/en/content/sg/statement/2024-10-27/statement-attributable-the-spokesperson-for-the-secretary-general-%E2%80%93-north-gaza>).

⁶¹ *Ibid.*

north Gaza is at risk of dying”⁶². In particular: “No food aid entered northern Gaza from October 2 to 15 October, when a trickle was allowed in”; “all essential supplies for survival are running out”; and health care “facilities are facing dire shortages of fuel, blood, trauma treatment and medications.”⁶³

2.18. In October 2024, the United Nations Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel, concluded in a report to the General Assembly “that Israel has implemented a concerted policy to destroy the health-care system of Gaza”⁶⁴. It found that:

“Israeli security forces have deliberately killed, wounded, arrested, detained, mistreated and tortured medical personnel and targeted medical vehicles, constituting the war crimes of wilful killing and mistreatment and the crime against humanity of extermination. Israeli authorities carried out such acts while tightening the siege of the Gaza Strip, resulting in the fuel, food, water and medicines and medical supplies not reaching hospitals ...”⁶⁵

2.19. On 28 October 2024, the Commissioner-General of UNRWA summarized the impacts of Israel’s actions, including its “restriction of humanitarian aid”, on the civilian population in the Gaza Strip:

“The situation in Gaza is beyond the diplomatic vocabulary of the General Assembly. After more than a year of the most intense bombardment of a civilian population since World War II, and the restriction of humanitarian aid far below minimum needs, the lives of Palestinians are shattered. More than 43,000 people are reported killed, the majority women and children. Nearly the entire population is displaced. Schools, universities, hospitals, places of worship, bakeries, water, sewage and electricity systems, roads and farmland have all been destroyed. The surviving population lives in the greatest indignity. In the North, the population is trapped, awaiting death by airstrikes or starvation ...”⁶⁶

⁶² “‘Entire population of north Gaza at risk of dying,’ warns UN’s top humanitarian official”, *UN News*, 26 October 2024 (<https://news.un.org/en/story/2024/10/1156171>).

⁶³ Security Council, 9750th meeting, 16 October 2024, S/PV.9750, pp. 2 and 3 (Acting Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator) (<https://docs.un.org/en/S/PV.9750>).

⁶⁴ Report of the Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel, 11 September 2024, A/79/232, para. 89 (<https://docs.un.org/en/A/79/232>).

⁶⁵ *Ibid.*

⁶⁶ Letter from Philippe Lazzarini, Commissioner-General of UNRWA to His Excellency Mr. Philémon Yang, President of the General Assembly, 28 October 2024 (<https://www.unrwa.org/newsroom/official-statements/letter-unrwa-cg-philippe-lazzarini-president-ga-philemon-yang>).

2.20. In a few harrowing words:

“In northern Gaza, people are just waiting to die. They feel deserted, hopeless and alone. They live from one hour to the next, fearing death at every second.”⁶⁷

2.21. Israel’s prevention, hinderance and interference with the provision of urgently needed goods and services to the Palestinian civilian population flagrantly violates Security Council resolutions, including resolution 2720 (2023) of 22 December 2023, in which the Security Council:

Reaffirm[ed] its call for all parties to refrain from depriving the civilian population in the Gaza Strip of basic services and humanitarian assistance indispensable to their survival, consistent with international humanitarian law;

.....
Recogniz[ed] that the civilian population in the Gaza Strip must have access to sufficient quantities of assistance that they need, including enough food, water, sanitation, electricity, telecommunications and medical services essential for their survival, and that the provision of humanitarian supplies in the Gaza Strip needs to be sufficient to alleviate the massive humanitarian needs of the Palestinian civilian population throughout the Gaza Strip ...;

.....
Reaffirm[ed] the obligations of the parties to the conflict under international humanitarian law regarding the provision of humanitarian assistance, [and] *demand*[ed] that they allow, facilitate and enable the immediate, safe and unhindered delivery of humanitarian assistance at scale directly to the Palestinian civilian population throughout the Gaza Strip ...”⁶⁸.

2.22. Israel’s blatant disregard of these obligations was reported by the United Nations High Commissioner for Human Rights in October 2024:

“Unimaginably, the situation is getting worse by the day. The Israeli Government’s policies and practices in northern Gaza risk emptying the area of all Palestinians.”⁶⁹

⁶⁷ *Ibid.*

⁶⁸ Security Council, Resolution 2720 (2023), 22 December 2023, preamble and para. 2.

⁶⁹ “Türk says world must act as darkest moment of Gaza conflict unfolds”, Press Release, 25 October 2024 (<https://www.ohchr.org/en/press-releases/2024/10/turk-says-world-must-act-darkest-moment-gaza-conflict-unfolds>).

2.23. The Office of the High Commissioner explained:

“[T]he manner in which the Israeli military is conducting hostilities in north Gaza, along with unlawful interference with humanitarian assistance and orders that are leading to forced displacement, may be causing the destruction of the Palestinian population in Gaza’s northernmost governate through death and displacement.”⁷⁰

2.24. Although Israel has not formally announced a plan to annex the Gaza Strip, its senior leaders have made no secret of their intentions to forcibly displace the Palestinian people, build settlements, and forcibly acquire the land. For example, Israel’s Minister of National Security at that time, Itamar Ben-Gvir, viewed Israel’s killing of tens of thousands of Palestinians in the Gaza Strip and displacement of hundreds of thousands more as an “opportunity to concentrate on encouraging the migration of the residents of Gaza”, and Israel’s Minister of Finance, Bezalel Smotrich, openly declared that, “Israel will permanently control the territory of the Gaza Strip”⁷¹. This statement, by the Israeli Minister responsible for civil administration in the Occupied Palestinian Territory, including the Gaza Strip, flouts both the Court’s 2024 Advisory Opinion, and Security Council resolution 2735 (2024) of 10 June 2024, which “[r]ejects any attempt at demographic or territorial change in the Gaza Strip, including actions that reduce the territory of Gaza”⁷².

2.25. Even in the context of the ceasefire, Israel violated the terms of the agreement and has consistently obstructed the flow of the needed humanitarian assistance, including tents and caravans for the majority of the population that the occupying Power had forcibly displaced within the Gaza Strip, as well as heavy equipment needed to remove the rubble, persisting in its actions aiming to displace the Palestinian people outside of the Occupied Palestinian Territory under the misleading claim of “voluntary migration”⁷³.

2.26. Israel has created the conditions of subjugation, deprivation and need in the Palestinian population of the Occupied Palestinian Territory that have made the Palestinian

⁷⁰ “OHCHR is concerned over the potential destruction of the Palestinian population in north Gaza”, Press Release, 20 October 2024 (<https://www.un.org/unispal/document/ohchr-press-release-20oct24/>).

⁷¹ “Far-right ministers call to ‘resettle’ Gaza’s Palestinians, build settlements in Strip”, *The Times of Israel*, 1 January 2024 (<https://www.timesofisrael.com/ministers-call-for-resettling-gazas-palestinians-building-settlements-in-strip/>).

⁷² Security Council, Resolution 2735 (2024), 10 June 2024, para. 5.

⁷³ “Israeli prime minister rejects entry of mobile homes into Gaza under ceasefire deal”, *Anadolu Agency*, 16 February 2025 (<https://www.aa.com.tr/en/middle-east/israeli-prime-minister-rejects-entry-of-mobile-homes-into-gaza-under-ceasefire-deal/3483668>).

people aid-dependent in need of third-party intervention⁷⁴. With one hand Israel creates this dependency for Palestinian civilians, while, with the other, it prevents sufficient aid from reaching them. Both hands operate with the same purpose: to make life unbearable and to displace the Palestinian people from Occupied Palestinian Territory which Israel targets for settlement and for annexation. This only aggravates Israel's deliberate and persistent violation of its legal obligation not to prevent, hinder or interfere with the provision of supplies, goods, services or assistance to the civilian population of the Occupied Palestinian Territory, including in furtherance of the right of the Palestinian people to self-determination.

III. Israel's Obstruction of the Presence and Activities of Third Parties in the Occupied Palestinian Territory Violates the Four Constituent Rights of the Palestinian People's Right to Self-Determination

2.27. In its 2019 Advisory Opinion on the *Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965*, the Court explained "that the right to self-determination, as a fundamental human right, has a broad scope of application"⁷⁵. In its 2024 Opinion, the Court described the right of self-determination as comprised of at least four constituent rights, all of which, it found, vest in the Palestinian people. These are: (i) the right to "territorial integrity"; (ii) the right to be "protected against acts aimed at dispersing the population and undermining its integrity as a people"; (iii) the right "to exercise permanent sovereignty over natural resources"; and (iv) the right of the people "freely to determine its political status and to pursue its economic, social and cultural development"⁷⁶.

2.28. As the Court found, Israel has violated each of these four constituent rights throughout the Occupied Palestinian Territory⁷⁷. Its prevention, hinderance and interference with the provision of humanitarian goods, services and assistance to the Palestinian civilian population constitute further violations of these rights.

⁷⁴ See, for instance, Secretary-General's remarks to the Security Council – on the Middle East, 23 January 2024 (<https://www.un.org/sg/en/content/sg/speeches/2024-01-23/secretary-generals-remarks-the-security-council-the-middle-east>) ("Israel's withholding of a significant portion of Palestinian tax revenues ... and severe movement and access restrictions across the West Bank are all contributing to soaring unemployment and poverty").

⁷⁵ *Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965*, Advisory Opinion, I.C.J. Reports 2019, p. 131, para. 144.

⁷⁶ 2024 Advisory Opinion, paras. 236-241.

⁷⁷ *Ibid.*, paras. 236-242.

2.29. First, the right of the Palestinian people to territorial integrity includes the entirety of the Occupied Palestinian Territory, including East Jerusalem, as the “territorial unit” within which its right to an independent statehood is to be exercised⁷⁸. Israel’s prevention or restriction of humanitarian aid to any part of the Occupied Palestinian Territory thus violates the Palestinian people’s right to territorial integrity. This is especially the case when these restrictions are in furtherance of Israel’s unlawful policy of prolonging its unlawful presence in, and annexing all or parts of, the Occupied Palestinian Territory.

2.30. Second, Israel’s prevention or restriction of humanitarian assistance to the Occupied Palestinian Territory displaces the Palestinian civilian population by depriving them of the necessities of life, making their living conditions unbearable and forcing them to move elsewhere in their struggle to survive. This violates their right to be protected against acts “aimed at dispersing the population and undermining their integrity as a people” in furtherance of Israel’s policy of clearing the land of the Palestinian people to facilitate settlement and annexation by Israeli nationals. The forced displacement has not been limited to the Gaza Strip. Most recently, on 13 February 2025, OCHA reported that Israel launched a new round of home demolitions in the West bank at Masafer Yatta, comprised of 16 Palestinian communities with an approximate population of 1,700⁷⁹: “in total, 23 structures, including 14 residential structures, three agricultural rooms, four latrines, a water cistern and a solar panel system were destroyed. Of the total, 11 structures were donor funded and had been provided as humanitarian aid”⁸⁰. On 16 February, Bezalel Smotrich, Israel’s minister of Finance and the Minister overseeing the Israeli occupation’s policies and practices in the occupied West Bank, summarized Israel’s policy goal for the year 2025 as demolishing more than Palestinians build⁸¹. The Minister also described Palestinian construction in the Occupied Palestinian Territory as “illegal”⁸².

2.31. Third, as the Court found, Israel has appropriated to itself and to its own nationals the natural resources of the Occupied Palestinian Territory and deprived the Palestinian people

⁷⁸ *Ibid.*, para. 237.

⁷⁹ OCHA, A whole community at risk of displacement in Masafer Yatta, 10 June 2022 (<https://www.ochaopt.org/content/whole-community-risk-displacement-masafer-yatta>).

⁸⁰ OCHA, Humanitarian Situation Update #264 – West Bank, 13 February 2025 (<https://www.ochaopt.org/content/humanitarian-situation-update-264-west-bank>).

⁸¹ Post of BBC’ analyst, editor and reporter, Sebastian Usher, @sebusher, 11:34am, 17 February 2025 (<https://x.com/sebusher/status/1891435977702343084?mx=2>).

⁸² “Smotrich promises: ‘This year we will demolish more than the PA builds’”, *Israel National News*, 16 February 2025 (<https://www.israelnationalnews.com/news/404012>).

of their use and benefit⁸³. This includes, *inter alia*, the water, fertile agricultural lands, quarries and minerals of the West Bank, including East Jerusalem, as well as the Gaza Strip’s maritime resources, both living and non-living. United Nations studies show that if the Palestinian people were not deprived of the natural resources to which they are lawfully entitled, they would not be forced to rely on humanitarian assistance for its sustenance. For example, UNCTAD concluded that the cost of Israel’s restrictions in the West Bank, especially in the so-called Area C “is estimated at 25.3 per cent of West Bank gross domestic product (GDP) and the cumulative GDP loss in 2000–2020 is estimated at \$50 billion (\$45 billion in constant 2015 dollars), which is about three times the West Bank GDP and over 2.5 times the Palestinian GDP in 2020”⁸⁴.

2.32. Fourth, Israel’s prevention and restriction of humanitarian and developmental assistance from third parties deprives the Palestinian people of its right “freely to determine its political status and to pursue its economic, social and cultural development”⁸⁵. On its most basic level, the urgently needed supplies, basic goods and services provided by the United Nations, other international organizations and third States are essential to sustain the civilian population and the possibility of its economic, social and cultural development. As the Court explained:

“[A] key element of the right to self-determination is the right of a people freely to determine its political status and to pursue its economic, social and cultural development. ... The dependence of the West Bank, East Jerusalem, and especially of the Gaza Strip, on Israel for the provision of basic goods and services impairs the enjoyment of fundamental human rights, in particular the right to self-determination ...”⁸⁶

2.33. The right of the Palestinian people to self-determination thus includes its right to consent to and receive, without interference or obstruction by Israel or any other party, urgently needed supplies essential for its survival, as well as basic goods, services and assistance for the civilian population⁸⁷. Under the 2024 Advisory Opinion, every limitation that Israel imposes

⁸³ 2024 Advisory Opinion, para. 126.

⁸⁴ UNCTAD, *The Economic Costs of the Israeli Occupation for the Palestinian People: The Cost of Restrictions in Area C Viewed from Above* (2022), UNCTAD/GDS/APP/2022/1, p. vii (https://unctad.org/system/files/official-document/gdsapp2022d1_en.pdf).

⁸⁵ 2024 Advisory Opinion, para. 241.

⁸⁶ *Ibid.*, para. 241.

⁸⁷ *Ibid.*

on the provision of such supplies, goods, services or assistance necessarily “impairs the enjoyment of fundamental human rights, in particular the right of self-determination ...”⁸⁸.

2.34. In fact, the State of Palestine, on behalf of the Palestinian people, has generally consented to and welcomed the provision of urgently needed supplies, basic services and humanitarian and developmental assistance to the civilian population of the Occupied Palestinian Territory, including in the Gaza Strip, where the civilian population has been subjected to prolonged blockade, siege and genocide. The State of Palestine has also signed formal agreements with United Nations bodies and other States specifically consenting to the provision of such services, supplies and assistance. These include the very supplies, services and assistance whose provision by the United Nations, its bodies and agencies, other international organizations and third States Israel has prevented or hindered.

2.35. As discussed in Section IV below, Israel has regularly prevented, impeded or, severely restricted the provision of supplies, goods, services and assistance from all of these authorized providers, depriving the Palestinian population of the food, water, medicines, medical treatment, fuel, shelter and other goods and services necessary for its survival, and its economic and social development, and in so doing impeded it from exercising its inalienable right of self-determination. Further, in so doing, Israel has violated its legal obligations vis-à-vis those providers – including the United Nations, other international organizations and other States – not to interfere with their activities in support of the realization of the Palestinian people’s right of self-determination, in violation of international law and the United Nations Charter.

IV. Israel’s Obstruction of the Presence and Activities of Third Parties in the Occupied Palestinian Territory Impedes Compliance with Their Obligations to Support the Right of the Palestinian People to Self-Determination

A. THE OBLIGATIONS OF THIRD PARTIES TO SUPPORT THE PALESTINIAN PEOPLE’S RIGHT TO SELF-DETERMINATION

2.36. In preventing and restricting the provision of humanitarian supplies, goods, services and assistance to the civilian population in the Occupied Palestinian Territory, Israel has been violating obligations it owes to the United Nations, other international organizations, and third

⁸⁸ *Ibid.*

States as well as its obligations to the Palestinian people. In particular, Israel has breached its obligation to those third parties not to prevent, hinder or interfere with the performance of their *erga omnes* obligations, as defined by the Court, to support and facilitate, and not to impede the Palestinian people's exercise of its right of self-determination.

2.37. That the United Nations, other international organizations and all States have these *erga omnes* obligations cannot be denied.

2.38. The Court has repeatedly affirmed that “the right of all peoples to self-determination is ‘one of the essential principles of contemporary international law’”⁸⁹ 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”⁹⁰.

2.39. In its 2004 *Wall* Opinion, the Court confirmed the right of the Palestinian people to self-determination, finding that Israel's construction of a wall encompassing parts of the Occupied Palestinian Territory “severely impedes the exercise by the Palestinian people of its right to self-determination, and is therefore a breach of Israel's obligation to respect that right”⁹¹. Because that obligation is owed *erga omnes*, the Court determined that not only Israel but all States are under an obligation “to see to it that any impediment, resulting from the construction of the wall, to the exercise by the Palestinian people of its right to self-determination is brought to an end”⁹².

2.40. In its 2024 Opinion, the Court found that, as a consequence of Israel's prolonged occupation, settlement and annexation of the Occupied Palestinian Territory: “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”⁹³. Because the obligation to support, and not deprive, the Palestinian people of this

⁸⁹ *Ibid.*, para. 232; *East Timor (Portugal v. Australia), Judgment, I.C.J. Reports 1995*, p. 102, para. 29.

⁹⁰ 2024 Advisory Opinion, para. 232; *Wall* Opinion, p. 199, para. 155; and *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.

⁹¹ *Wall* Opinion, p. 184, para. 122.

⁹² *Ibid.*, p. 200, para. 159.

⁹³ 2024 Advisory Opinion, para. 243.

inalienable right is *erga omnes*⁹⁴, the Court affirmed that the obligation is owed by the United Nations, other international organizations and other States. In respect of the United Nations:

“In view of the character and importance of the obligations *erga omnes* involved in the illegal presence of Israel in the Occupied Palestinian Territory, the obligation not to recognize as legal the situation arising from the unlawful presence of Israel in the Occupied Palestinian Territory and the obligation to distinguish in their dealings with Israel between the territory of Israel and the Occupied Palestinian Territory apply also to the United Nations.”⁹⁵

2.41. The Court determined that these obligations extend beyond the United Nations to all international organizations. In its *dispositif*, at paragraph 284 (8), the Court found that “international organizations, including the United Nations are under an obligation not to recognize as legal the situation arising from the unlawful presence of Israel in the Occupied Palestinian Territory”.

2.42. The Court found that individual States have the same *erga omnes* obligations⁹⁶. In addition, they are obliged “not to render aid or assistance in maintaining the situation created by the continued presence of the State of Israel in the Occupied Palestinian Territory”⁹⁷. Specifically in regard to the obligation of all States to respect the Palestinian people’s right of self-determination, the Court recalled the duty inscribed in the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations⁹⁸:

“[e]very State has the duty to promote, through joint and separate action, realization of the principle of equal rights and self-determination of peoples, in accordance with the provisions of the Charter, and to render assistance to the United Nations in carrying out the responsibilities entrusted to it by the Charter regarding the implementation of the principle”⁹⁹.

2.43. The Court then made clear that:

“It is for all States, while respecting the Charter of the United Nations and international law, to ensure that any impediment resulting from the illegal presence of Israel in the

⁹⁴ *Ibid.*, para. 274.

⁹⁵ *Ibid.*, para. 280.

⁹⁶ *Ibid.*, para. 285 (7).

⁹⁷ *Ibid.*

⁹⁸ *Ibid.*, para. 275.

⁹⁹ General Assembly, Resolution 2625 (XXV), Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, 24 October 1970.

Occupied Palestinian Territory to the exercise of the Palestinian people of its right to self-determination is brought to an end.”¹⁰⁰

2.44. And further, that:

“[W]hile it is for the General Assembly and the Security Council to pronounce on the modalities required to ensure an end to Israel’s illegal presence in the Occupied Palestinian Territory and the full realization of the right of the Palestinian people to self-determination, all States must co-operate with the United Nations to put those modalities into effect.”¹⁰¹

2.45. Resolution ES-10/24, adopted by the General Assembly in fulfilment of its mandate to promulgate these modalities, called on all States:

“To promote, through joint and separate action, the realization of the right of the Palestinian people to self-determination, the respect of which is an obligation *erga omnes*, and refrain from any action which deprives the Palestinian people of this right and, while respecting the Charter of the United Nations and international law, to ensure that any impediment resulting from the illegal presence of Israel in the Occupied Palestinian Territory to the exercise by the Palestinian people of its right to self-determination is brought to an end ...”¹⁰²

2.46. Israel, therefore, has an undeniable duty not to prevent or interfere with the presence or activities of third parties in fulfilment of their obligation to support the Palestinian people’s right of self-determination. Israel violates this duty when it prevents the United Nations, other international organizations, or other States from supporting the realization of that right by providing the Palestinian civilian population with urgently needed supplies, basic goods, and humanitarian and developmental assistance required for its survival and or the realization of its right to self-determination.

B. ISRAEL’S INTERFERENCE WITH THE UNITED NATIONS’ FULFILMENT OF ITS PERMANENT RESPONSIBILITY WITH REGARD TO THE QUESTION OF PALESTINE

2.47. The General Assembly has on multiple occasions affirmed “the permanent responsibility of the United Nations with regard to the question of Palestine until it is resolved in all its aspects in accordance with international law and the relevant United Nations resolutions”¹⁰³. As the Court observed in the *Wall* Opinion, “[w]ithin the institutional

¹⁰⁰ 2024 Advisory Opinion, para. 279.

¹⁰¹ *Ibid.*, para. 275.

¹⁰² General Assembly, Resolution ES-10/24, 18 September 2024, para. 4 (a).

¹⁰³ *Ibid.*, para. 18.

framework of the Organization, this responsibility has been manifested by the adoption of many Security Council and General Assembly resolutions, and by the creation of several subsidiary bodies specifically established to assist in the realization of the inalienable rights of the Palestinian people”¹⁰⁴. Paramount among these inalienable rights is the right of the Palestinian people to self-determination.

2.48. A host of United Nations agencies and bodies have a mandate in and in relation to the Occupied Palestinian Territory, including those operating as part of the United Nations Country Team inside the Occupied Palestinian Territory and those operating outside of it. The mandates of these agencies and bodies derive from a mix of legal authorizations furnished by the United Nations Charter, the General Assembly, the Security Council, the Human Rights Council, the Palestinian people acting through its legitimate governmental representatives, the law of belligerent occupation, and general international law¹⁰⁵. Together, these agencies and bodies engage in a panoply of activities, including to ensure and facilitate the unhindered provision of urgently needed supplies essential for the survival of the Palestinian civilian population, and basic services and humanitarian and development assistance for the benefit of that population. as well as in support of the inalienable rights of the Palestinian people, including to self-determination. They also seek to ensure accountability for various Israeli violations of its international law obligations. Their ongoing efforts are a manifestation of the United Nations efforts to fulfil its obligation to support the Palestinian people’s right of self-determination. Israel’s prevention of and interference with those efforts violate both its own obligations to the Palestinian people, and its obligations to the United Nations not to prevent, hinder or interfere with the Organization’s performance of its obligations.

2.49. The most important United Nations agency responsible for the provision of humanitarian supplies, goods, services and assistance to the Palestinian people, namely Palestine refugees is UNRWA. Immediately following the *Nakba* of 1948, the General Assembly recognized in resolution 302 (IV) that “continued assistance for the relief of the Palestine refugees is necessary to prevent conditions of starvation and distress among them and to further conditions of peace and stability”¹⁰⁶. It therefore created UNRWA and mandated it to provide “direct relief and works programmes” to the refugees until such time as their plight

¹⁰⁴ *Wall Opinion*, p. 158, para. 49.

¹⁰⁵ These United Nations agencies and bodies, their respective mandates and the legal authorities under which they operate, are identified and discussed more fully in Chapter 5.

¹⁰⁶ General Assembly, Resolution 302 (IV), 8 December 1949, para. 5.

was resolved in accordance with relevant international law¹⁰⁷. The General Assembly indicated that UNRWA's mandate was to be discharged "without prejudice to the provisions of paragraph 11 of General Assembly resolution 194 (III) of 11 December 1948", which affirms the right of the Palestine refugees to return, restitution and compensation, a key element of the right of the Palestinian people to self-determination¹⁰⁸. In view of Israel's ongoing violation of these rights, the General Assembly has continually renewed UNRWA's mandate, most recently until 30 June 2026¹⁰⁹. Today, approximately 7 million Palestinians are registered with UNRWA, rendering them eligible for its core quasi-governmental services – education, health, and relief and social services – in Jordan, Lebanon, Syria, and the Occupied Palestinian Territory (i.e., West Bank, including East Jerusalem, and the Gaza Strip)¹¹⁰.

2.50. Unique among all United Nations agencies, UNRWA's core services are directly delivered by Agency personnel who are themselves, for the most part, also Palestine refugees. These include tens of thousands of teachers, health care professionals, and social welfare workers. As noted by the Secretary-General:

"Under normal conditions, UNRWA operates almost 400 schools, over 65 primary health clinics and one hospital in the Occupied Palestinian Territory, which enable the provision of education to over 350,000 children and over 5 million health consultations annually. More specifically, in East Jerusalem, UNRWA schools provide education to 2000 students and its health clinics serve 40,000 registered patients. UNRWA also has been providing vital poverty relief and social services, including social safety net, emergency assistance and food vouchers, benefiting over 1.2 million people."¹¹¹

2.51. UNRWA's relief services have been especially indispensable to the Palestinian civilian population since Israel launched its armed assault on the Gaza Strip in 2023. In the Gaza Strip, more than 70 per cent of the population are refugees, about half of whom are children, for whom UNRWA has long provided schooling, primary healthcare, food aid and other essential assistance¹¹². According to the Secretary-General:

¹⁰⁷ *Ibid.*, para. 7.

¹⁰⁸ *Ibid.*, para. 5.

¹⁰⁹ General Assembly, Resolution 77/123, 12 December 2022, para. 6.

¹¹⁰ See the UNRWA website (<https://www.unrwa.org>) for a general restatement of the Agency's mandate. For statistics on numbers of Palestine refugees, see also *UNRWA Statistics Bulletin*, at <https://www.unrwa.org/what-we-do/unrwa-statistics-bulletin>.

¹¹¹ Letter from the Secretary-General to the President of the General Assembly, 28 October 2024, A/79/558 (<https://docs.un.org/en/A/79/558>).

¹¹² OCHA, *Refugee Needs in the Gaza Strip*, October 2018 (https://www.ochaopt.org/sites/default/files/gaza_thematic_6_0.pdf).

“Under the current crisis in Gaza, UNRWA is the backbone of the United Nations humanitarian relief operations, providing a lifeline, shelter or other support for the large majority of the population of nearly 2.3 million in Gaza who have all been affected by the ongoing conflict, including food assistance to 1.9 million people, polio vaccinations for over 200,000 children, healthcare to 15,000 people, representing more than 60 per cent of total primary healthcare provision in Gaza, and shelters for hundreds of thousands of internally displaced persons inside and in the vicinity of over 100 schools.”¹¹³

2.52. The General Assembly describes UNRWA’s mandate as, *inter alia*, one of “human development” for the Palestinian people, thereby linking it directly to the United Nations obligation to help the Palestinian people realize their right to self-determination, including in the Occupied Palestinian Territory¹¹⁴. In this regard, after recognizing “the vital role of the Agency”, the General Assembly, in resolution 79/232 “[c]all[ed] upon Israel to uphold and comply with its obligations not to impede the Palestinian people from exercising their right to self-determination, *including by rescinding any measures that obstruct the provision of basic services and humanitarian and development assistance to the Palestinian people*”¹¹⁵.

2.53. Following a relentless campaign to disparage, discredit and defund UNRWA – described more fully in Chapter 6 – Israel adopted legislation in November 2024 further consolidating its annexation and purporting to expel UNRWA and its personnel from what it purports to claim as Israeli “sovereign territory”, including occupied East Jerusalem. The legislation prohibits the Agency’s activities in support of the Palestinian civilian population, and prevents Israeli governmental officials from engaging in any communication with the Agency or its personnel¹¹⁶. By enforcing this legislation, which took effect on 30 January 2025, Israel prevents the United Nations from upholding its permanent responsibility with regard to the Question of Palestine, including as it pertains to the exercise by the Palestinian people to its right to self-determination.

2.54. Israel has also prevented the United Nations from complying with this obligation by restricting or interfering with the presence and activities of other United Nations agencies and

¹¹³ Letter from the Secretary-General to the President of the General Assembly, 28 October 2024, A/79/558 (<https://docs.un.org/en/A/79/558>).

¹¹⁴ General Assembly, Resolution 79/88, 4 December 2024, para. 3.

¹¹⁵ General Assembly, Resolution 79/232, 19 December 2024, para. 7 (emphasis added).

¹¹⁶ Law to Cease UNRWA Operations and Law to Cease UNRWA Operations in the Territory of the State of Israel, adopted by the Knesset Assembly the 28 October 2024 (<https://main.knesset.gov.il/EN/activity/committees/Documents/LawUNRWA.docx>). See also Letter from the Secretary-General addressed to the President of the General Assembly, 28 October 2024, A/79/558 (<https://docs.un.org/en/A/79/558>).

bodies. In addition to UNRWA, other United Nations agencies and bodies operate in the Occupied Palestinian Territory at the invitation of the legitimate governmental representatives of the Palestinian people. They do so in accordance with a number of resolutions of the General Assembly and under a 1994 framework agreement between the Palestine Liberation Organization and the United Nations Development Programme (UNDP)¹¹⁷. The aim of this agreement is to, *inter alia*, “work in the fields of public-sector institution building, economic development, human development, and environmental management” for the Palestinian people in the Occupied Palestinian Territory¹¹⁸. In 2023, in furtherance of the obligation of these United Nations agencies and bodies to “continue to support and assist the Palestinian people in the early realization of their right to self-determination”, these United Nations agencies and bodies negotiated and signed the United Nations Sustainable Development Cooperation Framework (UNSDCF) with the State of Palestine.

2.55. This comprehensive plan is aimed at assisting the State of Palestine in “reducing humanitarian need, accelerating sustainable development, and building strong institutions”, all actions clearly aimed at bolstering the full realization by the Palestinian people of its right to self-determination¹¹⁹. Importantly, the inter-dependent nature of the United Nations work in Palestine in support of Palestinian self-determination is demonstrated by the UNSDCF which notes that it “is complementary to the humanitarian operations in Palestine as articulated in the Humanitarian Response Plan (HRP), [and] will be implemented through Joint Work Plans (JWT), and in close collaboration with a range of partners, including the Palestinian Government, development partners, national and international non-governmental organizations, community-based organizations, and international organizations. Facilitation by the Government of Israel ... will also be needed”¹²⁰.

2.56. Far from “Facilitation”, Israel’s prevention, hinderance and interference with the provision of urgently needed humanitarian supplies, goods, services and assistance by these agencies and bodies through UNSCDF prevents them from fulfilling their mandate, and the

¹¹⁷ Agreement between the Palestine Liberation Organization and the United Nations Development Programme, 9 May 1994 [Dossier No. N279].

¹¹⁸ *Ibid.*, para. 4.

¹¹⁹ United Nations Sustainable Development Cooperation Framework State of Palestine, State of Palestine 2023-2025, p. 8 (https://minio.uninfo.org/uninfo-production-main/69f1ae68-ac4f-487a-8ab8-67166a81a2c9_UNSDCF_Palestine_2023-2025.pdf).

¹²⁰ *Ibid.*

obligation of the United Nations, to support the Palestinian's people's exercise of the right of self-determination.

C. ISRAEL'S INTERFERENCE WITH THE PRESENCE AND ACTIVITIES OF OTHER INTERNATIONAL ORGANIZATIONS

2.57. Many international organizations, including intergovernmental and non-governmental organizations, operate in and in respect of the Occupied Palestinian Territory in support of the Palestinian people's right to self-determination, including through the provision of urgently needed supplies essential for the survival of the Palestinian civilian population as well as basic services and humanitarian and development assistance for the benefit of that population. Among these are the Organization of Islamic Cooperation, the European Union (EU), the International Committee of the Red Cross, and a number of international non-governmental organizations.

2.58. For decades, Israel has engaged in policies and practices in the Occupied Palestinian Territory that impede these and other international organizations from fulfilling their obligation to support the self-determination of the Palestinian people by, for example, equipping them to withstand their displacement and dispersal, to maintain the integrity of their territory, to exercise their permanent sovereignty over their natural resources, and to pursue their political, economic, social, and cultural development¹²¹. Arbitrary destruction of essential civilian infrastructure, such as donor-funded roads, schools, shelters, and water, sanitation and hygiene facilities, has been a marked feature of Israel's unlawful presence in the Occupied Palestinian Territory and the pursuit of its annexationist agenda¹²².

2.59. For example, Israel has repeatedly destroyed EU-funded humanitarian and development assistance projects across the Occupied Palestinian Territory on the pretext that they "lack building permits". On this alleged basis, between 2015 and 2023 a total of 927 EU or EU Member State-funded structures were demolished or seized by Israeli authorities,

¹²¹ The examples of this are too many to list, but they include destruction of donor funded and constructed schools, dwellings, water, sanitation and hygiene facilities, and other infrastructure across the West Bank. See, for example, United Nations Office for the Coordination of Humanitarian Affairs Occupied Palestinian Territory, West Bank Demolitions and Displacement, September 2018 (<https://www.unocha.org/publications/report/occupied-palestinian-territory/west-bank-demolitions-and-displacement-overview-september-2018>).

¹²² *Ibid.* See also OCHA, Lack of Permit Demolitions and Displacement in Area C, 27 May 2008 (https://www.ochaopt.org/sites/default/files/ocha_opt_special_focus_demolition_area_c.pdf).

representing a cumulative value of € 2,902,099¹²³. The EU reports that “[i]n 2023, a total of 1,177 structures were demolished or seized, throughout the West Bank, including East Jerusalem, the highest number recorded since 2016”¹²⁴. Of these, “19 % of demolitions took place in East Jerusalem, 23 % in Areas A and B, and 58 % in Area C. In total, 2.296 individuals have been displaced and 439.875 affected as a result of demolitions.”¹²⁵ As noted by the Court, Israel’s demolition of property is contrary to its obligations under IHL¹²⁶, violates the human rights of the Palestinian people¹²⁷, and amounts to prohibited discrimination¹²⁸. In its 2024 Opinion, the Court explained that “Israel’s planning policy in relation to the issuance of building permits, and in particular its practice of property demolition for lack of a building permit, which treats Palestinians differently from settlers without justification, amounts to prohibited discrimination”¹²⁹. It also amounts to a denial of the Palestinian people’s right of self-determination, and the EU’s right to carry out free of interference by Israel its *erga omnes* obligation to support the Palestinian people in the exercise of that right.

2.60. According to the United Nations Commission of Inquiry:

“Statement made by Israeli officials indicate that Palestinian construction is seen as an impediment to Israeli settlement of the West Bank, requiring acts such as confiscation, demolition and displacement, as well as a reduction in the number of international aid projects for infrastructure for Palestinians in Area C.”¹³⁰

2.61. More recently, on 9 December 2024, the Israeli government issued new regulations severely curtailing the work of international organizations operating in the Occupied Palestinian Territory¹³¹. According to these regulations Israel may deny an organization’s

¹²³ European Union, Office of the European Union Representative (West Bank and Gaza Strip, UNRWA), *One year report on demolitions and seizures in the West Bank, including East Jerusalem: Reporting Period: 1 January – 31 December 2023*, 20 November 2024 (https://www.eeas.europa.eu/delegations/palestine-occupied-palestinian-territory-west-bank-and-gaza-strip/one-year-report-demolitions-and-seizures-west-bank-including-east-jerusalem-reporting-period-1-0_en).

¹²⁴ *Ibid.*

¹²⁵ *Ibid.*

¹²⁶ 2024 Advisory Opinion, para. 213.

¹²⁷ *Ibid.*, para. 220.

¹²⁸ *Ibid.*, para. 213.

¹²⁹ *Ibid.*, para. 222.

¹³⁰ Report of the Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel, 14 September 2022, A/77/328, para. 45 (<https://docs.un.org/en/A/77/328>).

¹³¹ “‘Cutting the Head off 200 Organizations’: Inside Israel’s War on NGOs That Aid Palestinians”, *Ha’aretz*, 13 January 2025 (<https://archive.fo/2025.01.14-102844/https://www.haaretz.com/israel-news/2025-01-13/ty-article-magazine/.premium/the-west-should-know-whats-going-on-is-israel-waging-war-on-ngos-aiding-palestinians/00000194-5f82-d4d0-a1f4-ffef65ae0000>); “Ministers advance bill levying 80% tax on foreign state funding of Israeli NGOs”, *Times of Israel*, 16 February 2025 (<https://www.timesofisrael.com/ministers-vote-to-back-bill-levying-80-tax-on-foreign-state-funding-of-israeli-ngos/>); “‘Shutting People Up’: Israeli Lawmakers

request for registration, and therefore access to the Occupied Palestinian Territory, if “there is a reasonable basis to assume” that the organization opposes Israel’s existence as a “Jewish and democratic” State, if anyone affiliated with it “knowingly publishes or published public calls to boycott” Israel, or if it “actively advances delegitimization activities against the State of Israel”¹³².

2.62. As reported by the Commissioner-General of UNRWA:

“Increasingly, the Government of Israel is phasing out representation from humanitarian organisations or those engaged in reporting on the atrocities of this war and the impact on civilians. As humanitarian needs continue to increase we need more humanitarian workers not less. Humanitarian organisations and international media are prevented from doing their work properly. This has to end and restrictions must be lifted.”¹³³

For example, since 2022, Israel has refused to give visa for OHCHR staff in the Occupied Palestinian Territory. The United Nations Human Rights Commissioner at that time reminded Israel of its obligation to cooperate in good faith with the United Nations and to grant its officials the privileges and immunities, saying that “Israel’s failure to process visa applications that are necessary for my staff’s access is inconsistent with these standards, and I call on the Government to meet its international obligations in this regard. Israel’s treatment of our staff is part of a wider and worrying trend to block human rights access to the occupied Palestinian territory ... This raises the question of what exactly the Israeli authorities are trying to hide.”¹³⁴ Similarly, in 2024, Israel refused to extend visa for United Nations officials after a report listing Israel on list of parties engaging in violations against children¹³⁵.

Advance Bill Targeting Funding of Foreign-funded NGOs”, *Ha’aretz*, 20 February 2025 (<https://www.haaretz.com/israel-news/2025-02-20/ty-article/.premium/israeli-lawmakers-advance-bill-targeting-funding-of-foreign-funded-nonprofits/00000195-1fc6-d2a5-a39d-dff6adcd0000>).

¹³² “Cutting the Head off 200 Organizations’: Inside Israel’s War on NGOs That Aid Palestinians”, *Ha’aretz*, 13 January 2025 (<https://archive.fo/2025.01.14-102844/https://www.haaretz.com/israel-news/2025-01-13/ty-article-magazine/.premium/the-west-should-know-whats-going-on-is-israel-waging-war-on-ngos-aiding-palestinians/00000194-5f82-d4d0-a1f4-ffef65ae0000>).

¹³³ UNRWA, Commissioner-General, Philippe Lazzarini, “The Israeli authorities have stopped giving visas to heads and staff of international NGO community”, 17 September 2024 (<https://x.com/UNLazzarini/status/1836022950958436820>).

¹³⁴ OHCHR, “Bachelet deplores Israel’s failure to grant visas for UN Human Rights staff in the occupied Palestinian territory”, Press Releases, 30 August 2022 (<https://www.ohchr.org/en/press-releases/2022/08/bachelet-deplores-israels-failure-grant-visas-un-human-rights-staff-occupied>).

¹³⁵ “Israel denies visa extension for United Nations official after report about ‘grave violations’ against children”, *Anadolu Ajansı*, 1 August 2024 (<https://www.aa.com.tr/en/middle-east/israel-denies-visa-extension-for-un-official-after-report-about-grave-violations-against-children/3292879>).

2.63. Israel has also targeted civil society presence and activities seeking to document Israel's continuing violations of international law. Notably, Israel criminalizes domestic and international organizations, including international charities and leading Palestinian Non-Governmental Organizations that have been designated as "terrorist" organizations by Israel with the aim of defunding civil society and shrinking space for any assistance to the Palestinian people. As explained by the United Nations Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel:

"The Israeli authorities' use of anti-terror legislation to categorize civil society organizations as terrorist organizations aims to delegitimize and isolate them and undermine their activity, and to harm their international funding and support. The Commission concludes on reasonable grounds that the designations by Israeli authorities of six Palestinian NGOs as terrorist organizations and a seventh Palestinian NGO as unlawful were unjustified, undertaken to silence civil society voices, and violate human rights, including freedom of association, freedom of expression and opinion, and the rights to peaceful assembly, to privacy and to fair trial."¹³⁶

D. ISRAEL'S INTERFERENCE WITH THE PRESENCE AND ACTIVITIES OF OTHER STATES

2.64. Other States have employed different means to comply with their obligation to support the realization of the Palestinian people's right of self-determination, including through recognition of the State of Palestine, support for its membership to the United Nations, political, diplomatic, financial support to the Palestinian government, and humanitarian and development assistance to the Palestinian people.

2.65. The State of Palestine is at present recognized by 149 other States. As explained above¹³⁷, many States have agreements with the State of Palestine aimed at assisting the Palestinian people in the realization of their right to self-determination. These States and others engage in humanitarian and developmental activities in and in relation to the Occupied Palestinian Territory at the invitation of the governmental representatives of the Palestinian people as well as in accordance with their *erga omnes* obligations to help the Palestinian people realize their inalienable right to self-determination.

2.66. Although, due to its illegal presence in the Occupied Palestinian Territory, Israel lacks any legal authority to prevent or interfere with those States in their support for Palestinian

¹³⁶ Report of the Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel, 9 May 2023, A/HRC/53/22, para. 70 (<https://docs.un.org/en/A/HRC/53/22>).

¹³⁷ See above, para. 2.34.

self-determination, including their provision of humanitarian aid and assistance to the civilian population in the Occupied Palestinian Territory, it has nevertheless taken retaliatory measures against some of those States for engaging in such activities, including the destruction of various projects they have undertaken, and denying access to the Occupied Palestinian Territory for their diplomatic personnel.

2.67. For example, at the end of January 2024 Israel bombed and destroyed the Gaza Strip offices of the Belgian development agency, which provided school infrastructure and education, strengthened local governance, and offered programs that boosted the Palestinian private sector through economic initiatives¹³⁸. Following recognition of the State of Palestine by Norway in May 2024, Israel revoked the accreditation of eight Norwegian diplomats who had been posted to Norway's representative office to the State of Palestine in the Occupied Palestinian Territory¹³⁹.

V. Conclusion

2.68. Israel has no sovereignty and may not exercise sovereign powers in or in relation to the Occupied Palestinian Territory, a territory in which it is unlawfully present. It has an obligation to end its unlawful presence in the Occupied Palestinian Territory as rapidly as possible. It therefore has no legal authority to prevent, hinder or interfere with the provision of urgently needed supplies, basic goods or services, or humanitarian or developmental assistance for the benefit of the Palestinian civilian population; and any such prevention, hinderance or interference violates the Palestinian people's inalienable right to self-determination including their right to their independent State over the entirety of the Occupied Palestinian Territory.

2.69. Israel has also the obligation to cease interfering and obstructing the fulfilment by the United Nations, other international organizations and other States of their obligations to support and facilitate the realization of the Palestinian people's right of self-determination.

¹³⁸ "Belgium summons Israeli envoy to protest bombing of development agency in Gaza", *Times of Israel*, 2 February 2024 (<https://www.timesofisrael.com/belgium-summons-israeli-envoy-to-protest-bombing-of-development-agency-in-gaza/>).

¹³⁹ Laura Hülsemann and Shawn Pogatchnik, "Israel expels 8 Norwegian diplomats over Palestine spat", *Politico*, 8 August 2024 (<https://www.politico.eu/article/israel-norwegian-diplomat-palestine-diplomacy-may-war-icc/>).

Chapter 3.

ISRAEL'S BREACHES OF ITS OBLIGATIONS UNDER INTERNATIONAL HUMANITARIAN LAW

3.1. Although Israel's presence in the Occupied Palestinian Territory is unlawful and must be brought to an end, Israel is still bound to comply with international humanitarian law in relation to the Occupied Palestinian Territory for as long as the occupation lasts, and this entails obligations to the Palestinian population, the State of Palestine, and other States. As the Court explained:

“[T]he conclusion that Israel's continued presence in the Occupied Palestinian Territory is illegal does not release it from its obligations and responsibilities under international law, particularly the law of occupation, towards the Palestinian population and towards other States in respect of the exercise of its powers in relation to the territory until such time as its presence is brought to an end. It is the effective control of a territory, regardless of its legal status under international law, which determines the basis of the responsibility of a State for its acts affecting the population of the territory or other States”¹⁴⁰.

3.2. The law of occupation that applies to Israel includes the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949 (“Fourth Geneva Convention”)¹⁴¹, of which Israel and Palestine are States Parties¹⁴².

3.3. The Fourth Geneva Convention imposes obligations on Israel that are directly relevant to the question before the Court. Article 55, for example, obligates Israel “to the fullest extent of the means available to it” to ensure provision of “the food and medical supplies of the population”. Under this Article, Israel has an affirmative duty to “bring in the necessary foodstuffs, medical stores and other articles if the resources of the occupied territory are inadequate”, which is indisputably the case throughout the Gaza Strip. Article 55 is supplemented by Article 69 (1) of the Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Civilian Victims of International Armed Conflicts of 8 June 1977 (“Additional Protocol I”)¹⁴³, which reflects customary international law and, therefore, forms part of the law of occupation that is binding on Israel¹⁴⁴. Article

¹⁴⁰ 2024 Advisory Opinion, para. 264.

¹⁴¹ United Nations, *Treaty Series (UNTS)*, Vol. 75, p. 287.

¹⁴² 2024 Advisory Opinion, paras. 96 and 101.

¹⁴³ *UNTS*, Vol. 1125, p. 3.

¹⁴⁴ J. Pictet *et al.*, *Commentary on the Additional Protocols of 8 June 1977 to the Geneva Conventions of 12 August 1949* (ICRC, 1987), p. 20, para. 7. See also *Wall Opinion*, p. 199, para. 157; *Legality of the Threat or*

69 (1) requires Israel to ensure the provision of “clothing, bedding, means of shelter, other supplies essential to the survival of the civilian population of the occupied territory and objects necessary for religious worship”.

3.4. Israel is further obligated, under Article 56 of the Fourth Geneva Convention, “to the fullest extent of the means available to it” to ensure and maintain – with the “co-operation of national and local authorities”, i.e., the State of Palestine – “the medical and hospital establishments and services, public health and hygiene in the occupied territory”. This duty includes “the adoption and application of the prophylactic and preventive measures necessary to combat the spread of contagious diseases and epidemics”. Further: “Medical personnel of all categories shall be allowed to carry out their duties.”

3.5. Article 59 of the Convention imposes an obligation on Israel, in parts of the occupied territory where the population is inadequately supplied, to “agree to relief schemes on behalf of the said population, and [to] facilitate them by all the means at its disposal”, including “the provision of consignments of foodstuffs, medical supplies and clothing” from third parties. This is a non-exhaustive list. The ICRC’s commentary on Article 59 states that “consignments need not be restricted to these items”, explaining that these categories have been singled out because they are “of vital importance”¹⁴⁵.

3.6. The “relief schemes” to which Israel must agree under Article 59 “may be undertaken either by States or by impartial humanitarian organizations such as the International Committee of the Red Cross”¹⁴⁶. The ICRC commentary observes that this provision is “general enough to cover any institutions or organizations capable of acting effectively and worthy of trust”¹⁴⁷. Plainly, this includes the United Nations, its agencies and bodies, and other “capable”

Use of Nuclear Weapons, Advisory Opinion, I.C.J. Reports 1996 (I), p. 257, para. 79. Also binding on Israel are the 1907 Hague Convention IV Respecting the Laws and Customs of War on Land, with its annexed Regulations (the “Hague Regulations”) which, the Court observed, have become part of customary international law (*Wall Opinion*, p. 172, para. 89). Israel is also obligated to provide or facilitate the provision of food, clothing and housing to the civilian population of the Occupied Palestinian Territory under international human rights law, especially the Art. 11 of the International Covenant on Economic Civil and Social Rights to which Israel is a State Party, and to which, the Court has found, it is bound in respect of the Occupied Palestinian Territory (see *Wall Opinion*, p. 180, para. 112).

¹⁴⁵ J. Pictet, *Commentary: IV Geneva Convention Relative to the Protection of Civilian Persons in Time of War* (ICRC, 1958), p. 321.

¹⁴⁶ *Ibid.*

¹⁴⁷ *Ibid.*

international organizations, both inter-governmental and non-governmental. The commentary notes in this regard that the Convention:

“does not lay down any rule in regard to the donors; the immensity of the needs will make it desirable to accept the co-operation of any person, organization or institution which can lend assistance, provided that such assistance is not used for purposes of political propaganda”¹⁴⁸.

3.7. Israel’s obligation as an occupying Power to accept and facilitate provision of the relief offered by capable third parties is “unconditional”, according to the ICRC commentary¹⁴⁹. Moreover, Article 60 further emphasizes that “[r]elief consignments shall in no way relieve the Occupying Power of any of its responsibilities under Articles 55, 56 and 59”¹⁵⁰.

3.8. Israel has violated all these rules throughout the Occupied Palestinian Territory, most brazenly in the Gaza Strip, especially since 7 October 2023. On 9 October 2023, Israel announced a complete siege of the Gaza Strip, cutting off essential resources and the movement of goods and heavily restricting the population’s access to food, water, medicines, fuel, and electricity. All crossings between Israel and the Gaza Strip were sealed, blocking regular and humanitarian aid deliveries¹⁵¹. Israel’s Defence Minister at the time, Yoav Gallant, framed Israel’s strategy in these terms: “a complete siege ... no electricity, no water, no food, no fuel. We are fighting human animals, and we are acting accordingly”¹⁵². The United Nations Commission of Inquiry concluded in June 2024 that “[t]hroughout the siege on Gaza, Israel has weaponized the withholding of life-sustaining necessities, specifically by cutting off supplies of water, food, electricity, fuel and other essential supplies, including humanitarian assistance”¹⁵³. Such actions have been undertaken deliberately and systematically by the occupying Power in collective punishment of the Palestinian civilian population and in

¹⁴⁸ *Ibid.*

¹⁴⁹ *Ibid.*, p. 320.

¹⁵⁰ Fourth Geneva Convention, Art. 60.

¹⁵¹ Report of the Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel, 14 June 2024, A/HRC/56/26, para. 48 (<https://docs.un.org/en/A/HRC/56/26>).

¹⁵² “We are fighting human animals” said Israeli Defence Minister Yoav Gallant, *Youtube*, 10 October 2023 (<https://www.youtube.com/watch?v=ZbPdR3E4hCk>).

¹⁵³ Report of the Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel, 14 June 2024, A/HRC/56/26, para. 102 (<https://docs.un.org/en/A/HRC/56/26>).

furtherance of its illegal presence in the Occupied Palestinian Territory as well as in grave breach of its international legal obligations.

3.9. Israel’s failure to fulfil its obligation to ensure and facilitate, rather than block or “weaponize”, provision of the essentials of life to the Palestinian civilian population, and the desperate situation in which Israel placed that population, led to urgent actions by the Security Council and the General Assembly. In resolution 2720 (2023), the Security Council:

“*Recogniz[ed]* that the civilian population in the Gaza Strip must have access to sufficient quantities of assistance that they need, including enough food, water, sanitation, electricity, telecommunications and medical services essential for their survival, and that the provision of humanitarian supplies in the Gaza Strip needs to be sufficient to alleviate the massive humanitarian needs of the Palestinian civilian population throughout the Gaza Strip, and *recogniz[ed]* the importance of resuming commercial imports of essential goods and services into the Gaza Strip, [and]

.....
Reaffirm[ed] the obligations of the parties to the conflict under international humanitarian law regarding the provision of humanitarian assistance, *demand[ed]* that they allow, facilitate and enable the immediate, safe and unhindered delivery of humanitarian assistance at scale directly to the Palestinian civilian population throughout the Gaza Strip, and in this regard *call[ed]* for urgent steps to immediately allow safe, unhindered, and expanded humanitarian access and to create the conditions for a sustainable cessation of hostilities”¹⁵⁴.

3.10. This followed the General Assembly’s adoption of resolution ES-10/21, on 27 October 2023, which:

“*demand[ed]* the immediate, continuous, sufficient and unhindered provision of essential goods and services to civilians throughout the Gaza Strip, including but not limited to water, food, medical supplies, fuel and electricity, stressing the imperative, under international humanitarian law, of ensuring that civilians are not deprived of objects indispensable to their survival”¹⁵⁵.

3.11. Israel’s obligation to ensure the provision of essential supplies and services to the civilian population of the Gaza Strip was confirmed by the Court in its Order on Provisional Measures of 28 March 2024 in *South Africa v. Israel*. After “observ[ing] with regret” that “the catastrophic living conditions of the Palestinian people in the Gaza Strip have deteriorated further, in particular view of the prolonged and widespread deprivation of food and other basic

¹⁵⁴ Security Council, Resolution 2720 (2023), 23 December 2023, preamble and para. 2.

¹⁵⁵ General Assembly, Resolution ES-10/21, 27 October 2023, para. 3.

necessities to which the Palestinians in the Gaza Strip have been subjected”¹⁵⁶, the Court ordered Israel, *inter alia*:

“[to] take all necessary and effective measures to ensure, without delay, in full co-operation with the United Nations, the unhindered provision at scale by all concerned of urgently needed basic services and humanitarian assistance, including food, water, electricity, fuel, shelter, clothing, hygiene and sanitation requirements, as well as medical supplies and medical care to Palestinians throughout Gaza, including by increasing the capacity and number of land crossing points and maintaining them open for as long as necessary”¹⁵⁷.

3.12. To this end, the Court required Israel to: “Ensure with immediate effect that its military does not commit acts which constitute a violation of any of the rights of the Palestinians in Gaza as a protected group ... including by preventing, through any action, the delivery of urgently needed humanitarian assistance.”¹⁵⁸

3.13. Israel did not comply with the Court’s Order. Consequently, two months later, in its Order of 24 May 2024, the Court found “that the catastrophic humanitarian situation in the Gaza Strip which, as stated in its Order of 26 January 2024, was at serious risk of deteriorating, has deteriorated, and has done so even further since the Court adopted its Order of 28 March 2024 ... and that the humanitarian situation is now to be characterized as disastrous”¹⁵⁹.

3.14. In these circumstances, the Court ordered further provisional measures, including that Israel “[i]mmediately halt its military offensive, and any other action in the Rafah Governorate, which may inflict on the Palestinian group in Gaza conditions of life that could bring about its physical destruction in whole or in part”; “[m]aintain open the Rafah crossing for unhindered provision at scale of urgently needed basic services and humanitarian assistance”; and “[t]ake effective measures to ensure the unimpeded access to the Gaza Strip

¹⁵⁶ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel), Request for the modification of the Order of 26 January 2024 indicating provisional measures*, Order of 28 March 2024, para. 18.

¹⁵⁷ *Ibid.*, para. 45.

¹⁵⁸ *Ibid.*, para. 51 (2) (b).

¹⁵⁹ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel), Request for the modification of the Order of 28 March 2024 indicating provisional measures*, Order of 24 May 2024, para. 28.

of any commission of inquiry, fact-finding mission or other investigative body mandated by competent organs of the United Nations to investigate allegations of genocide”¹⁶⁰.

3.15. Israel did not comply with these obligations, either. To the contrary, it tightened further the restrictions on provision of essential supplies required for the survival of the Palestinian civilian population in the Gaza Strip closing the Rafah crossing all together and maintaining its siege. As revealed by Israeli government and military officials, Israel’s actions were consistent with the “General’s Plan”, pursuant to which – according to its author, a senior advisor to the Minister of Defence¹⁶¹ – Israel set out “to conquer” and “take” the northern part of the Gaza Strip by presenting a false “choice” to the Palestinian people in the area: (1) either leave the area by heading south to the so-called “safe-zone” at al-Mawasi which has continued to be bombarded and besieged by Israel; or (2) “die in starvation” through a total “military siege” of the area, involving the complete stoppage of “everything”, including “food, fuel, water”¹⁶².

3.16. The prohibition of starvation as a method of warfare was codified in Article 54 (1) of Additional Protocol I¹⁶³. Under the Statute of the International Criminal Court, “[i]ntentionally using starvation of civilians as a method of warfare” is a war crime in international armed conflicts¹⁶⁴.

3.17. In carrying out this policy against the civilian population of the Gaza Strip, while systematically preventing access by humanitarian organizations, Israel has not only prevented, hindered and interfered with the provision of food, it has attacked and destroyed food storage facilities, food delivery vehicles and aid workers engaged in food distribution in the Gaza Strip, leading the International Criminal Court (ICC) to charge Israel’s Prime Minister, Benjamin Netanyahu, and Israel’s former Minister of Defence, Yoav Gallant, with the war crime of starvation. The Pre-Trial Chamber of the ICC concluded:

“[T]here are reasonable grounds to believe that both individuals intentionally and knowingly deprived the civilian population in Gaza of objects indispensable to their

¹⁶⁰ *Ibid.*, para. 57 (2) (a), (b) and (c).

¹⁶¹ “Former security officials and strategic advisor: the ‘cabinet’ established by Gallant for himself”, Yedioth Ahronoth, 26 October 2023 (<https://www.ynet.co.il/news/article/r1zlcnoqa>).

¹⁶² “Watch Webinar – The General’s Plan for Gaza” (interview with Maj. Gen. (ret.) Giora Eiland), *Jewish Institute for National Security of America*, 21 October 2024 (<https://jinsa.org/the-generals-plan-for-gaza/>, at 13:40, 15:14-18:00).

¹⁶³ Additional Protocol I, Art. 54 (1).

¹⁶⁴ Rome Statute of the International Criminal Court, Art. 8 (2) (b) (xxv).

survival, including food, water, and medicine and medical supplies, as well as fuel and electricity, from at least 8 October 2023 to 20 May 2024. This finding is based on the role of Mr Netanyahu and Mr Gallant in impeding humanitarian aid in violation of international humanitarian law and their failure to facilitate relief by all means at its disposal. The Chamber found that their conduct led to the disruption of the ability of humanitarian organisations to provide food and other essential goods to the population in need in Gaza. The aforementioned restrictions together with cutting off electricity and reducing fuel supply also had a severe impact on the availability of water in Gaza and the ability of hospitals to provide medical care. The Chamber also noted that decisions allowing or increasing humanitarian assistance into Gaza were often conditional. They were not made to fulfil Israel's obligations under international humanitarian law or to ensure that the civilian population in Gaza would be adequately supplied with goods in need. In fact, they were a response to the pressure of the international community or requests by the United States of America. In any event, the increases in humanitarian assistance were not sufficient to improve the population's access to essential goods. Furthermore, the Chamber found reasonable grounds to believe that no clear military need or other justification under international humanitarian law could be identified for the restrictions placed on access for humanitarian relief operations. Despite warnings and appeals made by, *inter alia*, the UN Security Council, UN Secretary General, States, and governmental and civil society organisations about the humanitarian situation in Gaza, only minimal humanitarian assistance was authorised. In this regard, the Chamber considered the prolonged period of deprivation and Mr Netanyahu's statement connecting the halt in the essential goods and humanitarian aid with the goals of war."¹⁶⁵

3.18. The Pre-Trial Chamber similarly concluded that there were “reasonable grounds to believe that the lack of food, water, electricity and fuel, and specific medical supplies, created conditions of life calculated to bring about the destruction of part of the civilian population in the Gaza Strip, which resulted in the death of civilians, including children due to malnutrition and dehydration”. On the basis of “material presented by the Prosecution covering the period until 20 May 2024”, the Chamber found “that there are reasonable grounds to believe that the crime against humanity of murder was committed in relation to these victims” by the Israel's Prime Minister and former Defence Minister¹⁶⁶.

3.19. Israel has also prevented, hindered and interfered with the provision by the United Nations, international organizations and third States of medical supplies and health care services to the Palestinian civilian population. It has also attacked and destroyed almost every hospital and clinic in Gaza, bombed ambulances and other medical vehicles, and killed,

¹⁶⁵ ICC, “Situation in the State of Palestine: ICC Pre-Trial Chamber I rejects the State of Israel's challenges to jurisdiction and issues warrants of arrest for Benjamin Netanyahu and Yoav Gallant”, Press Release, 21 November 2024 (<https://www.icc-cpi.int/news/situation-state-palestine-icc-pre-trial-chamber-i-rejects-state-israels-challenges>).

¹⁶⁶ *Ibid.*

wounded and detained hundreds of physicians, nurses and other medical personnel engaged in the treatment of Palestinian civilians. This includes the destruction of 19 hospitals¹⁶⁷, in blatant violation of Article 18 of the Fourth Geneva Convention:

“Civilian hospitals organized to give care to the wounded and sick, the infirm and maternity cases, may in no circumstances be the object of attack, but shall at all times be respected and protected by the Parties to the conflict.”¹⁶⁸

3.20. Article 20 provides that:

“Persons regularly and solely engaged in the operation and administration of civilian hospitals, including the personnel engaged in the search for, removal and transporting of and caring for wounded and sick civilians, the infirm and maternity cases, shall be respected and protected.”¹⁶⁹

3.21. Israel had repeatedly and egregiously violated this obligation. In its report on attacks on hospitals, the Office of the United Nations High Commissioner for Human Rights stated:

“As part of its siege of hospitals, the Israel military blocked the delivery of essential medical and other supplies to these hospitals creating life-threatening shortages. This was seen with shortages of medicine as well as fuel, oxygen, and food during sieges of Al Awda Hospital and Kamal Adwan Hospital in December [2023], and of Al Amal Hospital in January/February [2024] ... The denial of food and medical supplies to civilians trapped inside hospitals runs counter to several obligations of parties to the conflict to respect and protect medical units, which includes ensuring their unhampered functioning, the prohibition of starvation as a method of warfare, and the obligation to allow and facilitate rapid and unimpeded passage of humanitarian relief to civilians in need. The manner in which the sieges were conducted also calls into question the IDF’s respect of its obligation to take constant care to spare the civilian population, civilians and civilian objects in the conduct of military operations, while the impact of the sieges on civilians was entirely foreseeable.”¹⁷⁰

¹⁶⁷ OCHA, Reported impact snapshot | Gaza Strip, 5 November 2024 (<https://www.ochaopt.org/content/reported-impact-snapshot-gaza-strip-5-november-2024>).

¹⁶⁸ Fourth Geneva Convention, Art. 18.

¹⁶⁹ *Ibid.*, Art. 20.

¹⁷⁰ OHCHR, Thematic Reports: Attacks on Hospitals During the Escalation of Hostilities in Gaza, 31 December 2024, para. 45 (<https://www.ohchr.org/sites/default/files/documents/countries/opt/20241231-attacks-hospitals-gaza-en.pdf>).

3.22. According to the October 2024 report of the United Nations Independent International Commission of Inquiry¹⁷¹, which concluded that “Israel has implemented a concerted policy to destroy the health-care system of Gaza”¹⁷², and, in particular, that:

“Israeli security forces have deliberately killed, wounded, arrested, detained, mistreated and tortured medical personnel and targeted medical vehicles, constituting the war crimes of wilful killing and mistreatment and the crime against humanity of extermination.”¹⁷³

3.23. These conclusions echo those of the Pre-Trial Chamber of the ICC that determined that by “intentionally limiting or preventing medical supplies and medicine from getting into Gaza, in particular anaesthetics and anaesthesia machines” Prime Minister Benjamin Netanyahu and former Defence Minister Yoav Gallant are “responsible for inflicting great suffering by means of inhumane acts on persons in need of treatment”. The Pre-Trial Chamber noted, in particular:

“Doctors were forced to operate on wounded persons and carry out amputations, including on children, without anaesthetics, and/or were forced to use inadequate and unsafe means to sedate patients, causing these persons extreme pain and suffering. This amounts to the crime against humanity of other inhumane acts.”¹⁷⁴

3.24. Israel’s policy of impeding, restricting and blocking humanitarian assistance and basic services to the Palestinian population in the Gaza Strip has been in effect for almost two decades. The Office of the High Commissioner for Human Rights concluded that:

“The 17-year blockade of Gaza in the context of Israel’s 57-year occupation, combined with the destruction caused by repeated escalations of hostilities since 2008, during which Israeli forces regularly bombed Gaza, had created broad dependence on external aid and heavily restricted access and movement of people and goods in and out of Gaza, including those essential for healthcare. This created the conditions for endemic shortcomings in healthcare provision and recurring violations of Palestinians’ human rights in Gaza, including their rights to life and health.”¹⁷⁵

¹⁷¹ See above, para. 2.18.

¹⁷² Report of the Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel, 11 September 2024, A/79/232, para. 89 (<https://docs.un.org/en/A/79/232>).

¹⁷³ *Ibid.*, para. 89.

¹⁷⁴ ICC, “Situation in the State of Palestine: ICC Pre-Trial Chamber I rejects the State of Israel’s challenges to jurisdiction and issues warrants of arrest for Benjamin Netanyahu and Yoav Gallant”, Press Release, 21 November 2024 (<https://www.icc-cpi.int/news/situation-state-palestine-icc-pre-trial-chamber-i-rejects-state-israels-challenges>).

¹⁷⁵ OHCHR, Thematic Reports: Attacks on Hospitals During the Escalation of Hostilities in Gaza, 31 December 2024, para. 3 (<https://www.ohchr.org/sites/default/files/documents/countries/opt/20241231-attacks-hospitals-gaza-en.pdf>).

3.25. According to the Office of the United Nations High Commissioner for Human Rights, Israel's policies and practices since 7 October 2023 have:

“placed the health care system in Gaza on the brink of total collapse, seriously impacting Palestinians’ access to health and medical care at a time of tremendous need”¹⁷⁶.

3.26. Israel is pursuing similar policies in the West Bank, notably during its latest military assaults against refugee camps at Jenin, Tulkarm, Nur Shams, and El Far’a refugee camps. Documenting Israel’s policies, OCHA explained that:

“In the longest operation by Israeli forces in the West Bank in two decades, Israeli forces have killed 44 Palestinians, including an eight-month pregnant woman, and caused widespread destruction to homes and infrastructure. Over 40,000 Palestinians have been displaced from four refugee camps and surrounding areas in Jenin, Tulkarm and Tubas. The World Health Organization documented 694 attacks on health care between April and December 2024, 77 per cent of which involved obstruction of health care delivery.”¹⁷⁷

3.27. Israel’s prevention, hinderance and interference with the provision of food, water, medicines, health care, shelter and other urgently needed supplies, goods, services and humanitarian assistance to the Palestinian civilian population also violates its obligations under Article 33 of the Fourth Geneva Convention, which prohibits collective punishment: “No protected person may be punished for an offence he or she has not personally committed. Collective penalties and likewise all measures of intimidation or of terrorism are prohibited.”¹⁷⁸

3.28. Under international humanitarian law, there are no exceptions to the obligations borne by the occupying Power in regard to its duty to ensure and facilitate the provision of essential supplies, goods and services to the civilian population of the occupied territory, directly or through the relief schemes of third parties. Article 59 expressly mandates that the occupying Power “shall permit the free passage of these consignments and shall guarantee their protection”, even when it is enforcing a blockade. The ICRC commentary describes this obligation as a “keystone of the whole system”¹⁷⁹. It explains:

¹⁷⁶ *Ibid.*, para. 30.

¹⁷⁷ OCHA, Humanitarian Situation Update #264 | West Bank, 13 February 2025 (<https://www.unocha.org/attachments/1fcf2637-1c37-407f-9495-839b52580bbb/OPT.pdf>).

¹⁷⁸ Fourth Geneva Convention, Art. 33.

¹⁷⁹ J. Pictet, *Commentary: IV Geneva Convention Relative to the Protection of Civilian Persons in Time of War* (ICRC, 1958), p. 321.

“The principle of free passage ... means that relief consignments for the population of an occupied territory must be allowed to pass through the blockade; they cannot under any circumstances be declared war contraband or be seized as such by those enforcing the blockade.

The obligation to authorize the free passage of relief consignments is accompanied by the obligation to guarantee their protection. It will not be enough merely to lift the blockade and refrain from attacking or confiscating the goods. More than that will be required: all the States concerned must respect the consignments and protect them when they are exposed to danger through military operations.”¹⁸⁰

3.29. Article 59 entitles a High Contracting Party to verify and supervise relief consignments that cross its territory, but not to delay, divert or requisition them:

“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.”¹⁸¹

3.30. The right to verify consignments is to ensure that the consignments “do in fact consist of relief supplies and do not contain weapons, munitions, military equipment or other articles or supplies used for military purposes”¹⁸². The ICRC commentary makes clear that measures for the verification and regulation of consignments “must in no case be misused in order to make the rule itself inoperative or unduly delay the forwarding of relief”¹⁸³.

3.31. This is even more true for an occupying Power, which has specific obligations under international humanitarian law towards the civilian population of the occupied territory. Israel, therefore, is under an obligation not to disrupt or deny – on alleged security grounds – the delivery of urgently needed non-military supplies, or basic goods or services, or humanitarian or developmental assistance, required for the sustenance of the Palestinian civilian population of the Occupied Palestinian Territory.

¹⁸⁰ *Ibid.*, p. 322.

¹⁸¹ Fourth Geneva Convention, Art. 59.

¹⁸² J. Pictet, *Commentary: IV Geneva Convention Relative to the Protection of Civilian Persons in Time of War* (ICRC, 1958), p. 322.

¹⁸³ *Ibid.*

3.32. Under Article 61, Israel is obligated to “facilitate the rapid distribution of these consignments”. The ICRC commentary spells out what “rapid distribution” means:

“The effect of a relief scheme will depend above all on the time the consignments take to reach the recipients; it is therefore important for the occupation authorities to take all necessary steps to facilitate their despatch and distribution (cutting out red tape, making transport available, granting permits allowing freedom of movement, facilities of all kinds for the staff of the distributing and supervising bodies, etc.).”¹⁸⁴

3.33. Israel has breached, and continues to breach, these obligations. Even when it does not block the provision of essential supplies to the Palestinian civilian population outright, it imposes stringent and unjustifiable conditions on their delivery far beyond what is allowable under the Fourth Geneva Convention. As described by the OCHA:

“Humanitarian operations in Gaza continue to face severe humanitarian access restrictions, including the ongoing closure of key crossings, denials of planned missions, and delays in movements imposed by Israeli authorities. The combination of severe access constraints and ongoing insecurity has resulted in a non-permissive and volatile operational environment for humanitarian actors.”¹⁸⁵

3.34. The Under-Secretary-General for Humanitarian Affairs denounced these severe restrictions imposed by Israel and demanded their lifting:

“Limits to aid distribution within Gaza are set by those who block the movements of convoys meant to feed tens of thousands of critically hungry people. They are set by those who denied the access of every fifth humanitarian mission to northern Gaza in the first half of March. They are set by those who refuse to open crossing points leading directly to the north where hundreds of thousands of people are at imminent risk of famine. They are set by those who block the entry of lifesaving supplies for hospitals and water purification. And they are set by those who continue to bombard Gaza. We need Israel to lift all impediments to aid. We need a ceasefire now.”¹⁸⁶

3.35. Contrary to its obligations under Articles 55, 56, 59 and 61 under the Fourth Geneva Convention, Israel blocks or delays relief consignments for long periods while it exhaustively inspects them for so-called “dual use” items. The effects are compounded by Israel’s definition of “dual use” or lack thereof, which it uses as a pretext to cover a far broader range of goods than those internationally recognized as such. International organizations have reported that

¹⁸⁴ *Ibid.*, p. 328.

¹⁸⁵ OCHA, Humanitarian Access Snapshot – Gaza Strip | 1-30 April 2024, 10 May 2024 (<https://www.ochaopt.org/content/humanitarian-access-snapshot-gaza-strip-1-30-april-2024>).

¹⁸⁶ Post of the OCHA, Tom Fletcher, @UNReliefChief, 5:45pm, 22 March 2024 (<https://x.com/unreliefchief/status/1771216523262034374>).

consignments containing water pipes, water quality control testing kits, hygiene materials, tent poles, survivor blankets, candles, and insulin pens have been rejected on this basis¹⁸⁷. Israel itself provides little guidance on this, reserving for itself unlimited discretion. Refugees International has reported that, in the absence of clear criteria from Israel, “humanitarian actors have had to resort to informally crowdsourcing their own lists of approved and rejected items, accumulated based on the collective experiences of individual organizations”¹⁸⁸. Furthermore, “[a]ccording to UN personnel, if even a single item on a truck is rejected, the entire cargo faces rejection and must return to its origin”¹⁸⁹. This “has left Israel with a veto over all aid deliveries into Gaza” which it exercises “capriciously and often arbitrarily”¹⁹⁰.

3.36. Accordingly, by its prevention, hinderance and interference with the provision of supplies, goods, services and humanitarian and developmental assistance to the civilian population of the Occupied Palestinian Territory, Israel has violated, and continues to violate, its obligations under international humanitarian law, and in so-doing, Israeli officials, including the Israeli Prime Minister and former Defence minister have committed war crimes and crimes against humanity against the Palestinian population. They have also committed acts of genocide, as dealt with in the following Chapter.

¹⁸⁷ Association of International Development Agencies, Snapshot of Deprivation of Humanitarian Aid in the Gaza Strip, 20 February 2024 (<https://aidajerusalem.org/download/snapshot-of-deprivation-of-humanitarian-aid-in-the-gaza-strip/>).

¹⁸⁸ Refugees International, *Siege and Starvation: How Israel Obstructs Aid to Gaza*, Report, March 2024, p. 26 (<https://d3jwam0i5codb7.cloudfront.net/wp-content/uploads/2024/03/Gaza-Report-Mar-2024-FINAL.pdf>).

¹⁸⁹ *Ibid.*, p. 20.

¹⁹⁰ *Ibid.*, p. 19.

Chapter 4.

ISRAEL'S BREACHES OF ITS OBLIGATIONS AS A MEMBER OF THE UNITED NATIONS AND THE INTERNATIONAL COMMUNITY OF STATES

4.1. The State of Palestine has focused in the previous Chapter on Israel's obligations as occupying power, demonstrating that by obstructing, preventing and adopting severe restrictions on "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", Israel has breached and is breaching its obligations imposed by international humanitarian law. The present chapter focuses on Israel's obligations as Member of the United Nations and will show that its actions also constitute breaches of the Charter and of the obligations Israel has undertaken to honour when admitted as Member of the United Nations. This chapter will also show that, at the same time, Israel's actions constitute violations of peremptory norms of general international law, violate the human rights and fundamental freedoms of the Palestinians and *contribute to Israel's* genocide against the Palestinian people.

I. Israel's Obstruction of and Restrictions on Third Parties' Presence are Breaches of its Obligations under the Charter

A. THE UNDERTAKINGS MADE BY ISRAEL ON BECOMING A MEMBER OF THE UNITED NATIONS

4.2. On 29 November 1948, the Israeli Minister of Foreign Affairs requested "the admission of Israel as a Member of the United Nations in accordance with Article 4 of the Charter"¹⁹¹. In an appendix to this letter, he submitted the required declaration stating:

"On behalf of the State of Israel, I, Moshe Shertok, Minister for Foreign Affairs, being duly authorized by the State Council of Israel, declare that the State of Israel hereby unreservedly accepts the obligations of the United Nations Charter and undertakes to honour them from the day when it becomes a Member of the United Nations."¹⁹²

This declaration constitutes an acceptance to be bound by the Charter, recalling Article 4 (1) of the United Nations Charter which provides that:

¹⁹¹ Letter from Israel's Foreign Minister to the Secretary-General concerning Israel's Application for Admission to Membership of the United Nations and Declaration accepting Obligations under the Charter, 29 November 1948, S/1093.

¹⁹² *Ibid.*

“Membership in the United Nations is open to all other peace-loving states which accept the obligations contained in the present Charter and, in the judgment of the Organization, are able and willing to carry out these obligations.”

4.3. On 11 May 1949, Israel was admitted as a Member of the United Nations by resolution 273 (III) which noted “the declaration by the State of Israel that it ‘unreservedly accepts the obligations of the United Nations Charter and undertakes to honour them from the day when it becomes a Member of the United Nations’”¹⁹³ and which recalled the General Assembly “resolutions of 29 November 1947 [i.e., resolution 181 (II)] and 11 December 1948 [i.e., resolution 194 (III)] and t[ook] note of the declarations and explanations made by the representative of the Government of Israel before the ad hoc Political Committee in respect of the implementation of the said resolutions”¹⁹⁴.

4.4. To secure its membership in the United Nations, Israel had stressed that it “held no views and pursued no policies on any questions which were inconsistent with the Charter or with the resolutions of the General Assembly and the Security Council”¹⁹⁵. It was based on that commitment, notably as it pertains to General Assembly resolutions 181 (II) and 194 (III), that Israel was eventually granted membership.

4.5. Resolution 181 (II) recommended “to the United Kingdom, as the mandatory Power for Palestine, and to all other Members of the United Nations the adoption and implementation” of the Partition Plan. Whilst a recommendation, Israel proclaimed in May 1948 the establishment of a State “on the strength of the resolution of the United Nations General Assembly”¹⁹⁶, while the Palestinian people suffered the *Nakba* (Arabic word for “catastrophe”), which refers to their dispossession and mass forcible displacement by Israel. By the time an armistice agreement was concluded in 1949, Israel had seized control of 78 % of historic Palestine, far more territory than allotted to it under the Partition Plan, with the remainder of historic Palestine, namely the West Bank, including East Jerusalem, and the Gaza

¹⁹³ General Assembly, Resolution 273 (III), 11 May 1949, preamble (footnote omitted). See also Letter dated 29 November 1948 from Israel’s Foreign Minister to the Secretary-General, S/1093, Annex.

¹⁹⁴ General Assembly, Resolution 273 (III), 11 May 1949, preamble (footnotes omitted). See also Official Records of the General Assembly, Third Session, *Ad hoc* Political Committee, 45th – 48th, 50th and 51st meetings, 5 – 7, and 9 May 1949, A/AC.24/SR.45-48, 50 and 51.

¹⁹⁵ *Ibid.*, 45th meeting, 5 May 1949, A/AC.24/SR.45, p. 230 (<https://docs.un.org/en/A/AC.24/SR.45>).

¹⁹⁶ For the text of the Declaration, see the Knesset website at <https://main.knesset.gov.il/en/about/pages/declaration.aspx>.

Strip, coming under Jordanian and Egyptian administration respectively, in accordance with the 1949 Armistice Agreement, and along the armistice line, referred to as the “Green Line”.

4.6. In December 1948, the General Assembly adopted resolution 194 (III), in which the Assembly:

“[r]esolve[d] that, in view of its association with three world religions, the Jerusalem area, including the present municipality of Jerusalem plus the surrounding villages and towns ... should be accorded special and separate treatment from the rest of Palestine and should be placed under effective United Nations control; [and]

.....

[i]nstruct[ed] the Conciliation Commission to present to ... the General Assembly detailed proposals for a permanent international regime for the Jerusalem area ... consistent with the special international status of the Jerusalem area”¹⁹⁷.

The General Assembly further:

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

.....

[i]nstruct[ed] the Conciliation Commission to facilitate the repatriation, resettlement and economic and social rehabilitation of the refugees and the payment of compensation”¹⁹⁸.

4.7. However, instead of upholding the commitments undertaken on behalf of the government of Israel, the Israeli Foreign Minister, immediately after membership was granted, stated that the war and its aftermath:

“had changed some elements of the pattern envisaged in the resolution of 29 November 1947 [i.e., resolution 181 (II)]. The changes must perforce find their expression in the future peace settlement. There was no intrinsic reason why those modifications, based on new realities, should not become the subject of general consent”¹⁹⁹.

¹⁹⁷ General Assembly, Resolution 194 (III), 11 December 1948, para. 8.

¹⁹⁸ *Ibid.*, para. 11.

¹⁹⁹ Official Records of the General Assembly, Third Session, 207th plenary meeting, 11 May 1949, A/PV.207, p. 334 (Moshe Sharett) (<https://docs.un.org/en/A/PV.207>).

4.8. Israel had thus immediately indicated that what it had achieved by the use of force, including the acquisition of half of the territory allotted to the Arab State in resolution 181 (II) and West Jerusalem, while Jerusalem was to be internationalized according to the Partition Plan, should be accepted as “new realities”. It would also continue to deny Palestine refugees their right of return to their homes and villages guaranteed by international law and resolution 194 (III).

4.9. Thus, despite the solemn commitments given by Israel to attain membership, the United Nations record demonstrates that it has consistently breached its obligations under the Charter, imposing illegal “new realities”, including by violating peremptory norms of general international law (*jus cogens*) which involve “particular values shared by the international community as a whole that the norms seek to protect” and are non-derogable²⁰⁰, including the prohibition on the acquisition of territory by force and the fundamental right to self-determination.

4.10. As provided by Article 2 (4) of the United Nations Charter, “[a]ll Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations”. That prohibition was described by the Court as “a fundamental principle”²⁰¹ and the “cornerstone of the United Nations Charter”²⁰². It is also a typical example of a *jus cogens* obligation²⁰³.

4.11. Together with another peremptory norm, the right of people to self-determination, they constitute the bedrock of the post-Second World War international law-based order. Both

²⁰⁰ Draft Conclusions on Identification and Legal Consequences of Peremptory Norms of General International Law (*Jus Cogens*), *Report of the International Law Commission*, Seventy-third session (18 April – 3 June and 4 July – 5 August 2022), A/77/10, p. 18, para. 2 of the commentary to Conclusion 2. See also *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro)*, *Judgment*, *I.C.J. Reports 2007*, p. 104, para. 147; *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (The Gambia v. Myanmar)*, *Provisional Measures, Order of 23 January 2020*, *I.C.J. Reports 2020*, p. 17, para. 41.

²⁰¹ *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America)*, *Merits, Judgment*, *I.C.J. Reports 1986*, p. 97, para. 181.

²⁰² *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda)*, *Judgment*, *I.C.J. Reports 2005*, p. 253, para. 248.

²⁰³ Draft Articles on the Law of Treaties, *ILC Yearbook*, 1966, Vol. II, p. 247, para. (1) of the commentary to Art. 50. See also *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America)*, *Merits, Judgment*, *I.C.J. Reports 1986*, pp. 100-101, para. 190.

principles have been consistently breached by Israel since it became a Member of the United Nations, including to this very day.

B. VIOLATIONS OF ISRAEL'S UNDERTAKINGS MADE WHEN IT BECAME
A MEMBER OF THE UNITED NATIONS

4.12. At the core, resolution 181 (II) endorsed the two-State solution and resolution 194 (III) recognized the right of Palestine refugees to return to their homes and to compensation. Israel's obstruction and restrictions on third party presence and activities in the Occupied Palestinian Territory are directly linked to its efforts to prevent these two outcomes, namely the independence of the State of Palestine, and the fulfilment of the inalienable rights of the Palestinian people to self-determination and return. It has done so primarily, by continuing to forcibly displace of the Palestinian people and to settle and annex Palestinian land. Israel has destroyed over the years countless humanitarian and developmental projects, homes, infrastructure, and refugee camps and has persisted in its attacks against organizations, including UNRWA, who provide the Palestinian civilian population with the necessary support to sustain life and contribute to their human development on their own land, which are essential for the exercise of their right to self-determination, as shown in Chapter 2 and 3 above and in Chapters 5 and 6 below.

4.13. The restrictions on "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" are implemented by the systematic use of armed force and the threat thereof. This is but one element of Israel's contempt for the fundamental principle laid down in Article 2 (4) of the Charter and the numerous Security Council and General Assembly resolutions calling upon Israel to respect it in its relations with the Palestinian people and State.

4.14. These restrictions and the way in which they have been applied are gross violations of the prohibition on the use of force in international relations, which engage Israel's responsibility for the violation of peremptory norms of general international law within the meaning of Articles 40 and 41 of the Articles on the Responsibility of States for Internationally Wrongful Acts.

4.15. The General Assembly has repeatedly highlighted these Israel’s breaches of international law and called for their complete cessation. Most recently in the resolution it adopted in response to the Court’s 2024 Advisory Opinion, the General Assembly:

“[s]trongly deplor[ed] the continued and total disregard and breaches by the Government of Israel of its obligations under the Charter of the United Nations, international law and the relevant United Nations resolutions, and stresses that such breaches seriously threaten regional and international peace and security”²⁰⁴.

II. Israel’s Breaches of United Nations Resolutions Pertaining to Third Parties’ Presence and Activities in and in Relation to the Occupied Palestinian Territory

4.16. As provided by Article 24 (1) of the United Nations Charter, the Security Council has responsibility – shared with the General Assembly – for the maintenance of international peace and security²⁰⁵.

A. ISRAEL’S REPEATED VIOLATIONS OF UNITED NATIONS SECURITY COUNCIL RESOLUTIONS CONCERNING THE PROVISION OF EMERGENCY AND HUMANITARIAN ASSISTANCE AND BASIC SERVICES TO THE GAZA STRIP

4.17. Since 7 October 2023, the Security Council adopted four resolutions, namely resolutions 2712 (2023), 2720 (2023), 2728 (2024) and 2735 (2024), pertaining to the need to protect the civilian population, the conduct of hostilities, the release of hostages, the obligation to provide and facilitate humanitarian aid and assistance to the Palestinian civilian population, and the duty to protect and secure United Nations and other humanitarian personnel and facilities.

4.18. Resolution 2712 (2023)²⁰⁶ was adopted on 15 November 2023, with a particular focus on children. The resolution “*express*[ed] deep concern at the humanitarian situation in the Gaza Strip and its grave impact on the civilian population, especially the disproportionate effect on children”, and “*underlin*[ed] the urgent need for full, rapid, safe, and unhindered humanitarian access”, “*stressing* the humanitarian principles of humanity, impartiality, neutrality, and independence and the obligation to respect and protect humanitarian relief

²⁰⁴ General Assembly, Resolution ES-10/24, 18 September 2024, para. 8.

²⁰⁵ United Nations Charter, Art. 24 (1).

²⁰⁶ Security Council, Resolution 2712 (2023), 15 November 2023. See also, e.g., Resolution 1405 (2002), 19 April 2002; Resolution 2720 (2023), 22 December 2023; Resolution 2728 (2024), 25 March 2024. See also Statement by the President of the Security Council, 1 June 2010, S/PRST/2010/9; Statement by the President of the Security Council, 28 July 2014, S/PRST/2014/13.

personnel”²⁰⁷. It “*demand*[ed] that all parties comply with their obligations under international law, including international humanitarian law, notably with regard to the protection of civilians, especially children”²⁰⁸.

4.19. As regards third parties’ presence and activities, the resolution stressed the need for the parties to

“enable, consistent with international humanitarian law, the full, rapid, safe, and unhindered humanitarian access for United Nations humanitarian agencies and their implementing partners, the International Committee of the Red Cross and other impartial humanitarian organizations, to facilitate the continuous, sufficient and unhindered provision of essential goods and services important to the well-being of civilians, especially children, throughout the Gaza Strip, including water, electricity, fuel, food, and medical supplies, as well as emergency repairs to essential infrastructure, and to enable urgent rescue and recovery efforts, including for missing children in damaged and destroyed buildings, and including the medical evacuation of sick or injured children and their care givers”²⁰⁹.

It also:

“[u]nderscor[ed] the importance of coordination, humanitarian notification, and deconfliction mechanisms, to protect all medical and humanitarian staff, vehicles including ambulances, humanitarian sites, and critical infrastructure, including UN facilities, and to help facilitate the movement of aid convoys and patients, in particular sick and injured children and their care givers”²¹⁰.

4.20. It should be noted that this resolution adopted early on in the course of the Israeli assault on the Palestinian people in the Gaza Strip explicitly called on all parties “to refrain from depriving the civilian population in the Gaza Strip of basic services and humanitarian assistance indispensable to their survival, consistent with international humanitarian law, which has a disproportionate impact on children”²¹¹ and “*reject*[ed] forced displacement of the civilian population, including children, in violation of international law, including international humanitarian law and international human rights law”²¹², demonstrating that the Council was

²⁰⁷ Security Council, Resolution 2712 (2023), 15 November 2023, preamble.

²⁰⁸ *Ibid.*, para. 1.

²⁰⁹ *Ibid.*, para. 2.

²¹⁰ *Ibid.*, para. 5.

²¹¹ *Ibid.*, para. 4.

²¹² *Ibid.*, preamble.

acutely aware of the risks associated with, and the consequences of, Israel's assault coupled with the severe restrictions on humanitarian assistance it has imposed on the Gaza Strip.

4.21. The situation continued to rapidly worsen, prompting the Secretary-General to take an unprecedented step during his mandate: invoking Article 99 of the Charter, considered a “dramatic constitutional move” and “the most powerful tool that [the Secretary-General] has”²¹³. Article 99 provides that “[t]he Secretary-General may bring to the attention of the Security Council any matter which in his opinion may threaten the maintenance of international peace and security”.

4.22. In his letter explaining this decision, the Secretary-General noted that:

“[c]ivilians throughout Gaza face grave danger. Since the start of Israel's military operation, more than 15,000 people have reportedly been killed, over 40 per cent of whom were children. Thousands of others have been injured. More than half of all homes have been destroyed. Some 80 per cent of the population of 2.2 million has been forcibly displaced, into increasingly smaller areas. More than 1.1 million people have sought refuge in UNRWA facilities across Gaza, creating overcrowded, undignified, and unhygienic conditions. Others have nowhere to shelter and find themselves on the street. Explosive remnants of war are rendering areas uninhabitable. There is no effective protection of civilians.”²¹⁴

4.23. He referred to the collapsing health care system, to the risk of complete breakdown of public order, rendering even limited humanitarian assistance impossible, the potential spread of diseases and increased pressure for mass displacement into neighbouring countries.

4.24. He insisted “[n]owhere is safe in Gaza”²¹⁵.

4.25. He deplored that, contrary to resolution 2712 (2023), “the current conditions are making it impossible for meaningful humanitarian operations to be conducted”, stressing that:

“[t]he capacity of the United Nations and its humanitarian partners has been decimated by supply shortages, lack of fuel, interrupted communications, and growing insecurity. Humanitarian personnel have joined the vast majority of Gazan civilians in evacuating

²¹³ Daily Press Briefing by the Office of the Spokesperson for the Secretary-General, 6 December 2023 (<https://press.un.org/en/2023/db231206.doc.htm>).

²¹⁴ Letter from the Secretary-General addressed to the President of the Security Council, 6 December 2023, S/2023/962.

²¹⁵ *Ibid.*

to south Gaza ahead of advancing military operations. At least 130 UNRWA colleagues have been killed, many with their families.”²¹⁶

4.26. His conclusion was clear:

“We are facing a severe risk of collapse of the humanitarian system. The situation is fast deteriorating into a catastrophe with potentially irreversible implications for Palestinians as a whole and for peace and security in the region. Such an outcome must be avoided at all cost.”²¹⁷

4.27. This led to his decision to urge the members of the Security Council to press to avert a humanitarian catastrophe, reiterating his appeal for a humanitarian ceasefire to be declared.

4.28. In response to this appeal, a draft resolution demanding an immediate humanitarian ceasefire was put forward. It received 14 votes in favour but was blocked by the use of the veto by the United States²¹⁸.

4.29. With increased pressure to address the humanitarian disaster unfolding in the Gaza Strip, the Security Council succeeded in adopting resolution 2720 (2023) on 22 December 2023, focused on humanitarian situations, but failing to call for an immediate humanitarian ceasefire, which was an indispensable prerequisite element to ameliorate that situation.

4.30. Resolution 2720 (2023) echoed and further developed many of the calls and demands in resolution 2712 (2023). In particular, it:

“[r]eiterate[d] [the Council’s] demand that all parties to the conflict comply with their obligations under international law, including international humanitarian law, including with regard to the conduct of hostilities and the protection of civilians and civilian objects, humanitarian access, and the protection of humanitarian personnel and their freedom of movement, and the duty, as applicable, of ensuring the food and medical supplies, among others, of the population, *recalls* that civilian and humanitarian facilities, including hospitals, medical facilities, schools, places of worship, and facilities of the UN, as well as humanitarian personnel, and medical personnel, and their means of transport, must be respected and protected, according to international humanitarian law, and *affirms* that nothing in this resolution absolves the parties of these obligations;

²¹⁶ *Ibid.*

²¹⁷ *Ibid.*

²¹⁸ See Security Council, Draft resolution, S/2023/970, 8 December 2023; Security Council, 9499th meeting, 8 December 2023, S/PV.9499.

.....

[d]emand[ed] that the parties to the conflict allow and facilitate the use of all available routes to and throughout the entire Gaza Strip, including border crossings, including full and prompt implementation of the announced opening of the Karem Abu Salem/Kerem Shalom Border Crossing, for the provision of humanitarian assistance in order to ensure that humanitarian personnel and humanitarian assistance, including fuel, food, and medical supplies and emergency shelter assistance, reaches the civilian population in need throughout the Gaza Strip without diversion and through the most direct routes, as well as for material and equipment to repair and ensure the functioning of critical infrastructure and to provide essential services, without prejudice to the obligations of the parties to the conflict under international humanitarian law, and *stress*[ed] the importance of respecting and protecting border crossings and maritime infrastructure used for the delivery of humanitarian assistance at scale;

.....

[d]emand[ed] that all parties to the conflict take all appropriate steps to ensure the safety and security of United Nations and associated personnel, those of its specialized agencies, and all other personnel engaged in humanitarian relief activities consistent with international humanitarian law, without prejudice to their freedom of movement and access, *stresse*[d] the need not to hinder these efforts, and *recall*[ed] that humanitarian relief personnel must be respected and protected”²¹⁹.

4.31. The resolution requested from the Secretary-General, with the objective of expediting the delivery of humanitarian assistance to the civilian population in the Gaza Strip, to appoint a Senior Humanitarian and Reconstruction Coordinator, and further requested that the Coordinator expeditiously establish a United Nations mechanism for accelerating the provision of humanitarian relief consignments to Gaza.

4.32. But instead of heeding the calls and demands of the Council, Israel completely ignored and violated its obligations under international law, and continued severely restricting humanitarian aid from other States and the United Nations. OCHA’s assessment of the situation in mid-January 2024, a few weeks after the passing of resolution 2720 (2023), is but one telling reflection of the systematic violations by the occupying Power:

“The movement of humanitarian missions into areas where Israeli forces operate in Gaza is transparently coordinated with parties to the conflict to ensure safe passage. The first two weeks of January have witnessed a dramatic increase in the rate of denials by the Israeli military of access to areas to the north of Wadi Gaza. This has prevented the scale-up of humanitarian operations.

²¹⁹ Security Council, Resolution 2720 (2023), 22 December 2023, paras. 1, 3, and 13. See also Security Council, Resolution 1405 (2002), 19 April 2002; and Resolution 2712 (2023), 15 November 2023.

In the first two weeks of January, humanitarian agencies planned 29 missions to deliver life-saving supplies to the north; more than 1.5 times the total number planned in December (18).

However, due to access denials by the Israeli military, only 7 of the 29 missions (24 %) were carried out, either fully or partially. An additional two missions (7 %) were coordinated by the Israeli military, but could not be carried out due to infeasible access through Israeli-allocated routes or excessive delays at checkpoints infringing on safe operating windows.

The 69 % rate of denials over the first half of January denotes a stark deterioration from the previous months (October-December) ...The denials prevent scale-up and have a paralyzing opportunity cost to the overall response.

The Israeli military denied 95 % (18 of 19) of missions involving the allocation of fuel and medicines to water reservoirs, water wells and health facilities in the north in the first two weeks of January. This increased health and environmental hazards while debilitating the functionality of the six partially functioning hospitals (the remaining 18 hospitals are not functioning).

... Reluctance by Israeli forces to open both main supply routes simultaneously and/or facilitate early access through the checkpoint that they control has resulted in persistent security and protection issues for civilians, including the humanitarian responders.

Beyond access to the north, the capacity of humanitarian agencies to operate safely and effectively anywhere in Gaza remains heavily compromised by Israeli restrictions on the import of critical equipment ...”²²⁰.

4.33. The Under-Secretary-General for Humanitarian Affairs gave a clear reflection of the dramatic situation unfolding in the Gaza Strip in a briefing in January at the Security Council:

“In Gaza, the situation remains horrific as relentless Israeli military operations continue. We can see this in the tens of thousands of people killed and injured, the vast majority women and children. According to the Ministry of Health in Gaza, more than 23,000 people have now been killed and more than 58,000 injured since 7 October.

We can see it in the enforced displacement of 1.9 million civilians, a staggering 85 per cent of the total population, traumatized and forced to flee again and again as the bombs and missiles rain down. And we can see it in the appalling conditions on the ground: shelters overflowing, and food and water running out, with the risk of famine growing by the day. The health system is in a state of collapse. Women are unable to give birth safely. Children cannot get vaccinated. The sick and injured cannot get treatment. Infectious diseases are on the rise. And people have been seeking shelter and refuge in hospital yards.

Now winter has arrived in Gaza, bringing with it bitter cold, exacerbating the struggle to survive. This makes it all the more deplorable that facilities critical to the survival of

²²⁰ OCHA, Humanitarian Access Snapshot – North of Wadi Gaza | Mid-January 2024, 19 January 2024 (<https://www.ochaopt.org/content/humanitarian-access-snapshot-north-wadi-gaza-mid-january-2024>).

the civilian population have come under relentless attack. 134 UNRWA facilities have been hit and 148 UN personnel and NGO staff have been killed in Gaza. Humanitarian sites have been struck on numerous occasions, despite their identification and notification to the Israeli Defense Forces. In the last few days alone, two NGO premises have been hit.”²²¹

He addressed the issue of the forcible displacement of the population:

“Orders for evacuation are unrelenting. As ground operations move southwards, aerial bombardments have intensified in areas where civilians were told to relocate for their safety.

More and more people are being crammed into an ever-smaller sliver of land, only to find yet more violence and deprivation, inadequate shelter and a near absence of the most basic services.

.....

There is no safe place in Gaza. Dignified human life is a near impossibility.

Rafah, where the pre-crisis population was around just 280,000 people, is now home to 1 million displaced persons. And more continue to arrive every day.”²²²

He further addressed the already deteriorating situation in the north of Gaza:

“Our efforts to send humanitarian convoys to the North have been met with delays, denials, and the imposition of impossible conditions. The lack of respect for the humanitarian notification system puts every movement of aid workers in danger, as do the wholly insufficient quantities of armoured vehicles and the limited communications equipment that we have been allowed to bring in.

Colleagues who have managed to make it to the North in recent days describe scenes of utter horror: Corpses left lying in the road. People with evident signs of starvation stopping trucks in search of anything they can get to survive. And even if people were able to return home, many no longer have homes to go to.”²²³

His conclusion was clear:

“Providing humanitarian assistance across Gaza is almost impossible.

Our access to Khan Younis and the Middle Area is largely absent.

²²¹ Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator, Martin Griffiths, Briefing to the UN Security Council on the humanitarian situation in Israel and the Occupied Palestinian Territory, 12 January 2025 (<https://www.ochaopt.org/content/un-relief-chief-briefing-un-security-council-humanitarian-situation-israel-and-occupied-palestinian-territory>).

²²² *Ibid.*

²²³ *Ibid.*

In the south, an expansion of the offensive into Rafah would seriously challenge already overstretched humanitarian operations that require extraordinary measures just to deliver the most meager assistance.”²²⁴

The Under-Secretary-General added:

“[W]e are deeply alarmed by recent statements by Israeli ministers regarding plans to encourage the mass transfer of civilians from Gaza to third countries, currently being referred to as ‘voluntary relocation.’

These statements raise grave concerns about the possible forcible mass transfer or deportation of the Palestinian population from the Gaza Strip, something that would be strictly prohibited under international law.

Any attempt to change the demographic composition of Gaza must be firmly rejected.”²²⁵

4.34. In March 2024, the Council adopted another resolution, this time referring to “the catastrophic humanitarian situation in the Gaza Strip”²²⁶. In addition to demanding a ceasefire for the month of Ramadan and the release of hostages and compliance by all parties with their obligations under international law in relation to persons they detain, resolution 2728 (2024)

“*emphasiz[ed]* the urgent need to expand the flow of humanitarian assistance to and reinforce the protection of civilians in the entire Gaza Strip and reiterates 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)”²²⁷.

4.35. Instead by 7 May 2024 Israel launched its attack on Rafah where over 1.5 million Palestinians, including over one million men, women and children ordered by Israel to evacuate from other areas of Gaza, were sheltering. In direct contradiction of Israel’s claims to the Court on 18 May 2024 that it had been “facilitating a scale-up of humanitarian assistance”, had “improved deconfliction measures to ensure the safety of humanitarian personnel” and “facilitated the repair and operation of critical infrastructure”²²⁸, the Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator declared on 24 May 2024 that:

²²⁴ *Ibid.*

²²⁵ *Ibid.*

²²⁶ Security Council, Resolution 2728 (2024), 25 March 2024, preamble.

²²⁷ *Ibid.*, para. 2.

²²⁸ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)*, Response of the State of Israel to the question posed by Judge Nolte at the oral hearing of 17 May 2024 on South Africa’s fourth request for provisional measures, p. 8, para. 33 (<https://www.icj-cij.org/sites/default/files/case-related/192/192-20240518-oth-01-00-en.pdf>).

“The ground incursion in Rafah has displaced more than 800,000 people, fleeing once again in fear for their lives and arriving in areas without adequate shelter, latrines and clean water.

It has cut off the flow of aid into southern Gaza and crippled a humanitarian operation already stretched beyond its breaking point.

It has halted food distributions in the south and slowed the supply of fuel for Gaza’s lifelines – bakeries, hospitals and water wells – to a mere trickle.

At a time when the people of Gaza are staring down famine; when hospitals are attacked and invaded; when aid organizations are blocked from reaching people in need; when civilians are under bombardment from north to south; it is more critical than ever to heed the calls made over the last seven months.”²²⁹

4.36. A few days later, on 29 May 2024, Israel seized control and shut down the Rafah Crossing.

4.37. Yet again, Israel continued breaching the Council’s resolutions, especially as regards humanitarian access and protection of humanitarian personnel, led to a worsening of the humanitarian situation, in disregard of the Council’s repeated demands.

4.38. On 11 June 2024, the Under-Secretary-General for Humanitarian Affairs stated at a humanitarian conference hosted by Jordan and Egypt:

“There was a unanimous horror at the vast toll of death, injury destruction, displacement, serial displacement, trauma and deprivation suffered by the people of Gaza in just nine months, as well as the horrendous toll on humanitarian, and including United Nations, workers, of course, from UNRWA in particular, which exceeded the death toll across the whole world in the past 12 years combined. What is clear to us is that while we will, as humanitarians, continue to find concrete solutions to the challenges to aid delivery, we need a fundamental shift in our operating environment, which needs to ensure safe, conducive and enabling conditions for humanitarian aid workers, and we need our operations to go from being obstructed to being facilitated.”²³⁰

²²⁹ OCHA, Statement on Rafah by Martin Griffiths, Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator, 24 May 2024 (<https://www.unocha.org/news/statement-rafah-martin-griffiths-under-secretary-general-humanitarian-affairs-and-emergency>).

²³⁰ OCHA, Remarks by Martin Griffiths, Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator – Call for Action: Urgent Humanitarian Response for Gaza – OCHA, 11 June 2024 (<https://www.un.org/unispal/document/remarks-ocha/>).

He added:

“I can only reiterate the crucial importance of acting swiftly and decisively to pull Gaza and its people back from the abyss that they know so well.”²³¹

4.39. The previous day, the Security Council adopted resolution 2735 (2024)²³² endorsing a proposal for a ceasefire put forward by United States President Biden. The resolution included, among the requirements of the first phase of the ceasefire, the “safe and effective distribution of humanitarian assistance at scale throughout the Gaza Strip to all Palestinian civilians who need it, including housing units delivered by the international community”²³³. The resolution “*reject*[ed] any attempt at demographic or territorial change in the Gaza Strip, including any actions that reduce the territory of Gaza”²³⁴, demonstrating the Council’s continued concern of such attempts by Israel.

4.40. However, it would take seven more long months before a ceasefire agreement was reached, and throughout that time, there was no swift and decisive action “to pull Gaza and its people back from the abyss”²³⁵. To the contrary, the period between the adoption of resolution 2735 (2024) and the conclusion of a ceasefire agreement proved to be the most dire of all in terms of restrictions placed by Israel on humanitarian access and the consequences thereof for the Palestinian population of the Gaza Strip. This was especially so in the north of Gaza, which faced an unprecedented effort by Israel to empty it of its population, who were forced by Israel to choose between imminent death through violence or starvation and mass forcible displacement. Through a mass siege on northern Gaza, Israel was in effect implementing the so-called “Generals’ Plan”, pursuant to which the whole of the north of Gaza was declared a military zone, and anybody remaining in that area – man, woman or child – was identified as a legitimate target. This came as a result of the occupying Power’s continued assaults, including on civilian infrastructure, *inter alia*, humanitarian facilities, severe restrictions on humanitarian access, depriving the population of the essentials of life, and issuance of evacuation orders, chasing civilians from one part of Gaza to the other.

²³¹ *Ibid.*

²³² Security Council, Resolution 2735 (2024), 10 June 2024.

²³³ *Ibid.*, para. 2 (a).

²³⁴ *Ibid.*, para. 5.

²³⁵ OCHA, Remarks by Martin Griffiths, Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator – Call for Action: Urgent Humanitarian Response for Gaza – OCHA, 11 June 2024 (<https://www.un.org/unispal/document/remarks-ocha/>).

4.41. The Acting Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator, in a briefing to the Security Council on Gaza in August 2024, declared:

“We are deeply horrified by the strike on Al Tabi’een School in Ad Daraj by Israeli forces on Saturday.

The school was sheltering several hundred displaced families, many of whom had moved there because of recent evacuation orders. And the strike was conducted during dawn prayers.

Initial reports suggest that this was one of the deadliest attacks on a school sheltering displaced people since the start of this conflict.

Tragically, this was far from an isolated incident.

The most recent incidents include three schools hit within 48 hours between 3 and 4 August and two schools hit on 8 August, all in Gaza City, with Al Tabi’een on Saturday the latest such attack.

According to OHCHR [Office of the High Commissioner for Human Rights], this is at least the 21st strike on a school that has been serving as a shelter recorded since 4 July this year. Scores of people have been killed in these strikes, among them women and children.

In just two weeks, more than a quarter of a million people have been displaced, often on multiple occasions.

Evacuation orders – supposedly for civilians’ security – are clearly having the opposite outcome.

Civilians are repeatedly asked to evacuate to areas where essentials for their survival are absent.

They are repeatedly being killed and injured in the very places they have been told were safe to go.

Aid entering Gaza has more than halved since the Rafah ground operation began and Rafah crossing was abruptly closed in early May.

Our concerns for the safety of staff keep growing, with attacks on or near aid vehicles that have been coordinated on the rise. Recently, within a 12-day period, there have been four shooting incidents involving UN convoys.

The result is that hundreds of thousands of people are not getting the life-saving humanitarian assistance they so desperately need.”²³⁶

²³⁶ OCHA, Ms. Lisa Doughten, Director of Financing and Partnerships at OCHA, on behalf of Acting Under-Secretary-General for Humanitarian Affairs & Emergency Relief Coordinator Ms. Joyce Msuya – Briefing to the Security Council on Gaza, 13 August 2024 (<https://www.unocha.org/publications/report/occupied-palestinian-territory/ms-lisa-doughten-director-financing-and-partnerships-ocha-behalf-acting-under-secretary->

4.42. Her briefing to the Security Council two months later, in October 2024, showed continued deterioration of the situation:

“Few times in recent history have we witnessed suffering and destruction of the size, scale, and scope that we see in Gaza. In the past year, this Council has been briefed repeatedly on the horror unfolding in Gaza, at least monthly on average.

Once again, we find ourselves at a critical juncture. Unfortunately, much of what I am about to say mirrors what we reported a month ago. Widespread suffering persists while the humanitarian situation worsens.

The recent evacuation orders by Israeli authorities for large areas of northern Gaza, along with intensified ground operations, risk more death, destruction and yet another mass displacement of civilian.

Severe impediments on the entry of essential commercial supplies and humanitarian access continue.

For instance, in September, humanitarian workers spent a total of 212 hours – that’s nearly 9 days’ worth of waiting – to receive a green light from Israeli authorities to undertake life-saving missions.

And in the past week, there have been no humanitarian movements to the north, while both land crossings have been closed for supplies entering Zikim and Erez.

The north of Gaza has been cut off ...

In recent days, on average 50 truckloads of goods enter each day– quantities that do not begin to meet needs.

Aid workers are only able to deliver a trickle of humanitarian aid through Israeli checkpoints.

These are life threatening restrictions.

The lack of adequate humanitarian access means that food insecurity and diseases are spreading fast.

The severe lack of shelter supplies is likely to worsen health conditions and further undermine the dignity of vulnerable populations, potentially leading to life-threatening conditions, this coming winter.”²³⁷

general-humanitarian-affairs-emergency-relief-coordinator-ms-joyce-msuya-briefing-security-council-gaza-13-august-2024).

²³⁷ OCHA, Lisa Doughten briefing on the situation in Gaza – Security Council, 9744th meeting, 9 October 2024 (<https://www.un.org/unispal/document/lisa-doughten-ocha-briefing-sc-9744th-meeting-09oct24/>).

4.43. The United Nations High Commissioner for Human Rights stated that:

“the darkest moment of the Gaza conflict is unfolding in the north of the Strip, where the Israeli military is effectively subjecting an entire population to bombing, siege and risk of starvation, as well as being forced to choose between mass displacement and being trapped in an active conflict zone ... We are facing what could amount to atrocity crimes, including potentially extending to crimes against humanity.”²³⁸

4.44. In December 2024, the Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator reported that:

“North Gaza has been under a near-total siege for more than two months, raising the spectre of famine. South Gaza is extremely overcrowded, creating horrific living conditions and even greater humanitarian needs as winter sets in. Across Gaza, Israeli airstrikes on densely populated areas continue, including on areas where Israeli forces have ordered people to move, causing destruction, displacement and death.

We deal with tough places to deliver humanitarian support. But Gaza is currently the most dangerous, in a year when more humanitarians have been killed than any on record.

As a result, despite the massive humanitarian needs, it has become almost impossible to deliver even a fraction of the aid that is so urgently required. The Israeli authorities continue to deny us meaningful access – over 100 requests to access North Gaza denied since 6 October.

In the face of these challenges, the UN and humanitarian community continue to try to stay and deliver, against mounting odds.”²³⁹

4.45. In January 2025, a few days before the conclusion of the ceasefire agreement, UNICEF Executive Director declared that “[f]or the children of Gaza, the new year has brought more death and suffering from attacks, deprivation, and increasing exposure to the cold” and that “[a] ceasefire is long overdue. Too many children have been killed or lost loved ones in a tragic start to the new year.”²⁴⁰ She added:

“The continued lack of basic shelter – combined with winter temperatures pose serious threats to children. With more than a million children living in makeshift tents, and with many families displaced over the past 15 months, children face extreme risks. Since

²³⁸ “Gaza: Palestinians are dying amid lethal evacuation delays”, *UN News*, 24 October 2024 (<https://news.un.org/en/story/2024/10/1156121>).

²³⁹ OCHA, UN relief chief calls on international community to “break the cycle of violence” in Gaza, 23 December 2024 (<https://www.un.org/unispal/document/un-relief-chief-statement-23dec24/>).

²⁴⁰ “New year brings little new hope for children in Gaza, with at least 74 children reportedly killed in first week of 2025”, UNICEF Press release, 8 January 2025 (<https://www.unicef.org/press-releases/new-year-brings-little-new-hope-children-gaza-least-74-children-reportedly-killed>).

December 26, eight infants and newborns have reportedly died from hypothermia – a major threat to young children who are unable to regulate their body temperature.

The humanitarian situation in Gaza has spiralled out of control. The number of trucks with aid entering Gaza remains woefully insufficient to meet the most basic needs of families. Civil order has largely collapsed inside Gaza, with the looting of humanitarian goods.

The few remaining operational hospitals are overwhelmed. The destruction of civilian infrastructure has left families struggling to access essential supplies, including food, safe water, sanitation, and access to healthcare. Kamal Adwan Hospital, which had been the only operational medical facility and the sole hospital in northern Gaza with a pediatric unit, is no longer functional following a raid late last month. This has further exacerbated the already dire conditions for medical care in the region.

‘UNICEF has long warned that inadequate shelter, lack of access to nutrition and healthcare, the dire sanitary situation, and now the winter weather put the lives of all children in Gaza at risk’ ...²⁴¹

4.46. The United Nations Deputy Secretary-General described the conditions of life in the Gaza Strip as “appalling and apocalyptic”²⁴².

4.47. A ceasefire agreement entered into force on 19 January 2025. It led to a scaling up of humanitarian aid, but critical challenges remained. Israel continued to largely deny the equipment required to remove 50 million tonnes of rubble to which Israel has reduced much of the Gaza Strip²⁴³, and to recover thousands of bodies still trapped thereunder, the shelters needed by virtually the entire population of the Gaza Strip, and the material necessary to rebuild and repair homes, hospitals, schools, and roads among others. This is in conjunction with continued calls by the Israeli government for the forcible displacement of Palestinians, that it cynically calls “voluntary migration”²⁴⁴, relying on the death, devastation and destruction it has systematically caused as reason to prompt such “voluntary migration”. Highlighting the continued lack of adequate shelter and healthcare, the OHCHR confirmed on 26 February 2025 that:

“At least 7 Palestinian babies including 3 newborns between 1 and 2 days old reportedly died from the cold in #Gaza over the past three days due to the lack of adequate shelter

²⁴¹ *Ibid.*

²⁴² “The nightmare in Gaza must stop, urges UN deputy chief”, *UN News*, 2 December 2024 (<https://news.un.org/en/story/2024/12/1157661>).

²⁴³ OCHA, Humanitarian Situation Update #259 | Gaza Strip, 28 January 2025 (<https://www.ochaopt.org/content/humanitarian-situation-update-259-gaza-strip>).

²⁴⁴ “Israeli military to prepare ‘voluntary departure’ plan for Gazans, echoing Trump proposal”, *The Washington Post*, 6 February 2025 (<https://www.washingtonpost.com/world/2025/02/06/trump-gaza-palestinian-displacement-israel/>).

and healthcare. This heartbreaking tragedy highlights the immense devastation in Gaza that left all foundations of normal life in tatters, and the long road ahead to address it.

This should never be allowed to happen again. The ceasefire must hold, and both early recovery and long-term solutions must prioritize upholding international law including protecting the right to life and ensuring the provision of shelter, food, clean water, and access to adequate healthcare.”²⁴⁵

4.48. The Security Council’s repeated emphasis on the parties’ obligations “to refrain ... from attacking, destroying, removing or rendering useless objects that are indispensable to the survival of the civilian population, as well as respecting and protecting humanitarian personnel and consignments used for humanitarian relief operations” and the reiteration of its rejection of “forced displacement of the civilian population, including children, in violation of international law, including international humanitarian law and international human rights law” shows that it was conscious of the patterns associated with, and the objectives pursued through, Israel’s unlawful conduct.

4.49. However, in the absence of serious accountability measures, and of any enforcement of mechanisms, Israel has openly displayed its contempt for the Security Council and its resolutions. This is in stark contradiction of the requirements of Article 25 of the United Nations Charter which stipulates that “[t]he Members of the United Nations agree to accept and carry out the decisions of the Security Council in accordance with the present Charter.”

4.50. As affirmed by the Court:

“[W]hen the Security Council adopts a decision under Article 25 in accordance with the Charter, it is for member States to comply with that decision, including those members of the Security Council which voted against it and those Members of the United Nations who are not members of the Council. To hold otherwise would be to deprive this principal organ of its essential functions and powers under the Charter”²⁴⁶.

4.51. To determine the binding nature of a Security Council resolution, the Court has stated that:

“In view of the nature of the powers under Article 25, the question whether they have been in fact exercised is to be determined in each case, having regard to the terms of

²⁴⁵ Post of UN Human Rights Palestine, @OHCHR_Palestine, 7:02PM, 26 February 2025 (https://x.com/ohchr_palestine/status/1894810300433502235).

²⁴⁶ *Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) Notwithstanding Security Council Resolution 276 (1970)*, Advisory Opinion, I.C.J. Reports 1971, p. 54, para. 116.

the resolution to be interpreted, the discussions leading to it, the Charter provisions invoked and, in general, all circumstances that might assist in determining the legal consequences of the resolution of the Security Council.”²⁴⁷

The Court did not leave any doubt: in the resolutions cited above, and countless previous Security Council resolutions, the references to the purposes and principles of the Charter, to peremptory norms of international law and other rules of international law, and given that the calls and demands of the Council are grounded in unequivocally binding law, these resolutions constitute *decisions* by the Council. It is evident *in each of these cases* that the Council’s intention was to compel Israel to comply with its obligation to allow the provision of essential humanitarian needs to the Palestinian population and not to undermine the security of United Nations personnel, among other matters.

B. ISRAEL’S REPEATED VIOLATIONS OF UNITED NATIONS GENERAL ASSEMBLY RESOLUTIONS DEMANDING AN IMMEDIATE CEASEFIRE AND UNHINDERED HUMANITARIAN ASSISTANCE

4.52. Over the course of many decades, Israel has repeatedly violated the numerous resolutions adopted by the General Assembly has also adopted numerous resolutions over decades violated by Israel on, *inter alia*, the right of the Palestinian people to self-determination, the right of the Palestine refugees to return, the mandate of UNRWA, the cessation of all Israeli settlement activities, including the wall, and annexation measures, the situation in Jerusalem, the permanent sovereignty of the Palestinian people over their natural resources, the protection of civilians, the cessation of human rights violations against the Palestinian people, calling for a ceasefire in Gaza, ending the illegal occupation and achieving a just and lasting solution to the Question of Palestine and actualizing the two-State solution. Since October 2023, the General Assembly resumed several times the 10th Emergency Special Session following the use of the veto by the United States in relation to the ceasefire in Gaza and adopted several resolutions *demanding an immediate ceasefire*.

4.53. The General Assembly’s Emergency Special Session is convened when “the Security Council, because of lack of unanimity of the permanent members, fails to exercise its primary responsibility for the maintenance of international peace and security in any case where there appears to be a threat to the peace, breach of the peace, or act of aggression”²⁴⁸. In

²⁴⁷ *Ibid.*, p. 53, para. 114. See also *Accordance with International Law of the Unilateral Declaration of Independence in Respect of Kosovo, Advisory Opinion, I.C.J. Reports 2010*, pp. 450-451, para. 117.

²⁴⁸ General Assembly, Resolution 377 (V), 3 November 1950, para. 1.

such situations “the General Assembly shall consider the matter immediately with a view to making appropriate recommendations to Members for collective measures”²⁴⁹. The resolutions adopted by the General Assembly in an Emergency Special Session require a two-third majority since they pertain to the maintenance of international peace and security.

4.54. As the Council failed to adopt any resolution on the situation in the Gaza Strip, the General Assembly adopted resolution ES-10/21 on 27 October 2023 in which it “*call[ed]* for an immediate, durable and sustained humanitarian truce leading to a cessation of hostilities”²⁵⁰.

4.55. “*Expressing grave concern* at the catastrophic humanitarian situation in the Gaza Strip and at its vast consequences for the civilian population, largely comprising children, and underlining the need for full, immediate, safe, unhindered and sustained humanitarian access”, the General Assembly “*demand[ed]* the immediate, continuous, sufficient and unhindered provision of essential goods and services to civilians throughout the Gaza Strip, including but not limited to water, food, medical supplies, fuel and electricity, stressing the imperative, under international humanitarian law, of ensuring that civilians are not deprived of objects indispensable to their survival”²⁵¹.

4.56. The resolution “*call[ed]* for immediate, full, sustained, safe and unhindered humanitarian access” and “for respect and protection, consistent with international humanitarian law, of all civilian and humanitarian facilities, including hospitals and other medical facilities, as well as their means of transport and equipment, schools, places of worship and United Nations facilities, as well as all of humanitarian and medical personnel”²⁵², among others.

4.57. The General Assembly was at this occasion the first United Nations main body to “*firmly reject[]* any attempts at the forced transfer of the Palestinian civilian population”²⁵³ in the context of the post 7 October assault by Israel on the Palestinian people in the Gaza Strip.

²⁴⁹ *Ibid.*

²⁵⁰ General Assembly, Resolution ES-10/21, 27 October 2023, para. 1.

²⁵¹ *Ibid.*, para. 3.

²⁵² *Ibid.*, paras. 4 and 8.

²⁵³ *Ibid.*, para. 5.

4.58. Following the letter of the Secretary-General to the Security Council whereby he invoked Article 99 of the Charter and called for an immediate humanitarian ceasefire, and in view of the United States veto that blocked the draft resolution endorsing the Secretary-General's request, the General Assembly adopted resolution ES-10/22²⁵⁴.

4.59. The General Assembly, after having “*express[ed]* grave concern over the catastrophic humanitarian situation in the Gaza Strip and the suffering of the Palestinian civilian population”, and “*emphasiz[ed]* that the Palestinian and Israeli civilian populations must be protected in accordance with international humanitarian law”, “*demand[ed]*, in line with the Secretary-General's appeal, an immediate humanitarian ceasefire”. It also “*reiterat[ed]* its demand that all parties comply with their obligations under international law, including international humanitarian law, notably with regard to the protection of civilians”²⁵⁵.

4.60. For several months, the General Assembly did not adopt further resolutions specific to the catastrophic situation in the Gaza Strip, as at the time the Council had succeeded in adopting several resolutions, the last of which was resolution 2735 (2024). Noting the terrible worsening of the humanitarian situation, and the absence of implementation of resolution 2735, the General Assembly took the opportunity of the adoption of resolution ES-10/24 pertaining to the implementation of the determinations made by the Court in its 2024 Advisory Opinion to demand that Israel comply with all its legal obligations under international law, including as stipulated by the Court, by, *inter alia*, immediately complying with the provisional measures orders of the Court “in relation to the right of the Palestinian people in the Gaza Strip to be protected from all acts within the scope of articles II and III of the [Genocide] Convention”²⁵⁶. Due to the absence of a ceasefire, the General Assembly decided to resume yet again the 10th Emergency Special Session in December 2024, adopting two critical resolutions: resolution ES-10/26 demanding an immediate, unconditional and immediate ceasefire in the Gaza Strip²⁵⁷, following yet another United States veto against such a demand a few days earlier²⁵⁸, and resolution ES-10/25 to support the mandate of UNRWA²⁵⁹.

²⁵⁴ General Assembly, Resolution ES-10/22, 12 December 2023.

²⁵⁵ *Ibid.*

²⁵⁶ General Assembly, Resolution ES-10/24, 18 September 2024, para. 4 (f).

²⁵⁷ General Assembly, Resolution ES-10/26, 11 December 2024, para. 1.

²⁵⁸ Security Council, Draft resolution S/2024/835, 20 November 2024. See also Security Council, 9790th meeting, 20 November 2024, S/PV.9790.

²⁵⁹ General Assembly, Resolution ES-10/25, 11 December 2024.

4.61. In resolution ES-10/26, the General Assembly:

“*demand[ed]* immediate access by the civilian population in the Gaza Strip to basic services and humanitarian assistance indispensable to its survival, while rejecting any effort to starve Palestinians, and further demands the facilitation of full, rapid, safe and unhindered entry of humanitarian assistance, at scale and under the coordination of the United Nations, to and throughout the Gaza Strip and its delivery to all Palestinian civilians who need it, including to civilians in besieged north Gaza, who are in urgent need of immediate humanitarian relief”²⁶⁰.

4.62. This was the first time that a United Nations main body addressed the matter of efforts to starve the Palestinian people in conjunction with the repeated calls and demands for full, rapid, safe, and unhindered entry of humanitarian assistance at scale to and throughout the Gaza Strip, as well as for humanitarian access and the safety and security of humanitarian personnel and their freedom of movement.

4.63. These resolutions, especially resolution ES-10/25²⁶¹, were also adopted in a context of, and in reaction to, persistent and unprecedented attacks by Israel against humanitarians, including personnel of the United Nations, notably UNRWA staff, and other humanitarian organizations. As reported by OCHA, “[a]s of 19 January [2025], according to data received by the UN and its partners, at least 377 aid workers, including 270 UN staff and at least 73 non-governmental organizations staff have been killed in the Gaza Strip since October 2023”²⁶². This is the direct results of Israel’s deliberate military actions aiming at preventing the delivery of humanitarian aid to the Palestinian people in the Gaza Strip. By way of example, in April 2024, a World Central Kitchen convoy was hit as it was leaving the convoy was hit as it was leaving the Deir al-Balah warehouse, where the team had unloaded more than 100 tons of humanitarian food aid brought to Gaza on the maritime route” causing the death of 7 Team members, and “[d]espite coordinating movements” with the Israeli occupation forces who killed them²⁶³. Likewise, in May 2024, Israel carried out at least eight strikes on aid workers “even though aid groups had provided their coordinates to the Israeli authorities to ensure their protection”²⁶⁴. Similarly, in August 2024 “a clearly marked UN humanitarian vehicle – part of

²⁶⁰ General Assembly, Resolution ES-10/26, 11 December 2024, para. 3.

²⁶¹ See above, fn. 259.

²⁶² OCHA, Humanitarian Situation Update #257 | Gaza Strip, 22 January 2025 (<https://www.ochaopt.org/content/humanitarian-situation-update-257-gaza-strip>).

²⁶³ World Kitchen Central, “7 WCK team members killed in Gaza”, 2 April 2024 (<https://wck.org/news/gaza-team-update>).

²⁶⁴ Human Rights Watch, Gaza: Israelis Attacking Known Aid Worker Locations, 14 May 2024 (<https://www.hrw.org/news/2024/05/14/gaza-israelis-attacking-known-aid-worker-locations>).

a convoy that had been fully coordinated” with the Israeli occupation forces – “was struck 10 times” by gunfire, “including with bullets targeting front windows”²⁶⁵. Incidents such as these led several humanitarian organizations to reduce or even halt their humanitarian activities in the Gaza Strip, further depriving the Palestinian people of access to essential humanitarian services²⁶⁶.

4.64. Israel’s strategy has long been to annex maximum Palestinian land with minimum Palestinians. Decades of Israeli policy of de-development, restrictions and blockade which culminated with the destruction and siege of the Gaza Strip, and with the escalating assault against the Palestinian people in the West Bank, notably Palestine refugees, needs to be understood in that context. The obstruction and hindrance of the provision of basic services and the delivery of humanitarian and development assistance to the Palestinian people is intricately linked to the pursuit of this strategy²⁶⁷. The assistance of third parties, notably the United Nations, to the Palestinian people and in support of the realization of their inalienable rights, including through the provision of emergency, humanitarian and development assistance, is incompatible with this strategy, which explains Israel’s methodical attacks against the United Nations Organization in general, and UNRWA in particular, that will be further developed in Chapters 5 and 6.

4.65. These actions are part of a broader policy which aims at depriving the Palestinian people of the means necessary for a decent life and even survival through the destruction of civilian infrastructure including hospitals²⁶⁸, assassination and killings of a large number of civilians²⁶⁹, and prevention of the delivery of fundamental humanitarian goods²⁷⁰ in all the Occupied Palestinian Territory, including the Gaza Strip and parts of the West Bank, including

²⁶⁵ “UN food agency suspends staff movements in Gaza following attack”, *UN News*, 28 August 2024 (<https://news.un.org/en/story/2024/08/1153701>).

²⁶⁶ “UN says Gaza aid operation paused due to evacuation orders”, *BBC*, 26 August 2024 (<https://www.bbc.com/news/articles/cr40d32zqz4o>); WFP, “WFP temporarily suspends staff movement across Gaza following a security incident that targeted WFP vehicle”, 28 August 2024 (<https://www.wfp.org/news/wfp-temporarily-suspend-staff-movement-across-gaza-following-security-incident-targeted-wfp>).

²⁶⁷ WHO, “Famine in Gaza is imminent, with immediate and long-term health consequences”, 18 March 2024 (<https://www.emro.who.int/opt/news/famine-in-gaza-is-imminent-with-immediate-and-long-term-health-consequences.html>); “EU’s Borrell says Israel is provoking famine in Gaza”, *Reuters*, 18 March 2024 (<https://www.reuters.com/world/middle-east/eus-borrell-says-israel-is-provoking-famine-gaza-2024-03-18/>); “UN chief says aid to Gaza ‘requires Israel removing’ obstacles”, *Le Monde*, 24 March 2024 (https://www.lemonde.fr/en/international/article/2024/03/24/un-chief-says-aid-to-gaza-requires-israel-removing-obstacles_6649388_4.html).

²⁶⁸ See above, paras. 4.35 and 4.45.

²⁶⁹ See above, paras. 4.22 and 4.33.

²⁷⁰ See above, paras. 4.22, 4.33 and 4.35.

East Jerusalem²⁷¹. These actions have also led to the repeated displacement of the Palestinian people throughout the Occupied Palestinian Territory and contributed to the continued denial of their most fundamental human rights.

III. Israel's Breaches of the Most Fundamental Human Rights of the Palestinian People by Hindering Humanitarian Assistance

4.66. By establishing the United Nations through the United Nations Charter, “the people of the United Nations [declared themselves] determined ... to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small”. And, as proclaimed in Article 1 (3) one of the purposes of the United Nations is:

“[t]o achieve international cooperation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion.”²⁷²

In violation of those principles, and of numerous human rights treaties to which it is a party²⁷³, Israel systematically and constantly violates the most fundamental rights of the Palestinian people.

4.67. The Court has determined that the protection offered by human rights conventions does not cease in case of armed conflict, save through the effect of provisions for derogation of the kind to be found in Article 4 of the International Covenant on Civil and Political Rights. As regards the relationship between international humanitarian law and human rights law: 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. In this case, the present situation is governed by both international humanitarian law²⁷⁴ and international human rights law.

²⁷¹ Report of the Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and in Israel, 14 September 2022, A/77/328, para. 19 (<https://docs.un.org/en/A/77/328>).

²⁷² See also, e.g., General Assembly, Resolution 217 A (III), Universal Declaration of Human Rights, 10 December 1948, Art. 1 (3).

²⁷³ See, for example, below, paras. 4.69, 4.73, and 4.79.

²⁷⁴ See Chapter 3 above.

4.68. In addition to its breaches of international humanitarian law addressed in Chapter 3, Israel is pursuing a methodical policy of violating the human rights of the Palestinian people, starting with their right to life, including by impeding the unhindered provision of urgently needed supplies essential to the survival of the Palestinian civilian population as well as of basic services and development assistance for the benefit of the Palestinian civilian population and in support of the right of the Palestinian people to self-determination.

A. THE RIGHTS TO LIFE

4.69. The right not to be deprived of life arbitrarily is guaranteed in many international human rights instruments including Article 6 (1) of the ICCPR²⁷⁵ and Article 6 (1) of the Convention on the Rights of the Child²⁷⁶ to both of which Israel is a party. It is described as “the supreme right from which no derogation is permitted, even in situations of armed conflict and other public emergencies that threaten the life of the nation”²⁷⁷. As affirmed by the Court in the *Legality of the Threat or Use of Nuclear Weapons* Advisory Opinion,

“the protection of the International Covenant of Civil and Political Rights does not cease in times of war, except by operation of Article 4 of the Covenant whereby certain provisions may be derogated from in a time of national emergency. Respect for the right to life is not, however, such a provision. In principle, the right not arbitrarily to be deprived of one’s life applies also in hostilities. The test of what is an arbitrary deprivation of life, however, then falls to be determined by the applicable *lex specialis*, namely, the law applicable in armed conflict which is designed to regulate the conduct of hostilities. Thus whether a particular loss of life, through the use of a certain weapon in warfare, is to be considered an arbitrary deprivation of life contrary to Article 6 of the Covenant, can only be decided by reference to the law applicable in armed conflict and not deduced from the terms of the Covenant itself.”²⁷⁸

²⁷⁵ International Covenant on Civil and Political Rights, 16 December 1966, *UNTS*, Vol. 999, p. 171.

²⁷⁶ Convention on the Rights of the Child, 20 November 1989, *UNTS*, Vol. 1577, p. 3.

²⁷⁷ Human Rights Committee (HRC), General Comment No. 36, Article 6: Right to life, 3 September 2019, CCPR/C/GC/36, para. 2; HRC, CCPR General Comment No. 6: Article 6 (Right to Life), 30 April 1982, HRI/GEN/1/Rev.1, para. 1; HRC, General Comment No. 14: Article 6 (Nuclear Weapons and the Right to Life), 9 November 1984, HRI/GEN/1/Rev.9, para. 1; HRC, Communication No. 45/1979, *Camargo v. Colombia*, 31 March 1982, para. 13.1; HRC, Communications Nos. 146/1983 and 148–154/1983, *Baboeram-Adhin et al. v. Suriname*, 10 April 1984 para. 14.3.

²⁷⁸ *Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion, I.C.J. Reports 1996*, p. 240, para. 25. See also *Wall* Opinion, p. 177, para. 105.

4.70. According to both, international humanitarian law and international human rights law, the arbitrary nature of the deprivation of life is characterized by “elements of inappropriateness, injustice, lack of predictability and due process of law”²⁷⁹.

4.71. As stressed by the Human Rights Committee,

“Like the rest of the Covenant, article 6 continues to apply also in situations of armed conflict to which the rules of international humanitarian law are applicable, including to the conduct of hostilities. While rules of international humanitarian law may be relevant for the interpretation and application of article 6 when the situation calls for their application, both spheres of law are complementary, not mutually exclusive. Use of lethal force consistent with international humanitarian law and other applicable international law norms is, in general, not arbitrary. By contrast, practices inconsistent with international humanitarian law, entailing a risk to the lives of civilians and other persons protected by international humanitarian law, including the targeting of civilians, civilian objects and objects indispensable to the survival of the civilian population, indiscriminate attacks, failure to apply the principles of precaution and proportionality, and the use of human shields would also violate article 6 of the Covenant.”²⁸⁰

4.72. It is thus indisputable that there can be no derogation to the right to life, and therefore nothing that justifies taking actions that endanger the lives of Palestinians, arbitrarily, collectively and indiscriminately. Acts by Israel and its officials preventing or otherwise impeding the provision of basic services and/or humanitarian assistance to the Palestinian people violate Israel’s obligations to respect the right to life of the Palestinian people; all deaths caused by such acts constitute an arbitrary deprivation of life. That would include the deaths of all those in the Gaza Strip who have died from injury or disease due to the lack of medicine and equipment or from starvation, dehydration and malnutrition, and those – including new born babies – who have frozen to death from lack of adequate and warmth, due to Israel’s ongoing restrictions on the entry of humanitarian goods and services to the Gaza Strip.

B. OTHER FUNDAMENTAL RIGHTS

4.73. The International Covenant on Economic, Social and Cultural Rights²⁸¹ provides guidance for States parties as to the minimum steps they should take to ensure that the lives of

²⁷⁹ HRC, Communication No. 1134/2002, *Gorji-Dinka v. Cameroon*, 17 May 2006, para. 5.1. See also HRC, Communication No. 305/1988, *Van Alphen v. The Netherlands*, 23 July 1990 and HRC, Communication No. 458/1991, *Mukong v. Cameroon*, 21 July 1994, para. 9.8.

²⁸⁰ HRC, General Comment No. 36, Article 6: Right to life, 3 September 2019, CCPR/C/GC/36, para. 64.

²⁸¹ International Covenant on Economic, Social and Cultural Rights, 16 December 1966, *UNTS*, Vol. 993, p. 3 (ratified by Israel on 3 October 1991).

persons under their control are safeguarded. To this end, they must respect their core obligations under the Covenant:

“Thus, for example, a State party in which any significant number of individuals is deprived of essential foodstuffs, of essential primary health care, of basic shelter and housing, or of the most basic forms of education is, prima facie, failing to discharge its obligations under the Covenant. If the Covenant were to be read in such a way as not to establish such a minimum core obligation, it would be largely deprived of its *raison d’être*.”²⁸²

4.74. These core obligations notably require States “[t]o ensure access to the minimum essential food which is nutritionally adequate and safe, to ensure freedom from hunger to everyone; ... to basic shelter, housing and sanitation, and an adequate supply of safe drinking water”; to “provide essential drugs as defined under the WHO Action Programme on Essential Drugs”; to “provide immunization against the major infectious diseases occurring in the community”; and “to provide education and access to information concerning the main health problems in the community, including methods of preventing and controlling them”²⁸³.

4.75. Not only does Israel not honour these obligations; it deliberately ensured that the Palestinian people in the Gaza Strip are denied these rights.

4.76. United Nations experts have denounced this policy and its broad implications for the entire civilian population and across all their human rights.

(a) *The right to housing*: As early as November 2023, the United Nations Special Rapporteur on the right to adequate housing stressed that “systematic or widespread bombardment of housing, civilian objects and infrastructure are strictly prohibited by international humanitarian law, criminal law and human rights law”²⁸⁴ adding that “such acts amount to war crimes and when directed against a civilian population, they also amount to crimes against humanity”²⁸⁵.

²⁸² Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 3: The Nature of States Parties Obligations (Art. 2, para. 1, of the Covenant), 14 December 1990, para. 10.

²⁸³ CESCR, General Comment No. 14: The Right to the Highest Attainable Standard of Health (Art. 12), 11 August 2020, paras. 43 (b), (d) and 44 (b), (d).

²⁸⁴ OCHA, Gaza: Destroying civilian housing and infrastructure is an international crime, warns UN expert, 8 November 2023 (<https://www.ohchr.org/en/press-releases/2023/11/gaza-destroying-civilian-housing-and-infrastructure-international-crime>).

²⁸⁵ *Ibid.*

He determined that “[domicide] is now being committed in Gaza, and the world continues to watch helplessly while core international human and humanitarian law norms are brazenly breached”²⁸⁶.

He also denounced the forced evacuation of more than 1 million people from northern Gaza into southern Gaza, knowing that it would be impossible to provide adequate housing and humanitarian aid, while maintaining a blockade, cutting off water, food, fuel and medicine and repeatedly attacking evacuation routes and “safe zones”, as constituting international crimes.

- (b) *The right to health*: United Nations experts denounced the “pattern by Israel to continuously bombard, destroy and fully annihilate the realisation of the right to health in Gaza”²⁸⁷ and said that “[a]ttacks on healthcare workers, hospitals, and healthcare facilities, including ambulances, contravene the fundamental right of individuals to access essential healthcare services, a matter of acute significance during times of armed conflict”²⁸⁸.

The Independent International Commission of Inquiry on the Occupied Palestinian Territory stated that:

“Attacks against health-care facilities directly resulted in the killing of civilians, including children and pregnant women, who were receiving treatment or seeking shelter and indirectly led to deaths of civilians owing to the resulting lack of medical care, supplies and equipment, which constitutes a violation of Palestinians’ right to life. The Commission also concludes that such acts constitute the crime against humanity of extermination.”²⁸⁹

Notably, the few temporary field hospitals that third parties have managed to establish in the Gaza Strip have an extremely limited capacity to address the needs of the civilian population. They also suffer, and continue to suffer – alongside the entire health sector in the Gaza Strip – from Israeli-imposed shortages in medical and other supplies.

²⁸⁶ *Ibid.*

²⁸⁷ OHCHR, “UN experts horrified at blatant disregard for health rights in Gaza following deadly raid on Kamal Adwan hospital”, Press Release, 2 January 2025 (<https://www.ohchr.org/en/press-releases/2025/01/un-experts-horrified-blattant-disregard-health-rights-gaza-following-deadly>).

²⁸⁸ *Ibid.*

²⁸⁹ Report of the Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel, 11 September 2024, A/79/232, para. 94 (<https://docs.un.org/en/A/79/232>).

- (c) *The right to education*: United Nations experts also “expressed grave concern over the pattern of attacks on schools, universities, teachers, and students in the Gaza Strip, raising serious alarm over the systemic destruction of the Palestinian education system”²⁹⁰. They denounced “a systematic pattern of violence aimed at dismantling the very foundation of Palestinian society”, stating that “with more than 80 % of schools in Gaza damaged or destroyed, it may be reasonable to ask if there is an intentional effort to comprehensively destroy the Palestinian education system, an action known as ‘scholasticide’”²⁹¹.
- (d) *The right to culture*: The experts said they were equally appalled by the annihilation of the cultural sector in the Gaza Strip, through the destruction of libraries and cultural heritage sites. “The foundations of Palestinian society are being reduced to rubble, and their history is being erased.”²⁹²
- (e) *The right to food*: But the most flagrant expression of the deliberate policy of denying the Palestinian people their most fundamental rights, including the right to life, is the mass starvation inflicted on the Palestinian people in the Gaza Strip, as “starvation reflects a State’s fundamental abandonment of its human rights obligations”²⁹³.

As noted by the Special Rapporteur on the right to food:

“Prior to 7 October 2023, approximately half of the people in Gaza were food insecure and more than 80 per cent relied on humanitarian aid; the total siege was an immediate catalyst for starvation.”²⁹⁴

“On 9 October 2023, Israel announced its starvation campaign against Gaza. By December, Palestinians in Gaza made up 80 per cent of the people in the world experiencing famine or catastrophic hunger. Never in post-war history had a population been made to go hungry so quickly and so completely as was the case for the 2.3 million Palestinians living in Gaza.”²⁹⁵

²⁹⁰ OHCHR, “UN experts deeply concerned over ‘scholasticide’ in Gaza”, Press Release, 18 April 2024 (<https://www.ohchr.org/en/press-releases/2024/04/un-experts-deeply-concerned-over-scholasticide-gaza>).

²⁹¹ *Ibid.*

²⁹² *Ibid.*

²⁹³ Report of the Special Rapporteur on the right to food, Michael Fakhri, Starvation and the right to food, with an emphasis on the Palestinian people’s food sovereignty, A/79/171, 17 July 2024, para. 21 (<https://docs.un.org/en/A/79/171>).

²⁹⁴ *Ibid.*, para. 49.

²⁹⁵ *Ibid.*, para. 1.

Placing further emphasis on the deliberate nature of this starvation campaign, the Special Rapporteur declared that:

“Israel made its intentions to starve everyone in Gaza explicit, implemented its plans and predictably created the conditions of famine throughout Gaza. Tracking the geography of Israel’s starvation tactics alongside Israeli officials’ statements confirms its intent. Israel opened with a total siege that weakened all Palestinians in Gaza. Then, Israel used starvation to induce forcible transfer, harm and death against people in the north, pushing people into the south, only to starve, bombard and kill people in newly created refugee camps in the south.”²⁹⁶

The United Nations expert connects this policy to the denial of humanitarian aid: “There is clear evidence that Israeli officials have used starvation both as a war crime and as a crime against humanity. Israel has failed to enable and ensure the unhindered provision of urgently needed basic services and humanitarian assistance, as well as medical supplies and medical care, to the Palestinian people in the Gaza Strip”²⁹⁷. He elaborates on how Israel destroyed the agriculture and fishing sectors creating the dire need for aid and then how “Israel then used humanitarian aid as a political and military weapon to harm and kill the Palestinian people in Gaza”²⁹⁸, noting that “[t]here is a direct correlation between displacement and hunger and malnutrition”²⁹⁹ and that “every instance of mass starvation is a form of genocide or extermination, and every instance of starving an individual is torture”³⁰⁰.

- (f) *The prohibition on torture and inhuman and degrading treatment*: As further emphasised by the Special Rapporteur on the right to food, “every instance of starving an individual is torture”³⁰¹, in violation of the peremptory norm of international law prohibiting torture and other cruel, inhuman and degrading treatment³⁰². That applies in relation to all Palestinians in the Gaza Strip, who have been subjected to – and are still being subjected to – “the fastest starvation campaign in modern history”³⁰³, as well as those deported from

²⁹⁶ *Ibid.*, para. 39.

²⁹⁷ *Ibid.*, para. 43 (references omitted).

²⁹⁸ *Ibid.*, para. 47.

²⁹⁹ *Ibid.*, para. 24.

³⁰⁰ *Ibid.*, para. 27.

³⁰¹ *Ibid.*

³⁰² General Assembly, Resolution 77/209, 5 January 2023, preamble (“*Recalling also* that the prohibition of torture is a peremptory norm of international law without territorial limitation and that international, regional and domestic courts have recognized the prohibition of cruel, inhuman or degrading treatment or punishment as customary international law”) (<https://docs.un.org/A/RES/77/209>).

³⁰³ “‘This Is Not a Ceasefire – It’s a Slowing of Israel’s Genocide and Starvation Campaign’ says UN Special Rapporteur on the Right to Food”, Briefing by United Nations Special Rapporteur on the Right to Food,

the Gaza Strip and detained by Israel in detention centers in Israel and the West Bank who, like Palestinian detainees from the West Bank, are being subjected to torture and ill-treatment, including food deprivation and medical neglect in Israeli detention facilities³⁰⁴. There are overwhelming accounts of Palestinian detainees – including doctors, nurses, paramedics and other healthcare workers – being deprived of food and water for extended periods, left without access to sanitation, and denied medical treatment for injuries sustained in detention, alongside other practices of torture and cruel and inhuman treatment³⁰⁵.

4.77. In October 2024, the United Nations experts declared that:

“the promise by Israeli leaders to destroy Gaza has been fulfilled. The Strip is now a wasteland of rubble and human remains, where survivors – men and women, children and the elderly – struggle to hold on to life amid deprivation and disease. Israeli bombs have spared no one – not journalists, students, scholars, doctors, nurses, babies, pregnant women, persons with disabilities, civil servants, people seeking food and safety or humanitarian workers, including UN staff. Entire families have been exterminated and generations erased, with millions of lives torn apart.”³⁰⁶

United Nations experts highlighted:

“The enhanced siege, restrictions on aid and relentless targeting of homes and key civilian infrastructure have led to starvation at an unprecedented pace. The decimation of health infrastructure has made preventable diseases incurable and accelerated the spread of illness and epidemics, while the massive destruction of educational, cultural and heritage institutions and the land itself deeply jeopardises Palestinian culture, national identity and existence on the land.”³⁰⁷

They also addressed the escalating Israeli assault on the Palestinian people in the West Bank:

Michael Fakhri, 421st meeting of the United Nations Palestinian Rights Committee, 5 February 2025 (<https://www.un.org/unispal/document/special-rapporteur-on-the-right-to-food-briefing-5feb2025/>).

³⁰⁴ Amnesty International, “You Feel Like You Are Subhuman”, *Israel’s Genocide Against Palestinians in Gaza*, 5 December 2024, pp. 233-235 (<https://www.amnesty.org/en/documents/mde15/8668/2024/en/>); B’Tselem, *Welcome to Hell, The Israeli Prison System as a Network of Torture Camps*, August 2024, pp. 73-81 (https://www.btselem.org/publications/202408_welcome_to_hell); Annie Kelly, Hoda Osman and Farah Jallad, “More than 160 Gazan medics held in Israeli prisons amid reports of torture”, *The Guardian*, 25 February 2025 (<https://www.theguardian.com/global-development/2025/feb/25/more-than-160-gazan-medics-held-in-israeli-prisons-amid-reports-of-torture>).

³⁰⁵ *Ibid.*

³⁰⁶ UNISPAL, “‘The international legal order is breaking down in Gaza’: UN experts mark one year of genocidal attacks on Palestinians”, 11 October 2024 (<https://www.un.org/unispal/document/un-experts-press-release-11oct24/>).

³⁰⁷ *Ibid.*

“Meanwhile, as the world watches the people of Gaza live in constant terror of impending annihilation, broadcast and shared on social media, a deliberate pattern of conduct threatening the extinction of Palestinians through mass displacement, death, destruction and annexation of land is emerging in the West Bank, including east Jerusalem.

.....
We call for immediate provision of life-saving humanitarian assistance to all affected people and for such access to be guaranteed by the international community.”³⁰⁸

4.78. The Palestinian people’s right to life, shelter, medicines and health care, and food encompasses an obligation for the occupying Power to ensure unhindered access to essential goods necessary for their survival³⁰⁹. The indiscriminate use of force by Israeli authorities makes the delivery of these humanitarian goods extremely difficult, if not impossible. The denial of such aid amounts to effectively denying and violating the entire spectrum of human rights of millions of Palestinians throughout the Occupied Palestinian Territory. As stated by the Secretary-General in respect of the Gaza Strip, the “[c]onditions of life across Gaza are unfit for human survival”³¹⁰.

IV. Israel’s Policy of Preventing and Hindering Humanitarian Assistance Contributes to its Genocide Against the Palestinian People

4.79. As provided by the Convention on the Prevention and Punishment of the Crime of Genocide, to which Israel is a Party, and repeated in the Rome Statute of the International Criminal Court,

“genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

- (a) Killing members of the group;
- (b) Causing serious bodily or mental harm to members of the group;

³⁰⁸ *Ibid.*

³⁰⁹ HRC, Report of the detailed findings of the independent international Commission of inquiry on the protests in the Occupied Palestinian Territory, 18 March 2019, A/HRC/40/CRP.2, para. 694 (https://www.ohchr.org/sites/default/files/HRBodies/HRC/RegularSessions/Session40/Documents/A_HRC_40_74_CRP2.pdf).

³¹⁰ OCHA, Conditions in Gaza ‘unfit for human survival,’ acting UN relief chief tells Security Council, 12 November 2024 (<https://www.unocha.org/news/conditions-gaza-unfit-human-survival-acting-un-relief-chief-tells-security-council>).

- (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- (d) Imposing measures intended to prevent births within the group;
- (e) Forcibly transferring children of the group to another group.”

4.80. In its Order on provisional measures of 26 January 2024, the Court found that there was a real and immediate risk of irreparable prejudice to the plausible right of the Palestinian people in the Gaza Strip not to be subjected to acts of genocide by Israel³¹¹. The situation has worsened considerably since then, as the Court noted in its Order of 24 May 2024 when it found that “the current situation arising from Israel’s military offensive in Rafah entails a further risk of irreparable prejudice to the plausible rights claimed by South Africa”³¹². By continuing to obstruct humanitarian assistance and basic services by the United Nations, its agencies and bodies, other international organizations and third States, Israel has worsened the catastrophic humanitarian situation in the Gaza Strip and throughout the occupied territory and thus confirmed its genocidal intent against the Palestinian people.

4.81. As shown above, authoritative United Nations bodies have found that Israel is responsible for a multitude of decisions and acts which deprive the Palestinian people, especially those living in the Gaza Strip, of the humanitarian aid they need to survive, including food, water, medicines, fuel and other necessities of life. These acts include the destruction of water infrastructure³¹³, hospitals³¹⁴, schools³¹⁵, habitations³¹⁶, and, more broadly, all the infrastructure in the Gaza Strip³¹⁷. In addition, Israel has refused to deliver, or has done so in minimum quantities, the humanitarian aid that third countries and organizations have sought to provide the Palestinian people in the Gaza Strip³¹⁸. In some cases, the Palestinian people wishing to access what little humanitarian aid was available were deliberately targeted³¹⁹, as

³¹¹ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel), Provisional Measures*, Order of 26 January 2024, paras. 54 and 74.

³¹² *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel), Request for the modification of the Order of 28 March 2024 indicating provisional measures*, Order of 24 May 2024, para. 47.

³¹³ See above, para. 4.45. See also and Human Rights Watch, *Extermination and Acts of Genocide Israel Deliberately Depriving Palestinians in Gaza of Water*, 19 December 2024 (<https://www.hrw.org/report/2024/12/19/extermiation-and-acts-genocide/israel-deliberately-depriving-palestinians-gaza>).

³¹⁴ See above, para. 4.32.

³¹⁵ See above, paras. 4.41 and 4.76 (c).

³¹⁶ See above, paras. 1.21, 4.22 and fn. 280.

³¹⁷ See also above, para. 4.22 and fns. 284 and 303.

³¹⁸ See above, para. 4.32.

³¹⁹ See above, para. 4.78.

were humanitarian workers, conspicuously identified as such, who were distributing the aid³²⁰. This situation was acknowledged by the Court³²¹. Israel's policy in occupied Palestine, and particularly in the Gaza Strip, can be accurately described as a crime against humanity³²². Israel has inflicted on the Palestinian people as a group conditions of life calculated to bring about its physical destruction. The obstruction of, and restrictions on, humanitarian assistance has been a critical component of that policy.

4.82. As explained in the International Criminal Court's *Elements of Crimes*, genocide includes deliberately inflicting, "[t]he conditions of life ... calculated to bring about the physical destruction of that group, in whole or in part" which "may include, but is not necessarily restricted to, deliberate deprivation of resources indispensable for survival, such as food or medical services, or systematic expulsion from homes"³²³. The fact that Israel is blocking – or drastically limiting – humanitarian aid and medical assistance essential for survival that third States and international organizations have been attempting to provide to the Palestinian civilian population falls squarely within this definition.

4.83. The International Criminal Tribunal for Rwanda (ICTR) also affirmed that:

"[f]or purposes of interpreting Article 2 (2)(c) of the Statute, the Chamber is of the opinion that the means of deliberate inflicting on the group conditions of life calculated to bring about its physical destruction, in whole or part, include, *inter alia*, subjecting a group of people to a subsistence diet, systematic expulsion from homes and the reduction of essential medical services below minimum requirement."³²⁴

4.84. This was repeated by the ICTR affirming that:

"The Trial Chamber concurs with the explanation within the Draft Convention, prepared by the U.N. Secretariat, which interpreted this concept to include circumstances that would lead to a slow death. For example, these circumstances may involve lack of proper housing, clothing, hygiene, and medical care, or excessive work or physical exertion.

It is the view of the Trial Chamber that 'deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part' includes methods of destruction that do not immediately lead to the death of members of the

³²⁰ See above, para. 4.63.

³²¹ See above, paras. 4.89-4.91.

³²² See above, para. 4.76 (b).

³²³ ICC, *Elements of Crimes*, p. 2, Art. 6 (c) and fn. 4 (<https://www.icc-cpi.int/sites/default/files/Publications/Elements-of-Crimes.pdf>).

³²⁴ International Criminal Tribunal for Rwanda, *The Prosecutor v. Jean-Paul Akayesu*, ICTR-96-4-T, Appeals Chamber, Judgement, 2 September 1998, para. 506.

group. The Chamber adopts the above interpretation. Therefore, the conditions of life envisaged include, rape, the starving of a group of people, reducing required medical services below a minimum, and withholding sufficient living accommodation for a reasonable period, provided that the above would lead to the destruction of the group in whole or in part.”³²⁵

4.85. The same interpretation was endorsed by International Criminal Tribunal for former Yugoslavia (ICTY), affirming that:

“‘Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part’ under sub-paragraph (c) does not require proof of a result. The acts envisaged by this sub-paragraph include, but are not limited to, methods of destruction apart from direct killings such as subjecting the group to a subsistence diet, systematic expulsion from homes and denial of the right to medical services. Also included is the creation of circumstances that would lead to a slow death, such as lack of proper housing, clothing and hygiene or excessive work or physical exertion.”³²⁶

4.86. As mentioned above³²⁷, in the words of the Secretary-General, in December 2024, the “[c]onditions of life across Gaza are unfit for human survival”³²⁸.

4.87. The assessment of the loss, damage and destruction leaves no doubt about the deliberate imposition of such conditions³²⁹:

- “The humanitarian impact of the conflict has been catastrophic. Every Palestinian in Gaza has been affected, with more than 1.9 million people uprooted from their homes, many of whom have been displaced multiple times, and facing acute shortages of all basic necessities. Health and education services are barely functioning.”³³⁰
- Nearly the entire population of the Gaza Strip is affected by forced displacement: “According to the United Nations Office for the Coordination of Humanitarian Affairs

³²⁵ International Criminal Tribunal for Rwanda, *The Prosecutor v. Clément Kayishema and Obed Ruzindana*, ICTR-95-1-A, Appeals Chamber, Judgement, 21 May 1999, paras. 115 and 116 (footnotes omitted).

³²⁶ International Criminal Tribunal for the former Yugoslavia, *The Prosecutor v. Milomir Stakić*, IT-97-24-T Judgment, Trial Chamber II, 31 July 2003, para. 517 (footnotes omitted). See also International Criminal Tribunals for the former Yugoslavia, *Prosecutor v. Brđanin*, IT-99-36-T, Trial Chamber II, 1 September 2004, para. 691.

³²⁷ See above, para. 4.78.

³²⁸ OCHA, Conditions in Gaza ‘unfit for human survival,’ acting UN relief chief tells Security Council, 12 November 2024 (<https://www.unocha.org/news/conditions-gaza-unfit-human-survival-acting-un-relief-chief-tells-security-council>).

³²⁹ The World Bank, the European Union, the United Nation, Interim Rapid Damage and Needs Assessment, Gaza and West Bank, February 2025 (<https://thedocs.worldbank.org/en/doc/133c3304e29086819c1119fe8e85366b-0280012025/original/Gaza-RDNA-final-med.pdf>).

³³⁰ *Ibid.*, p. 16, para. 47.

(OCHA), over the course of the conflict, evacuation orders have been issued for 150 different neighborhoods, affecting 314.8 km² of evacuation area and encompassing 87 percent of the Gaza Strip. In the immediate aftermath of the January 2025 ceasefire, over 370,000 people had begun returning north and moving back to their places of origin. However, hundreds of thousands of people remain concentrated in the middle and southern part of Gaza. Over 1.2 million people, almost 60 percent of Gaza’s population, are without a home to return to.”³³¹

- “Hospitals, schools, UN facilities, and other protected sites host large numbers of displaced Palestinians and continue to be severely impacted by the conflict impeding or halting service delivery and resulting in casualties and further displacement.”³³²
- “Electricity, water, sewage, solid waste, and telecommunication services are severely degraded and inadequate for the needs of the population. The conflict has halted almost all local production of water, electricity, and food. Wastewater treatment has collapsed. The sole power plant in Gaza has not operated since October 11, 2023.”³³³
- “[S]evere shortages of food, water, fuel, and medicine, leaving much of the population facing acute deprivation”³³⁴.
- “Health services remain barely functional, which is affecting vulnerable people including women, children, and the elderly the most.”³³⁵
- “The conflict has caused major disruptions to health service delivery and inflicted widespread trauma, imperiling physical and mental health against a backdrop of increased needs. Around 350,000 residents with chronic disease have no access to their medication or essential medical procedures such as dialysis. Due to overcrowding and poor sanitary conditions at UNRWA shelters, syndromic disease surveillance has demonstrated increases in infectious diseases, including acute respiratory infections, diarrheal disease, chickenpox, and jaundice syndrome. Over 1.8 million cases of infectious diseases (diarrhea, acute respiratory infections, skin diseases, polio, measles, and mumps) have been recorded. Furthermore, severe stressors for mental health such as bombardment and

³³¹ *Ibid.*, p. 20, paras. 67-68 (footnote omitted).

³³² *Ibid.*, p. 16, para. 48.

³³³ *Ibid.*, p. 16, para. 47.

³³⁴ *Ibid.*, para. 48.

³³⁵ *Ibid.*

the imposed siege are affecting the whole population. Crucially, since children are more susceptible to the effects of fear and trauma, the conflict is more likely to derail the life for those who experience it early in life. Over 1 million children in Gaza require mental health and psychosocial support, and more than 17,000 children are unaccompanied or separated from their families. Child disability rates are estimated to be considerable, specifically due to the scale and scope of the violence and infrastructure damage, coupled with extremely limited trauma care capacities.”³³⁶

- “Tens of thousands of injured individuals, including many children, are newly disabled and will need long-term rehabilitation due to critical injuries such as amputations, head trauma, and burns.”³³⁷
- “The education system has been severely disrupted, with over 658,000 children missing more than a year of schooling.”³³⁸
- “Human capital accumulation in Gaza suffered devastating setbacks. The escalation of the conflict has severely affected the provision of education services for children and youth in Gaza and the West Bank. Gaza is facing a collapse of the education system, with 95 percent of education facilities being fully destroyed or damaged and the remaining ones used as shelters. The lives of approximately 658,000 school-aged children, 87,000 tertiary students, and thousands of educators are at risk, while more than 11,913 school-aged children, more than 788 tertiary students, and more than 616 educators and educational staff been killed. More than 17,115 students and 2,491 teachers have been severely injured. The surviving students and teachers are experiencing psychosocial trauma of varying levels of severity.”³³⁹
- “Almost everyone in Gaza faces food insecurity, with children and pregnant and breastfeeding women particularly at risk. Just prior to the start of the January ceasefire, approximately 1.84 million people faced acute food insecurity, including famine in some

³³⁶ *Ibid.*, p. 19, para. 64.

³³⁷ *Ibid.*, p. 18, para. 60.

³³⁸ *Ibid.*, p. 16, para. 48.

³³⁹ *Ibid.*, pp. 18-19, para. 62.

areas, and starvation, malnutrition, and excess mortality due to malnutrition and disease were rapidly increasing in northern areas.”³⁴⁰

- “Poverty has reached unprecedented levels and unemployment has surged. Current estimates show that ... more than four out of five people in Gaza are currently unemployed.”³⁴¹
- “Beyond the destruction of physical assets, the conflict in Gaza has inflicted a severe human toll. The entire population of Gaza is experiencing significant, direct, and long-term impacts on their physical health, economic stability, and psychosocial wellbeing. As of January 14, 2025, the 15-month conflict in the densely populated Gaza has caused more than 46,000 deaths and more than 110,000 injuries, with more civilians under the rubble or reported missing.”³⁴²
- “Since the conflict, many more thousands of children have become orphans, with few services available to them. Women and girls are especially vulnerable in living conditions with limited privacy ... The ongoing conflict continues to tear families apart, creating deep impacts at the community, family, and individual levels.”³⁴³
- “The UN estimates that there are more than 17,000 children unaccompanied and/or separated from their families.”³⁴⁴

4.88. Israel has brought about that apocalyptic reality for the Palestinian people by pursuing policies and practices in direct violation of the three different provisional measures Orders ordered by the Court in the case concerning the *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)*³⁴⁵. These provisional measures are binding for Israel as a party to the case³⁴⁶. However,

³⁴⁰ *Ibid.*, p. 19, para. 66. “Nearly 1.84 million people are facing food insecurity, including approximately 133,000 experiencing catastrophic hunger” (*ibid.*, p. 16, para. 48).

³⁴¹ *Ibid.*, p. 18, para. 61.

³⁴² *Ibid.*, p. 18, para. 60 (footnote omitted).

³⁴³ *Ibid.*, p. 19, para. 65.

³⁴⁴ *Ibid.*, p. 16, para. 47 (footnote omitted).

³⁴⁵ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)*, Orders of 26 January 2024, Order of 28 March 2024 and Order of 24 May 2024.

³⁴⁶ *LaGrand (Germany v. United States of America)*, Judgment, *I.C.J. Reports 2001*, p. 506, para. 109; *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda)*, Judgment, *I.C.J. Reports 2005*, p. 258, para. 263; *Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Armenia v. Azerbaijan)*, Request for the Modification of the Order of 22 February 2023, Indicating a Provisional Measure, Order of 6 July 2023, *I.C.J. Reports 2023*, p. 410, para. 31.

Israel has failed to comply with them³⁴⁷. It is continuing to kill and harm Palestinians in the Gaza Strip on a massive scale, and to create conditions adverse to life and by preventing or obstructing the supply of basic services urgently-needed humanitarian aid, including by third parties.

4.89. In its order of 26 January 2024, the Court, having noted that there was a real and imminent risk that irreparable prejudice will be caused to the rights protected by the Genocide Convention³⁴⁸, decided that:

“The State of Israel shall take immediate and effective measures to enable the provision of urgently needed basic services and humanitarian assistance to address the adverse conditions of life faced by Palestinians in the Gaza Strip”³⁴⁹.

4.90. Israel has blatantly disregarded that order. As reported by the UNRWA Commissioner-General, the humanitarian aid entering in the Gaza Strip decreased by 50 % following the 26 January Order³⁵⁰. In a new Order dated 28 March 2024, the Court stated that:

“Palestinians in Gaza are no longer facing only a risk of famine, as noted in the Order of 26 January 2024, but that famine is setting in, with at least 31 people, including 27 children, having already died of malnutrition and dehydration according to the United Nations Office for the Coordination of Humanitarian Affairs (OCHA) (OCHA, ‘Hostilities in the Gaza Strip and Israel – reported impact, Day 169’, 25 March 2024).”³⁵¹

This led the Court to adopt new provisional measures focused in particular on Israel’s obligation to ensure the provision of humanitarian assistance:

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

.....

³⁴⁷ See, for example, above, paras. 4.22-4.25, 4.32-4.32, 4.63-4.65.

³⁴⁸ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel), Provisional Measures*, Order of 26 January 2024, paras. 54 and 74.

³⁴⁹ *Ibid.*, para. 86 (4).

³⁵⁰ Post of Commissioner-General of UNRWA, Philippe Lazzarini, @UNLazzarini, 11:43am, 26 February 2024 (<https://x.com/UNLazzarini/status/1762065832417325441>).

³⁵¹ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel), Request for the modification of the Order of 26 January 2024 indicating provisional measures*, Order of 28 March 2024, para. 21.

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

.....

Ensure with immediate effect that its military does not commit acts which constitute a violation of any of the rights of the Palestinians in Gaza as a protected group under the Convention on the Prevention and Punishment of the Crime of Genocide, including by preventing, through any action, the delivery of urgently needed humanitarian assistance”³⁵².

4.91. Israel still did not comply, continuing to impede the delivery of humanitarian aid to the Palestinian people in the Gaza Strip following the 28 March Order³⁵³. In a new Order adopted on 24 May 2024, the Court further reaffirmed that:

“The State of Israel shall, in conformity with its obligations under the Convention on the Prevention and Punishment of the Crime of Genocide, and in view of the worsening conditions of life faced by civilians in the Rafah Governorate:

.....

Immediately halt its military offensive, and any other action in the Rafah Governorate, which may inflict on the Palestinian group in Gaza conditions of life that could bring about its physical destruction in whole or in part;

.....

Maintain open the Rafah crossing for unhindered provision at scale of urgently needed basic services and humanitarian assistance”³⁵⁴.

4.92. Even after the third provisional measures Order of the Court of 24 May 2024, Israel took over, destroyed and shut down the Rafah crossing (as above) and placed further restrictions on humanitarian access and aid. Three months later, OCHA reported that “46 per

³⁵² *Ibid.*, para. 51(2) (a) and (b).

³⁵³ OCHA, Humanitarian Access Snapshot – Gaza Strip | 1-30 April 2024, 10 May 2024 (<https://www.unocha.org/publications/report/occupied-palestinian-territory/humanitarian-access-snapshot-gaza-strip-1-30-april-2024>).

³⁵⁴ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel), Request for the modification of the Order of 28 March 2024 indicating provisional measures*, Order of 24 May 2024, para. 57 (2) (a) and (b).

cent of humanitarian movements have been either denied or impeded in August, making it the most challenging month for humanitarian access since January 2024”³⁵⁵.

4.93. Israel’s continued breach of the Orders of the Court which were meant to address the plausible risk to the rights of the Palestinian people to be protected against acts of genocide led only to further materializing of this risk instead of curtailing it.

4.94. Israel’s actions are consistent with the statements of its leaders, which early on made no effort to hide their genocidal intent:

- Former Israeli Minister of Defence, Yoav Gallant, affirmed on 9 October 2023 that Israel was “imposing a complete siege on the city of Gaza. There will be no electricity, no food, no water, no fuel, everything is closed. We are fighting human animals and we are acting accordingly.”³⁵⁶
- The Israeli Minister of Energy and Infrastructure at the time now Minister of Defense, Israel Katz, stated on 12 October 2023: “Humanitarian aid to Gaza? No electrical switch will be turned on, no water hydrant will be opened and no fuel truck will enter until the Israeli abductees are returned home. Humanitarianism for humanitarianism. And no one will preach us morality.”³⁵⁷ He reiterated one day later affirming that “[a]ll the civilian population in Gaza is ordered to leave immediately. We will win. They will not receive a drop of water or a single battery until they leave the world.”³⁵⁸ He added on 16 October 2023: “I am vehemently opposed to lifting the blockade and letting goods into Gaza for humanitarian reasons.”³⁵⁹

³⁵⁵ OCHA, Humanitarian Access Snapshot – Gaza Strip | August 2024, 20 September 2024 (<https://www.ochaopt.org/content/humanitarian-access-snapshot-gaza-strip-august-2024>).

³⁵⁶ “We are fighting human animals’ said Israeli Defence Minister Yoav Gallant”, *Youtube*, 10 October 2023 (<https://www.youtube.com/watch?v=ZbPdR3E4hCk>).

³⁵⁷ Post of the Minister of Energy and Infrastructure, Member of the Political-Security Cabinet, Member of Knesset, Israel Katz, @Israel_katz, 8:34am, 12 October 2023 (https://x.com/israel_katz/status/1712356130377113904); see also, for the translation, “First Thing: no power, water or fuel for Gaza until hostages are freed, Israel says”, *The Guardian*, 12 October 2023 (<https://www.theguardian.com/us-news/2023/oct/12/first-thing-no-power-water-fuel-gaza-until-hostages-freed-israel-says>).

³⁵⁸ Post of the Minister of Energy and Infrastructure, Member of the Political-Security Cabinet, Member of Knesset, Israel Katz, @Israel_katz, 7:01pm, 13 October 2023 (https://twitter.com/Israel_katz/status/1712876230762967222).

³⁵⁹ Post of the Minister of Energy and Infrastructure, Member of the Political-Security Cabinet, Member of Knesset, Israel Katz, @Israel_katz, 8:42am, 16 October 2023 (https://x.com/Israel_katz/status/1713807517816348906) translation provided by Human Rights Watch in Extermination and Acts of Genocide Israel Deliberately Depriving Palestinians in Gaza of Water, 19 December 2024 (<https://www.hrw.org/report/2024/12/19/extermination-and-acts-genocide/israel-deliberately-depriving-palestinians-gaza>).

- The Israeli Minister of Heritage, Amichai Eliyahu, stated that “[w]e wouldn’t hand the Nazis humanitarian aid”, because “there is no such thing as uninvolved civilians in Gaza”³⁶⁰.
- The Israeli Army Coordinator of Government Activities in the Territories, Major Ghassan Alian, declared that “ Hamas became ISIS and the citizens of Gaza are celebrating instead of being horrified. Human beasts are dealt with accordingly. Israel has imposed a total blockade on Gaza, no electricity, no water, just damage. You wanted hell, you will get hell.”³⁶¹

4.95. These statements are evidence of Israel’s intentions: Israel has deliberately imposed inhuman living conditions on the population of the Gaza Strip “with the intent of destroying in whole or in part” the Palestinian people³⁶².

4.96. While some officials became more cautious in their public statements, especially in the aftermath of the Court’s provisional measures Orders, their actions have escalated, worsening further the terrible humanitarian conditions the Orders were intended to address. A statement by the Israeli Minister of Finance is particularly revealing:

“We are bringing in aid because there is no choice ... Nobody will let us cause 2 million civilians to die of hunger even though it might be justified and moral until our hostages are returned ... We live today in a certain reality, we need international legitimacy for this war.”³⁶³

4.97. The statement that it is justified and moral to starve the Palestinian people in the Gaza Strip to death, while noting the need to navigate the international outrage that such an overt policy would create sheds a clear light on Israel’s practice of obstruction of humanitarian

³⁶⁰ “Minister Amichai Eliyahu: Atomic bomb on Gaza? This is one of the possibilities”, *Kan News*, 5 November 2023 (<https://wwwj.kan.org.il/content/kan-news/politic/596470>) translation in “Far-right minister: Nuking Gaza is an option, population should ‘go to Ireland or deserts’”, *The Times of Israel*, 5 November 2023 (https://www.timesofisrael.com/liveblog_entry/far-right-minister-nuking-gaza-is-an-option-population-should-go-to-ireland-or-deserts/).

³⁶¹ Post of the Coordination of Government Activities in the Territories (COGAT), @cogatonline, 2:22pm, 10 October 2023 (<https://x.com/cogatonline/status/1711718883323752586>).

³⁶² For examples of similar conclusions, see Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories, 20 September 2024, A/79/363, para. 71 (a); or “Women bearing the brunt of Israel-Gaza conflict: UN expert”, HCHR Press Release, 20 November 2023 (<https://www.ohchr.org/en/press-releases/2023/11/women-bearing-brunt-israel-gaza-conflict-un-expert>).

³⁶³ “Smotrich: Might be ‘justified and moral’ to cause 2 million Gazans to die of hunger, but world won’t let us”, *The Times of Israel*, 5 August 2024 (https://www.timesofisrael.com/liveblog_entry/smotrich-might-be-justified-and-moral-to-cause-2-million-gazans-to-die-of-hunger-but-world-wont-let-us/).

aid through layers of obstacles, physical, administrative, military, while at the same purporting to claim that it is making its best endeavours to allow humanitarian aid in. However, nothing that Israel’s officials can say can deny the stark reality of the facts on the ground, which Israel has deliberately and willfully brought about.

4.98. As stated by the Secretary-General,

“Most of Gaza is now a wasteland of rubble. What distinction was made, and what precautions were taken, if more than 70 per cent of civilian housing is either damaged or destroyed?

Essential commercial goods and services including electricity have been all but cut off. This has led to increasing hunger, starvation and now, as we have heard, potentially famine. We are witnessing acts reminiscent of the gravest international crimes.

[T]he latest offensive that Israel started in North Gaza last month is an intensified, extreme and accelerated version of the horrors of the past year.

Shelters, homes and schools have been burned and bombed to the ground.

Numerous families remain trapped under rubble, because fuel for digging equipment is being blocked by the Israeli authorities and first responders have been blocked from reaching them.

Ambulances have been destroyed. And hospitals have come under attack.

Supplies to the north are being cut off and people are being pushed further south.

The daily cruelty we see in Gaza seems to have no limits.”³⁶⁴

4.99. In these circumstances, United Nations experts have not hesitated to characterize Israel’s actions, especially the imposition of starvation, and the assault on the entire health system leading to its collapse as “genocidal”:

“We declare that Israel’s intentional and targeted starvation campaign against the Palestinian people is a form of genocidal violence and has resulted in famine across all of Gaza. We call upon the international community to prioritise the delivery of humanitarian aid by land by any means necessary, end Israel’s siege, and establish a ceasefire.”³⁶⁵

³⁶⁴ OCHA, Briefing to the Security Council on the Protection of Civilians in Gaza, 12 November 2024 (<https://www.unocha.org/publications/report/occupied-palestinian-territory/ms-joyce-msuya-acting-under-secretary-general-humanitarian-affairs-and-emergency-relief-coordinator-briefing-security-council-protection-civilians-gaza-12-november-2024-enarhe>).

³⁶⁵ “UN experts declare famine has spread throughout Gaza strip”, OHCHR Press Release, 9 July 2024 (<https://www.ohchr.org/en/press-releases/2024/07/un-experts-declare-famine-has-spread-throughout-gaza-strip>).

“Under occupation, intentional assaults on healthcare facilities have the potential to expose individuals to cruel, inhuman, and degrading treatment and may constitute a war crime. In Gaza, this is clearly part of a well-established pattern of genocide, for which Israeli leaders will have to be held accountable”, the experts said³⁶⁶.

4.100. Leading human rights organizations have also reached a similar conclusion:

- (a) The Secretary-General of Amnesty International declared upon the release of the organization’s report on the matter:

“Amnesty International’s report demonstrates that Israel has carried out acts prohibited under the Genocide Convention, with the specific intent to destroy Palestinians in Gaza. These acts include killings, causing serious bodily or mental harm and deliberately inflicting on Palestinians in Gaza conditions of life calculated to bring about their physical destruction. Month after month, Israel has treated Palestinians in Gaza as a subhuman group unworthy of human rights and dignity, demonstrating its intent to physically destroy them”³⁶⁷.

- (b) The Executive Director of Human Rights Watch declared that “[w]ater is essential for human life, yet for over a year the Israeli government has deliberately denied Palestinians in Gaza the bare minimum they need to survive. ... This isn’t just negligence; it is a calculated policy of deprivation that has led to the deaths of thousands from dehydration and disease that is nothing short of the crime against humanity of extermination, and an act of genocide.”³⁶⁸

- (c) In its report dedicated to the matter, Human Rights Watch found that Israeli authorities have intentionally deprived the Palestinian people in the Gaza Strip of access to safe water for drinking and sanitation needed for basic human survival. Israeli authorities and forces cut off and later restricted piped water to the Gaza Strip; rendered most of the Gaza Strip’s water and sanitation infrastructure useless by cutting electricity and restricting fuel;

³⁶⁶ “UN experts horrified at blatant disregard for health rights in Gaza following deadly raid on Kamal Adwan hospital”, OHCHR Press Release, 2 January 2025 (<https://www.ohchr.org/en/press-releases/2025/01/un-experts-horrified-blatant-disregard-health-rights-gaza-following-deadly>).

³⁶⁷ Amnesty International, Amnesty International investigation concludes Israel is committing genocide against Palestinians in Gaza, 5 December 2024 (<https://www.amnesty.org/en/latest/news/2024/12/amnesty-international-concludes-israel-is-committing-genocide-against-palestinians-in-gaza/>).

³⁶⁸ Human Rights Watch, Israel’s Crime of Extermination, Acts of Genocide in Gaza, 19 December 2024 (<https://www.hrw.org/news/2024/12/19/israels-crime-extermination-acts-genocide-gaza>).

deliberately destroyed and damaged water and sanitation infrastructure and water repair materials; and blocked the entry of critical water supplies.

4.101. Thus the death, starvation and devastation imposed by Israel's military assault was coupled with the obstruction of humanitarian aid indispensable to allow for their survival. This aligns with the statements of Israeli officials, demonstrating the intent to provoke the destruction of the group in whole or in part.

Chapter 5.

ISRAEL'S OBLIGATIONS TOWARDS THE UNITED NATIONS

5.1. It is indisputable that Israel – as a Member of the United Nations – is obligated to cooperate in good faith with the United Nations, its organs, entities and experts, and to ensure the fulfilment, without interference, of their mandates and the protection and safety of United Nations premises, property and personnel, in and in relation to the Occupied Palestinian Territory. This Chapter considers the nature and scope of those obligations under the United Nations Charter, the Convention on the Privileges and Immunities of the United Nations of 1946 (the “1946 Convention”), the Convention on the Prevention and Punishment of Crimes against Internationally Protected Personnel, including Diplomatic Agents of 1973 (the “1973 Convention”), the binding rulings of the International Court of Justice, and applicable principles and rules of general international law, as reflected *inter alia* in the Convention on the Safety of United Nations and Associated Personnel of 1994 (the “1994 Convention”) and relevant United Nations resolutions. The analysis demonstrates that not only has Israel manifestly failed to comply with those obligations, it has actively maligned, undermined and obstructed the work of the United Nations, its organs, entities, officials and experts, and has engaged in violent, lethal attacks on United Nations premises, property and personnel.

5.2. Section I focuses on Israel’s duty pursuant to the United Nations Charter to cooperate in good faith with the United Nations to ensure the fulfilment of the mandates of United Nations organs and entities in relation to the Palestinian people and to the Occupied Palestinian Territory. Section II considers Israel’s duty to accord privileges, immunities and to respect the protection afforded to United Nations premises, property and assets in Israel and the Occupied Palestinian Territory, including East Jerusalem, relating to their mandates. Section III considers Israel’s parallel duty to accord privileges, immunities and protection to United Nations personnel and experts in pursuance of their official functions.

5.3. Israel’s existential and violent assaults on UNRWA in an attempt to destroy the *only* body capable of delivering urgently needed humanitarian aid, assistance and basic services at scale to the Palestinian civilian population – at a time of extreme and unprecedented need, caused by Israel itself – are the separate focus of Chapter 6 below.

I. Israel's Duty to Cooperate with the United Nations in Good Faith

A. ISRAEL'S OBLIGATION TO COOPERATE WITH THE UNITED NATIONS PURSUANT TO ARTICLES 2 (2) AND 2 (5) OF THE CHARTER

5.4. As a United Nations Member State, Israel is bound by the obligations set out in the United Nations Charter. In particular, pursuant to Article 2 (5) of the Charter, Israel is bound "to give the United Nations every assistance in any action taken in accordance with the Charter". This is a fundamental Charter obligation, with which Israel has undertaken to comply: General Assembly resolution 273 (III) admitting Israel to the Organization recalls Israel's declaration that it "unreservedly accepts the obligations of the United Nations Charter and undertakes to honour them"³⁶⁹. As recognised by the Court, "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" as accepted by States pursuant to Article 2 (5) "should be strictly observed"³⁷⁰. Moreover and importantly, the undertakings in Article 2 (5) must be observed *in good faith*. As Article 2 (2) of the Charter stipulates:

"All Members, in order to ensure to all of them the rights and benefits resulting from membership, shall fulfill *in good faith* the obligations assumed by them in accordance with the present Charter."³⁷¹

5.5. "Good faith" amongst nations constitutes a binding principle of the United Nations, fundamental to the maintenance of friendly relations between States and therefore to international peace and security³⁷², and it is a bedrock principle of general international law. A core aspect of the principle is that Member States may not in good faith invoke their internal law to justify a failure to comply with obligations to which they have committed on the international stage through international treaties, including the Charter³⁷³. Indeed, pursuant to Article 103 of the Charter, Charter obligations prevail not only over Israel's internal law, but

³⁶⁹ General Assembly, Resolution 273 (III), 11 May 1949, preamble.

³⁷⁰ *Reparation for Injuries Suffered in the Service of the United Nations*, Advisory Opinion, I.C.J. Reports 1949, p. 183.

³⁷¹ Charter of the United Nations, Art. 2 (2) (emphasis added).

³⁷² See also the preamble to the United Nations Charter which lists the establishment "of conditions under which justice and *respect for the obligations arising from treaties* and other sources of international law can be maintained" as one of the four Charter aspirations (emphasis added).

³⁷³ Vienna Convention on the Law of Treaties, 23 May 1969, UNTS, Vol. 1155, p. 331, Art. 26, widely recognized to constitute customary international law.

also – in case of conflict – over *all* obligations in all *other* international agreements to which Israel is a party³⁷⁴.

5.6. The obligation to cooperate in good faith with the United Nations requires Israel to give “every assistance” to the main bodies of the United Nations, including the General Assembly, the Security Council, the International Court of Justice and the Secretariat³⁷⁵, the latter encompassing, *inter alia*, the mandate of the Secretary-General, as well as the United Nations Office for the Coordination of Humanitarian Affairs (OCHA), and the Office of the High Commissioner for Human Rights (OHCHR)³⁷⁶. Israel’s obligations pursuant to Articles 2 (2) and 2 (5) of the Charter also require good faith cooperation with United Nations subsidiary organs, funds and programmes, specialized agencies, and other entities³⁷⁷. They include the United Nations Relief and Work Agency for Palestine Refugees in the Near East (UNRWA)³⁷⁸, the United Nations International Children’s Emergency Fund (UNICEF), the United Nations Development Fund (UNDP), the World Food Programme (WFP), UN Women³⁷⁹, and the United Nations Human Rights Council³⁸⁰, all of which form an integral part of the United Nations³⁸¹. Israel is similarly duty-bound to cooperate with the bodies, special procedures and commissions of inquiry established by those entities, such as: the United Nations Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, appointed by the Human Rights Council to follow and report on the human rights situation relating thereto (Special Rapporteur on the Occupied Palestinian Territory); and the Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel, an “ongoing, independent, international commission of inquiry”, established by the Human Rights Council, *inter alia* to investigate “all alleged

³⁷⁴ Charter of the United Nations, Art. 103. See further in this regard *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. United Kingdom)*, Provisional Measures, Order of 14 April 1992, I.C.J. Reports 1992, p. 15, para. 39; *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. United States of America)*, Provisional Measures, Order of 14 April 1992, I.C.J. Reports 1992, p. 126, para. 42.

³⁷⁵ Charter of the United Nations, Art. 7 (2).

³⁷⁶ General Assembly, Resolution 46/182, 19 December 1999; General Assembly, Resolution 48/141, 20 December 1993, para. 4.

³⁷⁷ Charter of the United Nations, Art. 7 (2).

³⁷⁸ See further Chapter 4 above.

³⁷⁹ General Assembly, Resolution 57 (I), 11 December 1946; Resolution 802 (VIII), 6 October 1953; Resolution 1718 (XVI), 19 December 1961; Resolution 2029 (XX), 22 November 1965; Resolution 64/289, 21 July 2010. UNICEF, UNDP, UNFP, and UN Women all report to the General Assembly and/or ECOSOC.

³⁸⁰ General Assembly, Resolution 60/251, 3 April 2006. The Human Rights Council reports to the General Assembly and ECOSOC.

³⁸¹ General Assembly, Summary of internal Secretariat studies of constitutional questions relating to agencies within the framework of the United Nations, 15 November 1954, A/C.1/758, para. 3.

violations of international humanitarian law and abuses of international human rights law leading up to and since 13 April 2021”³⁸² (United Nations Commission of Inquiry on the Occupied Palestinian Territory).

5.7. Israel’s obligation to cooperate with the United Nations in good faith pursuant to Articles 2 (2) and 2 (5) applies to the Organization as a whole: Israel may not selectively refuse to cooperate with one or more United Nations organs, entities or experts; nor may it unilaterally demand that one United Nations entity assume activities or operations which another United Nations entity has been mandated by the United Nations to provide. On the contrary: to do so constitutes a violation by Israel of the Charter, notably its Article 100 (2), which requires States to respect “the exclusively international character of the Secretary-General and the staff” and not to “seek to influence them in the discharge of their responsibilities”³⁸³.

5.8. However, instead of cooperating with the United Nations in good faith, Israel has pursued a longstanding and ongoing campaign to undermine the Organization, its officials and bodies, in violation of Articles 2 (2) and 2 (5) of the Charter, and has sought to compel the disintegration of UNRWA and the takeover of its humanitarian aid mandate by different United Nations and other entities. The Israeli Prime Minister himself has repeatedly used his office to malign the United Nations itself, characterising it as a “contemptuous farce”, a “house of darkness” and a “swamp of antisemitic bile”, including while addressing the Organization ³⁸⁴. This is echoed by other senior Israeli representatives, who repeatedly impugn the United Nations as “a failing, biased, and anti-Semitic organization”, a “biased antisemitic house of lies”, a “morally corrupt” organisation, “an accomplice to terrorists”, “a weapon in the arsenal of rogue states”, and “a stain on humanity – one that costs over \$ 75 billion annually”³⁸⁵. The Israeli Ambassador to the United Nations went so far as to shred a copy of the United Nations

³⁸² Human Rights Council, Resolution S-30/1, 28 May 2021, para. 1 (<https://docs.un.org/en/A/HRC/RES/S-30/1>).

³⁸³ Charter of the United Nations, Art. 100 (1).

³⁸⁴ See, e.g., UNISPAL, Israel’s Prime Minister Benjamin Netanyahu remarks at the 79th session of the UN General Assembly, 27 September 2024 (<https://www.un.org/unispal/document/israel-pm-remarks-un-ga-79-27sep24/>).

³⁸⁵ See, e.g., post of the Israeli Ambassador to the United Nations, Gilad Erdan, @giladerdan1, 1:27am, 22 November 2024 (<https://x.com/giladerdan1/status/1859755587854028953>); post of the Israeli Ambassador to the United Nations, Gilad Erdan, @giladerdan1, 1:45am, 11 December 2024 (<https://x.com/giladerdan1/status/1866645502369968592>); post of the Israeli Foreign Minister, Eli Cohen, @elico1, 6:37pm, 7 June 2024 (<https://x.com/elico1/status/1799118395591307751>); and post of the Israeli Ambassador to the United Nations, Gilad Erdan, @giladerdan1, 6:18pm, 20 August 2024 (<https://x.com/giladerdan1/status/1825930371864646010>); General Assembly, 78th session, 51st plenary meeting, 9 January 2024, A/78/PV.51, p. 5 (<https://docs.un.org/en/A/78/PV.51>).

Charter from the General Assembly podium³⁸⁶, in response to the General Assembly’s vote by an overwhelming majority of Member States in support of the State of Palestine’s full membership in the Organization³⁸⁷. Israeli officials have also repeatedly called for the defunding of the United Nations as a whole, remarking that “President Trump stripped UNWRA of funding in his last term – now it’s time to do the same with *the entire UN*”³⁸⁸.

³⁸⁶ United Nations Web TV, General Assembly: 49th Plenary Meeting, Tenth Emergency Special Session (resumed), 10 May 2024 (<https://webtv.un.org/en/asset/k1z/k1z4192746>, at 51-52 minutes).

³⁸⁷ See General Assembly, Resolution ES-10/23, 10 May 2024 (<https://docs.un.org/A/RES/ES-10/23>).

³⁸⁸ Post of the Israeli Ambassador to the United Nations, Gilad Erdan, @giladerdan1, 1:45am, 11 December 2024 (<https://x.com/giladerdan1/status/1866645502369968592>) (emphasis added). See also post of the Israeli Ambassador to the United Nations, Gilad Erdan, @giladerdan1, 6:23pm, 29 October 2023 (<https://x.com/giladerdan1/status/1718680059614036093>); post of Israeli Ambassador to the United Nations, Gilad Erdan, @giladerdan1, 4:25 pm, 6 May 2024 (<https://x.com/giladerdan1/status/1787488759442743589>); post of the Israeli Ambassador to the United Nations, Gilad Erdan, @giladerdan1, 9:18pm, 22 November 2024 (<https://x.com/giladerdan1/status/1860055162225651779>); and post of the Israeli Ambassador to the United Nations, Gilad Erdan, @giladerdan1, 7:06am, 22 January 2025 (<https://x.com/giladerdan1/status/1881946645660844071>); post of the Israeli Ambassador to the United Nations Danny Danon, @dannyanon, 4:47pm, 2 January 2025 (<https://x.com/dannyanon/status/1874844937042452940>); post of Israel Foreign Ministry, @IsraelMFA, 11:46, 1 February 2024 (<https://x.com/IsraelMFA/status/1753006978064912563>); post of Israel Foreign Ministry, @IsraelMFA, 3:26 pm, 2 February 2024 (<https://x.com/IsraelMFA/status/1753424664620147016>); post of Israel Foreign Ministry, @IsraelMFA, 7:09am, 5 November 2024 (<https://x.com/IsraelMFA/status/1853681140411830674>); post of Israel Foreign Ministry, @IsraelMFA, 2:39 pm, 27 December 2023 (<https://x.com/IsraelMFA/status/1740004531671351738>); post of the Israeli Minister of Defence, Israel Katz, @Israel_katz, 2:25 pm, 7 March 2024 (https://x.com/Israel_katz/status/1765730390054928663); post of the Israeli Minister of Defence, Israel Katz, @Israel_katz, last modified at 5:15 pm, 4 February 2024 (https://x.com/Israel_katz/status/1754176771967029757); post of Israel former Minister of Defence, Benny Gantz, @gantzbe, 4:55 pm, 22 October 2024 (<https://x.com/gantzbe/status/1848739936595279880>). See also post of the Israeli Ambassador to the United Nations, Gilad Erdan, @giladerdan1, 6:23pm, 29 October 2023 (<https://x.com/giladerdan1/status/1718680059614036093>); post of Israeli Ambassador to the United Nations, Gilad Erdan, @giladerdan1, 4:25 pm, 6 May 2024 (<https://x.com/giladerdan1/status/1787488759442743589>); post of the Israeli Ambassador to the United Nations, Gilad Erdan, @giladerdan1, 9:18pm, 22 November 2024 (<https://x.com/giladerdan1/status/1860055162225651779>); and post of the Israeli Ambassador to the United Nations, Gilad Erdan, @giladerdan1, 7:06am, 22 January 2025 (<https://x.com/giladerdan1/status/1881946645660844071>); post of the Israeli Ambassador to the United Nations Danny Danon, @dannyanon, 4:47pm, 2 January 2025 (<https://x.com/dannyanon/status/1874844937042452940>); post of Israel Foreign Ministry, @IsraelMFA, 11:46, 1 February 2024 (<https://x.com/IsraelMFA/status/1753006978064912563>); post of Israel Foreign Ministry, @IsraelMFA, 3:26 pm, 2 February 2024 (<https://x.com/IsraelMFA/status/1753424664620147016>); post of Israel Foreign Ministry, @IsraelMFA, 7:09am, 5 November 2024 (<https://x.com/IsraelMFA/status/1853681140411830674>); post of Israel Foreign Ministry, @IsraelMFA, 2:39 pm, 27 December 2023 (<https://x.com/IsraelMFA/status/1740004531671351738>); post of the Israeli Minister of Defence, Israel Katz, @Israel_katz, 2:25 pm, 7 March 2024 (https://x.com/Israel_katz/status/1765730390054928663); post of the Israeli Minister of Defence, Israel Katz, @Israel_katz, last modified at 5:15 pm, 4 February 2024 (https://x.com/Israel_katz/status/1754176771967029757); post of Israel former Minister of Defence, Benny Gantz, @gantzbe, 4:55 pm, 22 October 2024 (<https://x.com/gantzbe/status/1848739936595279880>). “UNRWA is a front for Hamas. Schools were built over Hamas tunnels. Teachers were moonlighting as terrorists. This isn’t humanitarian aid, this is institutionalized radicalization” and “UNRWA is a threat to Israel’s national security. A sovereign State cannot be expected to harbor an agency that bankrolls its enemies. UNRWA is a threat to Gazans themselves, it perpetuates the conflict” said the Israeli government spokesman for the national public diplomacy directorate, Office of the Prime Minister, *Youtube*, 29 January 2025 (<https://www.youtube.com/watch?v=cZBG6KyMsQI>).

5.9. Israel’s violations of its United Nations Charter obligations have been particularly flagrant as regards the Secretary-General, the Human Rights Council, the International Court of Justice and UNRWA, as this Chapter and Chapter 6 demonstrate – albeit the examples provided are illustrative only, as the extent of Israel’s failure to cooperate in good faith with the United Nations is too extensive to survey comprehensively in this Written Statement³⁸⁹.

1. Israel’s Failure to Cooperate in Good Faith with the Secretary-General

5.10. Israel’s repeated unfounded attacks on the office and person of the Secretary-General, in violation of its Charter obligations, have escalated since 2023, in particular. Israel’s Ambassadors to the United Nations have repeatedly accused the Secretary-General of “moral distortion” and “bias against Israel”³⁹⁰, describing him as an “official Hamas Spokesperson”³⁹¹, and even characterising his plea for a humanitarian ceasefire in the Gaza Strip as “a call to keep Hamas’ reign of terror”³⁹². They have absurdly claimed that the Secretary-General “bears the main responsibility for the fact that the United Nations agencies ... such as UNRWA, have become outright terrorist organisations”³⁹³, and demanded his resignation, asserting that he is “not fit to lead the UN”³⁹⁴. Israel’s Minister of Defence has provocatively accused the Secretary-General of “leading an extreme anti-Israel and anti-Jewish

³⁸⁹ Post of the Israeli Foreign Minister, Eli Cohen, @elico1, 4:30pm, 2 December 2023 (<https://x.com/elico1/status/1730975327403352165>); and post of the Israeli Foreign Minister, Eli Cohen, @elico1, 1:15pm, 25 December 2023 (<https://x.com/elico1/status/1739258572456763877>).

³⁹⁰ Post of the Israeli Ambassador to the United Nations, Gilad Erdan, @giladerdan1, 9:31pm, 6 December 2023 (<https://x.com/giladerdan1/status/1732498042895360275>); post of the Israeli Minister of Defense, Israel Katz, @Israel_Katz, 5:13pm, 24 February 2024 (https://x.com/Israel_katz/status/1761424126483341557); post of Israeli Prime Minister, Benjamin Netanyahu, @netanyahu, 6:27pm, 7 June 2024 (<https://x.com/netanyahu/status/1799115940271169962>).

³⁹¹ Post of the Israeli Ambassador to the United Nations, Danny Danon, @dannydanon, 6:40pm, 6 November 2023 (<https://x.com/dannydanon/status/1721583292405645544>); post of the Israeli Ambassador to the United Nations, Danny Danon, @dannydanon, 5:34pm, 24 October 2023 (<https://x.com/dannydanon/status/1716840684601090158>).

³⁹² Post of the Israeli Ambassador to the United Nations, Gilad Erdan, @giladerdan1, 9:31pm, 6 December 2023 (<https://x.com/giladerdan1/status/1732498042895360275>); post of the Israeli Ambassador to the United Nations, Gilad Erdan, @giladerdan1, 4:18pm, 26 February 2024 (<https://x.com/giladerdan1/status/1762135079302681057>).

³⁹³ Post of the Israeli Ambassador to the United Nations, Gilad Erdan, @giladerdan1, 9:31pm, 6 December 2023 (<https://x.com/giladerdan1/status/1732498042895360275>); post of the Israeli Ambassador to the United Nations, Gila Erdan, @giladerdan1, 4:18pm, 26 February 2024 (<https://x.com/giladerdan1/status/1762135079302681057>).

³⁹⁴ “Israeli Ambassador to the United Nations, ‘Israel’s Ambassador Calls for U.N. Chief to Resign’”, *WSJ News*, 25 October 2023 (<https://www.youtube.com/watch?v=ksjxY-cgEHI>); post of the Israeli Ambassador to the United Nations, Gilad Erdan, @giladerdan1, 5:22pm, 24 October 2023 (<https://x.com/giladerdan1/status/1716837646813614354>); post of the Israeli Minister of Defence, Israel Katz, @Israel_katz, 6:14pm, 13 May 2024 (https://x.com/Israel_katz/status/1790052928457232504).

agenda”, and of engaging in “antisemitic and anti-Israel conduct”³⁹⁵, while Israel’s Foreign Minister has declared “Guterres’ tenure ... a danger to world peace”, asserting that his call for a ceasefire “disgraces his position and constitutes a mark of Cain on the UN”³⁹⁶. These attacks have culminated in Israel declaring the Secretary-General *persona non grata* in Israel and “bann[ing] him from entering the country”, as of 2 October 2024³⁹⁷. This represents a particularly egregious violation by Israel of its Charter obligations, as well as its duty to ensure the privileges and immunities of United Nations officials (as addressed further in Section III below).

2. Israel’s Failure to Cooperate in Good Faith with the United Nations Human Rights Council

5.11. On 5 February 2025, Israel announced its full withdrawal from the Human Rights Council, accusing the body of “protect[ing] human rights abusers” while “obsessively demoniz[ing] the one democracy in the Middle East – Israel”, and “propagating antisemitism, instead of promoting human rights”³⁹⁸. Israel had already announced in 2010 its “complete refusal to cooperate with the Human Rights Council with respect to the totality of its activities”³⁹⁹, and pursued a policy of “persistent non-cooperation” with the Council, its Commissions of Inquiry, and its Special Procedures, in violation of its Charter obligations. As already noted by the Special Rapporteur on the Occupied Palestinian Territory over 13 years ago:

“[The] Government of Israel has not cooperated with many ... important initiatives of the General Assembly and the Human Rights Council relating to the occupied Palestinian territory. This includes the United Nations Fact-Finding Mission on the

³⁹⁵ Post of the Israeli Minister of Defence, Israel Katz, @Israel_katz, 8:10pm, 18 October 2024 (https://x.com/israel_katz/status/1847158256709349464); post of the Israeli Minister of Defence, Israel Katz, @Israel_katz, 12:25am, 13 October 2024 (https://x.com/israel_katz/status/1845410607761080802).

³⁹⁶ Post of the Israeli Foreign Minister, Eli Cohen, @elico1, 10:32pm, 6 December 2023 (<https://x.com/elico1/status/1732513338049863692>); post of the Israeli Foreign Minister, Eli Cohen, @elico1, 11:23pm, 8 December 2023 (<https://x.com/elico1/status/1733250961076830383>).

³⁹⁷ Post of the Israeli Foreign Minister, Israel Katz, @Israel_katz, 12:17pm, 2 October 2024 (https://x.com/Israel_katz/status/1841422324890812763).

³⁹⁸ Post of the Israeli Minister of Foreign Affairs, Gidon Sa’ar, @gidonsaar, 6:25pm, 5 February 2025 (<https://x.com/gidonsaar/status/1887190864218210732>). This followed an announcement by the United States of America on 4 February 2025, that it was withdrawing from the Human Rights Council. See United States, White House, “Withdrawing the United States from and Ending Funding to Certain United Nations Organizations and Reviewing United States Support to All International Organizations”, 4 February 2025 (<https://www.whitehouse.gov/presidential-actions/2025/02/withdrawing-the-united-states-from-and-ending-funding-to-certain-united-nations-organizations-and-reviewing-united-states-support-to-all-international-organizations/>).

³⁹⁹ Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, 30 August 2010, A/65/331, para. 1 (<https://docs.un.org/en/A/65/331>).

Gaza Conflict, the Committee of Independent Experts to follow up on the fact-finding mission on the Gaza conflict, the Independent International Fact-Finding Mission on the Incident of the Humanitarian Flotilla, the Beit Hanoun fact-finding mission, the Commission of Inquiry on Lebanon, and the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories.”⁴⁰⁰

5.12. Israel’s “persistent non-cooperation” – which has been the subject of repeated Human Rights Council resolutions⁴⁰¹ – continued thereafter, with successive Special Rapporteurs on the Occupied Palestinian Territory being refused entry by Israel to the Occupied Palestinian Territory, seriously impacting their mandates⁴⁰². Israel repeatedly accuses them and other Special Procedures of antisemitism for highlighting Israel’s egregious violations of the fundamental rights of the Palestinian people⁴⁰³. Israel also repeatedly denounces the Commission of Inquiry in similar terms to the Human Rights Council itself, describing it as “the antisemitic Commission of Inquiry, established by the morally distorted Human Rights Council”, “comprised of a clique of notorious antisemites” and “antisemitic Israel-haters”⁴⁰⁴. Israel persists in denying the Commission of Inquiry access to the Gaza Strip and the West Bank, “despite the desire of the State of Palestine to allow the Commission to visit”⁴⁰⁵. The Commission’s June 2024 report thus records that it:

⁴⁰⁰ Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, 19 September 2012, A/67/379, para. 3 (<https://docs.un.org/en/A/67/379>).

⁴⁰¹ Human Rights Council, Resolution 40/23, 16 April 2019, para. 6; Human Rights Council, Resolution 55/28, 16 April 2024, para. 15.

⁴⁰² Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, 23 October 2017, A/72/556, para. 2 (<https://docs.un.org/en/A/72/556>); Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, 21 October 2019, A/74/507, para. 2 (<https://docs.un.org/en/A/74/507>); Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, 22 October 2020, A/75/532, para. 2 (<https://docs.un.org/en/A/75/532>); Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, 22 October 2021, A/76/433, para. 2 (<https://docs.un.org/en/A/76/433>); Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, 21 September 2022, A/77/536, para. 2 (<https://docs.un.org/en/A/77/536>); “Israel’s symbolic ‘ban’ must not distract from atrocity crimes in Gaza: UN expert”, HCHR Press Release, 15 February 2024 (<https://www.ohchr.org/en/press-releases/2024/02/israels-symbolic-ban-must-not-distract-atrocity-crimes-gaza-un-expert?>); Report of the Special Rapporteur on the Situation of Human Rights in the Palestinian Territories Occupied since 1967, 1 July 2024, A/HRC/55/73, para. 1 (<https://docs.un.org/en/A/HRC/55/73>).

⁴⁰³ Post of the Israeli Foreign Ministry, @IsraelMFA, 1:30pm, 17 September 2024 (<https://x.com/IsraelMFA/status/1836004786845446419>); post of the Israeli Ambassador to the United Nations, Gilad Erdan, @giladerdan1, 10:36pm, 31 October 2022 (<https://x.com/giladerdan1/status/1587196853866663941>); post of Israel Foreign Ministry, @IsraelMFA, 1:30pm, 17 September 2024 (<https://x.com/IsraelMFA/status/1836004786845446419>).

⁴⁰⁴ Post of the Israeli Ambassador to the United Nations, Gilad Erdan, @giladerdan1, 6:55pm, 30 November 2023 (<https://x.com/giladerdan1/status/1730284375105819003>); post of the Israeli Foreign Minister, Eli Cohen, @elico1, 4:40pm, 2 December 2023 (<https://x.com/elico1/status/1730975327403352165>).

⁴⁰⁵ Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel, 2 June 2023, A/HRC/53/CRP.1, para. 6 (<https://tinyurl.com/47s4ys2c>); Report of the

“sent six requests for information and access to the Government of Israel and one request for information to the Government of the State of Palestine. The Government of the State of Palestine provided extensive comments. No response was received from the Government of Israel”⁴⁰⁶.

5.13. The Commission of Inquiry has formed the view that “Israel is *obstructing* its investigations into events on and since 7 October 2023, both in Israel and in the Occupied Palestinian Territory”, by “not only refus[ing] to cooperate with the Commission’s investigation but also reportedly bar[ring] medical professionals and others from being in contact with the Commission after it approached medical professionals in Israel in December 2023”⁴⁰⁷. In addition to constituting a violation of the right to self-determination of the Palestinian people⁴⁰⁸ and a breach of Israel’s obligations under the Charter, the denial of access to the Gaza Strip also constitutes a violation of a binding order by the International Court of Justice⁴⁰⁹.

B. ISRAEL’S OBLIGATION TO COOPERATE WITH THE UNITED NATIONS PURSUANT TO ARTICLES 55, 56 AND 2 (2) OF THE CHARTER

5.14. Pursuant to Articles 55 and 56 of the Charter, Israel has also “pledged” itself “to take joint and separate action *in co-operation with the Organization*”⁴¹⁰ for the achievement of the “creation of conditions of stability and well-being which are necessary for peaceful and friendly relations between nations based on respect for the principle of equal rights and self-determination of peoples”, and for the promotion of, *inter alia*, “higher standards of living, full employment, and conditions of economic and social progress and development”, “solutions of international economic, social, health, and related problems”, and “universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race,

Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel, 5 September 2023, A/78/198, para. 3 (<https://docs.un.org/en/A/78/198>); Report of the Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel, 14 June 2024, A/HRC/56/26, para. 5 (<https://docs.un.org/en/A/HRC/56/26>); Report of the Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel, 10 June 2024, A/HRC/56/CRP.3, para. 9 (<https://tinyurl.com/3vh459nt>).

⁴⁰⁶ Report of the Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel, 14 June 2024, A/HRC/56/26, para. 2 (<https://docs.un.org/en/A/HRC/56/26>).

⁴⁰⁷ Report of the Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel, 10 June 2024, A/HRC/56/CRP.3, paras. 2, 8 and 9 (emphasis added) (<https://tinyurl.com/3vh459nt>); Report of the Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel, 10 June 2024, A/HRC/56/CRP.4, paras. 2, 10 and 1 (<https://tinyurl.com/mrfsn364>).

⁴⁰⁸ See Chapter 2 above.

⁴⁰⁹ See below, paras. 5.16-5.19.

⁴¹⁰ United Nations Charter, Art. 56 (emphasis added).

sex, language, or religion”⁴¹¹. That undertaking by Member States is fundamental to the achievement of “*international co-operation* in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion”, identified as one of the four purposes of the United Nations in Article 1 of the Charter⁴¹². This duty to cooperate – which must be performed in good faith in accordance with Article 2 (2) of the Charter – is also enshrined in various treaties to which Israel is a party⁴¹³, and has been repeatedly reaffirmed by the United Nations, including in the 1970 Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations. That Declaration provides:

“States Members of the United Nations have the duty to take joint and separate action *in co-operation with the United Nations* in accordance with the relevant provisions of the Charter in order to maintain international peace and security and to promote international economic stability and progress the general welfare of nations and international co-operation free from discrimination based on such differences.”⁴¹⁴

5.15. Israel’s actions in relation to the Occupied Palestinian Territory plainly violate its obligations under Article 56 of the Charter. These include its longstanding blockade of the Gaza Strip, which – as of 2022 already – had caused significant “de-development and deindustrialization”, “a 45 per cent unemployment rate and a 60 per cent poverty rate, with 80 per cent of the population dependent on some form of international assistance”⁴¹⁵. They also include Israel’s siege of Gaza in October 2023 and since, consisting of a policy of deliberately preventing the supply of sufficient food, water, medicine, fuel and other basic goods necessary for the survival of the civilian population in the Gaza Strip, already pushed to the limits of its endurance by the pre-existing blockade, which has led to mass starvation and extreme hardship⁴¹⁶. These are serious violations of Israel’s United Nations Charter obligations.

⁴¹¹ *Ibid.*, Art. 55.

⁴¹² *Ibid.*, Art. 1 (3) (emphasis added).

⁴¹³ See, for example, International Covenant on Economic, Social and Cultural Rights, 1966, Art. 2 (1).

⁴¹⁴ General Assembly, Resolution 2625 (XXV), 24 October 1970 (emphasis added).

⁴¹⁵ Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, 12 August 2022, A/HRC/49/87, para. 45 (<https://docs.un.org/en/A/HRC/49/87>).

⁴¹⁶ See above, paras. 1.9-1.25.

C. ISRAEL'S OBLIGATION TO COOPERATE WITH THE UNITED NATIONS PURSUANT TO
BINDING ORDERS OF THE INTERNATIONAL COURT OF JUSTICE

5.16. Israel's duty to cooperate in good faith with the United Nations, especially in ensuring the provision of humanitarian aid and basic supplies urgently needed by the Palestinian civilian population, has been expressly reaffirmed by the International Court of Justice in the context of Israel's assault on the Gaza Strip. In its order for provisional measures of 28 March 2024, in the case concerning the *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)* ("March 2024 Order") the Court required Israel to:

“[t]ake all necessary and effective measures to ensure, without delay, *in full cooperation with the United Nations*, the unhindered provision at scale by all concerned of urgently needed basic services and humanitarian assistance, including food, water, electricity, fuel, shelter, clothing, hygiene and sanitation requirements, as well as medical supplies and medical care to Palestinians throughout Gaza, including by increasing the capacity and number of land crossing points and maintaining them open for as long as necessary”⁴¹⁷.

5.17. The March 2024 Order was sought by South Africa in the context of Israel's continuing failure to “take immediate and effective measures to enable the provision of urgently needed basic services and humanitarian assistance to address the adverse conditions of life faced by Palestinians in the Gaza Strip”, in direct violation of the Court's prior provisional measures order in the same case of 26 January 2024 (“January 2024 Order”)⁴¹⁸. The Court considered it necessary in that context not only to reaffirm its January 2024 Order, but also: (i) to specify the nature and scale of the basic services and humanitarian assistance that Israel was required to ensure, without delay, in the Gaza Strip; and (ii) to mandate that Israel cooperate fully *with the United Nations* in ensuring the supply of those services and assistance⁴¹⁹. Given the “irreplaceable role” played by UNRWA in humanitarian aid and assistance to the Gaza Strip – as repeatedly recognised and reiterated by the Security

⁴¹⁷ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel), Request for the modification of the Order of 26 January 2024 indicating provisional measures*, Order of 28 March 2024, para. 51 (2) (a) (emphasis added).

⁴¹⁸ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel), Provisional Measures*, Order of 26 January 2024, para. 86.

⁴¹⁹ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel), Request for the modification of the Order of 26 January 2024 indicating provisional measures*, Order of 28 March 2024, para. 51 (2) (a).

Council⁴²⁰, the General Assembly⁴²¹ and the Secretary-General⁴²², as well as other United Nations agencies and bodies and other humanitarian organizations on the ground in the Gaza Strip⁴²³ – this in effect constitutes an order by the Court for Israel to cooperate with UNRWA, which Israel continues to violate.

5.18. In its subsequent Order of 24 May 2024 (“May 2024 Order”), the Court also required Israel to “[t]ake effective measures to ensure the unimpeded access to the Gaza Strip of any commission of inquiry, fact-finding mission or other investigative body *mandated by competent organs of the United Nations* to investigate allegations of genocide”⁴²⁴. In making

⁴²⁰ See, e.g., Security Council Press Statement on United Nations Relief and Works Agency for Palestine Refugees in Near East (UNRWA), 30 October 2024 (<https://press.un.org/en/2024/sc15874.doc.htm>) (“The members of the Security Council underscored that *UNRWA remains the backbone of all humanitarian response in Gaza*, and affirmed that *no organization can replace or substitute UNRWA’s capacity and mandate* to serve Palestinian refugees and civilians in urgent need of life-saving humanitarian assistance.” (emphasis added)).

⁴²¹ General Assembly, Resolution ES-10/25, 16 December 2024, paras. 7 and 31 (“underscor[ing] that [UNRWA] is *irreplaceable*”, and “stress[ing] the *importance of cooperation of all States and other United Nations bodies* with the Agency” (emphasis added)); General Assembly, Resolution 79/232, 19 December 2024, preamble (“*Noting* that the provision of such essential assistance to the civilian population in the Occupied Palestinian Territory is dependent upon the continued presence of the United Nations, including the United Nations Relief and Works Agency for Palestine Refugees in the Near East, which is *the backbone of United Nations humanitarian relief operations*, together with the facilitation of its operations and respect for its privileges and immunities, and that this presence, facilitation and respect for privileges and immunities are closely related” (emphasis added)).

⁴²² “Guterres: no alternative to ‘indispensable’ UNRWA”, United Nations Regional Information Centre, 29 October 2024 (<https://unric.org/en/guterres-no-alternative-to-indispensable-unrwa/>) (“UNRWA is the principal means by which essential assistance is supplied to Palestine refugees in the Occupied Palestinian Territory. *There is no alternative to UNRWA ... UNRWA is indispensable.*” (emphasis added)); “If Palestinian Refugee Agency Ceases to Operate, Responsibility to Provide Services Rests Solely with Israel”, United Nations Press Release, 2 December 2024 (<https://press.un.org/en/2024/sgsm22483.doc.htm>) (“UNRWA is an *irreplaceable lifeline for millions of Palestinians*. Its extensive network of staff and infrastructure is needed now more than ever ... *No other entity has the capacity or reach* to deliver life-saving aid and social and development services at the scale and the breadth needed in Gaza, and in the Occupied Palestinian Territory in general ... At a time when law and order in Gaza have completely broken down, *the void that will be left without UNRWA would be impossible to fill ... There is no alternative*”. (emphasis added)).

⁴²³ See, e.g., “UNRWA is Irreplaceable”, IOM Press Release, 29 October 2024 (<https://www.un.org/unispal/document/unrwa-is-irreplaceable-iom-press-release-29oct24/>) (“The *absence of UNRWA from the Occupied Palestinian Territory, particularly in Gaza, will be catastrophic ... UNRWA’s services are indispensable* to the people of Gaza – there is *no alternative to UNRWA*” (emphasis added)); “Joint NGO Statement: As UN General Assembly Meets to Discuss the Situation in the Occupied Palestinian Territory, Member States Must Restore Funding to UNRWA”, International Rescue Committee, Norwegian Refugee Council, CARE International, Plan International, Mercy Corps, Oxfam, Save the Children, 4 March 2024 (<https://www.savethechildren.net/news/joint-ngo-statement-un-general-assembly-meets-discuss-situation-occupied-palestinian-territory>) (“[O]ther aid agencies cannot replicate UNRWA’s central role in the humanitarian response in Gaza, and amidst the current crisis *many will struggle to even maintain their current operations without UNRWA’s partnership and support.*” (emphasis added)); “GAZA: Urgent plea for PM to immediately restore and increase funding to UNRWA”, Save the Children, 30 April 2024 (<https://www.savethechildren.org.uk/news/media-centre/press-releases/urgent-plea-for-pm-to-immediately-restore-and-increase-funding-t>); “Urgent global appeal: Defend UNRWA from Israeli ban and prevent catastrophic consequences for Palestinians”, Oxfam Press Releases, 27 October 2024 (<https://www.oxfam.org/en/press-releases/urgent-global-appeal-defend-unrwa-israeli-ban-and-prevent-catastrophic-consequences>).

⁴²⁴ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel), Request for the modification of the Order of 28 March 2024 indicating provisional measures*, Order of 24 May 2024, para. 51 (emphasis added).

that Order, the Court recalled that it had previously ordered Israel pursuant to its January 2024 Order to “take effective measures to prevent the destruction and ensure the preservation of evidence related to allegations of acts within the scope of Article II and Article III of [the Genocide Convention]”⁴²⁵. However, the Court determined that a further express Order providing for access by the United Nations to the Gaza Strip was necessary in order to ensure the preservation of that evidence. As set out above, Israel is continuing to violate that Order, including by failing to allow the Commission of Inquiry on the Occupied Palestinian Territory – which has been mandated by the Human Rights Council to investigate *inter alia* allegations of genocide – to enter the Gaza Strip⁴²⁶.

5.19. Israel’s past and continuing failures to cooperate with the Court and other organs of the United Nations – in relation both to the provision by the United Nations of basic services and humanitarian aid to the Palestinian civilian population, and access to the occupied territory by the United Nations and its mandate holders – constitute not only breaches of Israel’s obligation to comply with the Court’s binding Orders pursuant to Article 94 of the Charter, but also its obligation to cooperate with the United Nations in good faith, pursuant to its Articles 2 (2), 2 (5) and 56.

5.20. Those failures must be viewed against Israel’s broader assault on the Court in the responses to its 2024 Advisory Opinion and its provisional measure rulings in the case of *South Africa v. Israel*, which is incompatible with a good faith performance of Articles 2 (2) and 2 (5) of the Charter. Deploying the same derogatory epithets as used against the United Nations as a whole, its Secretary-General, its Human Rights Council, and its mandate holders, Israeli officials have proactively accused the Court of being an “antisemitic court”, which has been “manipulated and weaponised” in a “witch hunt” against Israel, and which is engaged not in “seeking justice, but the persecution of the Jewish people”⁴²⁷. Israeli officials have rejected the

⁴²⁵ *Ibid.*

⁴²⁶ General Assembly, Report of the Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel, 14 June 2024, A/HRC/56/26, para. 2 (<https://docs.un.org/en/A/HRC/56/26>).

⁴²⁷ See, e.g., posts of the Israeli Ambassador to the United Nations, Gilad Erdan, @giladerdan1, 10:03pm, 18 January 2023 (<https://x.com/giladerdan1/status/1615817283707838468>) and 9:18pm, 22 November 2024 (<https://x.com/giladerdan1/status/1860055162225651779>). In the Fourth Committee debate on what became resolution 77/247 requesting the Court’s advisory opinion on Israeli practices affecting the human rights of the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem, Israel’s permanent representative denounced the General Assembly’s engagement of the International Court of Justice as a “poisonous measure”, and “a weapon of mass destruction” in a “jihad war of Israel demonization”. In his view, “[b]y involving the ICJ, any hopes for reconciliation [between Israelis and Palestinians] are being driven off a cliff” and Member States who support the move are little more than Palestine’s “marionettes”, backing “libelous

authority of the Court on the premise that its judges, assertedly from “Muslim dictatorships”, “cannot ... tell [Israel] what to do in a real democracy”⁴²⁸. The Israeli Prime Minister himself has called the Court’s failure to reject South Africa’s claim in *South Africa v. Israel* “a mark of disgrace that will not be erased for generations”⁴²⁹, with the Israeli President describing it as “*blood libel* that undermines the very values on which this court was established”⁴³⁰. Israel is now demanding that “[t]he UN and its *corrupt courts*, the ICC and ICJ, MUST be defunded”⁴³¹.

II. Israel’s Obligation to Ensure the Protection of United Nations Premises, Property and Assets in and in Relation to the Occupied Palestinian Territory

A. THE NATURE AND EXTENT OF ISRAEL’S OBLIGATION TO ENSURE THE PROTECTION OF UNITED NATIONS PREMISES, PROPERTY AND ASSETS

5.21. Pursuant to Article 105 (1) of the United Nations Charter, read in conjunction with Articles 2 (2) and 2 (5), Israel is required to ensure in good faith the enjoyment by the United Nations of “such privileges and immunities as are necessary for the fulfilment of its purposes”. As further specified in the 1946 Convention – adopted by the General Assembly on

resolutions” and “endorsing incitement and terror” (Statement of Mr. Erdan (Israel), *Official Records of the General Assembly, Seventy-seventh Session, Fourth Committee, 25th meeting, 10 November 2022, A/C.4/77/SR.25* and the video of the meeting at <https://webtv.un.org/en/asset/klp/klp3p1b46n>).

⁴²⁸ See, e.g., post of the Minister for Social Equality and Advancement of the Status of Women, May Golan, @GolanMay, 5:31pm, 29 January 2024 (<https://twitter.com/GolanMay/status/1752006519619498481>) (our translation). See also, in a similar vein, Israel’s attacks on the ICC, e.g.: “The outrageous decision by the ICC prosecutor, Karim Khan, to seek arrest warrants against the democratically elected leaders of Israel is a *moral outrage* of historic proportions. It will cast an *everlasting mark of shame* on the international court” (emphasis added) (post of the Israeli Prime Minister, Benjamin Netanyahu, @netanyahu, 8:28pm, 20 May 2024 (<https://x.com/netanyahu/status/1792623424893784221>)); “The @IntlCrimCourt decision today is distorted and anti-Semitic. It is an attack on Israel and all democracies, undermining our ability to defend civilians against terrorism” (emphasis added) (post of the Israeli Ambassador to the UN, Gilad Erdan, @giladerdan1, 1:19am, 6 February 2021 (<https://x.com/giladerdan1/status/1357846325065355265>)); “At the Security Council yesterday, I strongly criticized the decision by the Chief Prosecutor of the International Criminal Court and said that it was a ‘dark day’ for the court, which had become a weapon in the hands of terrorists. This is a ‘witch-hunt’ motivated by Jew-hatred and political interests” (post of the Israeli Ambassador to the UN, Gilad Erdan, @giladerdan1, 3:23pm, 21 May 2021 (<https://x.com/giladerdan1/status/1792909076772405524>)). See also, post of Israel’s Ambassador to the United Nations, Danny Danon, @dannydanon, 3:41pm, 21 November 2024 (<https://x.com/dannydanon/status/1859608181963620468>); post of Israeli Prime Minister, Benjamin Netanyahu, @netanyahu, 8:00am, 27 January 2025 (<https://x.com/netanyahu/status/1883772010406281644>); post of the Israeli MFA, Gideon Sa’ar, @gideonsaar, 2:18pm, 21 November 2024 (<https://x.com/gidonsaar/status/1859587210548310191>).

⁴²⁹ Israel Prime Minister’s Office, Prime Minister Netanyahu in reference to the decision of the International Court of Justice in The Hague, 26 January 2024 (<https://www.gov.il/he/departments/news/spoke-hague260124>) (our translation).

⁴³⁰ Israeli Ministry of Foreign Affairs, President Herzog addresses ICJ Ruling, 28 January 2024 (<https://www.gov.il/en/departments/news/president-herzog-addresses-icj-ruling-28-jan-2024>) (emphasis added).

⁴³¹ Israeli Ambassador to the UN, Gilad Erdan, @giladerdan1, 9:18pm, 22 November 2024 (<https://x.com/giladerdan1/status/1860055162225651779>) (emphasis added).

13 February 1946 in order to give effect to Article 105 (3) of the Charter⁴³² – Israel must respect the inviolability of United Nations premises and the immunity of the United Nations archives, its property and assets “*wherever located and by whomsoever held*”, and must protect United Nations premises and property from “search, requisition, confiscation, expropriation and any other form of interference, whether by executive, administrative, judicial or legislative action”⁴³³. This obligation is plainly essential to the effective operation of the Organization, and serves to ensure its autonomy, independence and privacy from States.

5.22. The “premises of the United Nations” refers to buildings occupied in whole or in part by the United Nations, whether owned or rented by the United Nations⁴³⁴. Israeli officials – including military, police, and other security personnel – may not attack United Nations premises, and may not enter them for any reason without the consent of the United Nations. They are strictly prohibited from attacking, seizing, or requisitioning United Nations premises, including for military purposes. They are similarly prohibited from otherwise appropriating United Nations premises, including by taking legislative action to order the forced evacuation or abandonment of United Nations premises by United Nations staff or others. They must also prevent any unauthorised entry or attack on such premises by Israeli citizens, including Israeli occupying forces and settlers⁴³⁵. Israel has engaged in clear and ongoing violations of those obligations.

5.23. The “property and assets of the United Nations” encompasses *all* such property and assets, including humanitarian aid destined to the Gaza Strip and vehicles used by the United Nations and its officials in the performance of their official functions, including to transport such aid. Israel must not impose any bureaucratic or other impediment on their free movement, and must “exempt from customs duties and prohibitions and restrictions on imports and exports in respect of articles imported or exported by the United Nations for its official use”⁴³⁶. Israel

⁴³² United Nations Charter, Art. 105 (3) stipulates: “The General Assembly may make recommendations with a view to determining the details of the application of paragraph 1 and 2 of this Article or may propose conventions to the Members of the United Nations for this purpose”.

⁴³³ Convention on the Privileges and Immunities of the United Nations, 13 February 1946, Art. II, Sections 2 and 3, *UNTS*, Vol. 1, p. 15 (emphasis added). Israel acceded to the Convention on 21 September 1949.

⁴³⁴ The definition of the term “premises” in the 1963 Vienna Convention on Consular Relations, Art. 1 (i), is to similar effect (*UNTS*, Vol. 596, p. 261). In properties shared by the United Nations and others, those parts used or controlled exclusively by the United Nations are inviolable.

⁴³⁵ ILC, Practice of the United Nations, the specialized agencies and the International Atomic Energy Agency concerning their status, privileges and immunities, Study prepared by the Secretariat, *ILC Yearbook*, 1967, Vol. II, p. 228, para. 96 (Section 9(a)).

⁴³⁶ Convention on the Privileges and Immunities of the United Nations, 1946, Art. II, Section 7 (b). “Official use” being interpreted by the United Nations to include “the importation of any goods, materials,

is thus duty bound rigorously to ensure the free movement of United Nations vehicles and goods – including humanitarian aid – into, within and out of Israeli territory and into and out of the Occupied Palestinian Territory from Israel. For as long as Israel continues to remain in occupation of Palestinian territory by not ending its unlawful presence there, it is also required to ensure, as an occupying power, the free movement of United Nations vehicles or goods *within* that territory and their entry to and exit from that territory⁴³⁷. Israel’s continuing denial and delay of access of United Nations humanitarian aid to the Gaza Strip and its deprivation of such aid as a form of collective punishment and means of pressure constitute serious violations of Israel’s obligations under the Charter and the 1946 Convention.

5.24. While Israel, like other States, may enter into bilateral agreements with individual United Nations entities regarding their operations and activities, those agreements cannot and do not supersede its obligations under the United Nations Charter⁴³⁸, nor does the unilateral cancellation by Israel of such agreements impact Israel’s ongoing binding obligations under the United Nations Charter, the 1946 Convention, customary international law and the orders of this Court as set out above. This is of particular relevance in relation to Israel’s entirely unmeritorious claim that its renunciation of 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 (“Comay-Michelmores Agreement”)⁴³⁹ serves to abrogate its continuing obligation to cooperate in good faith with UNRWA or to deprive UNRWA, its premises, property, assets and staff in the Occupied Palestinian Territory of the privileges and immunities of the United Nations.

5.25. Israel’s acceptance in the Comay-Michelmores Agreement to provide assistance to UNRWA – a United Nations subsidiary organ, with a direct mandate from the General Assembly – in relation to matters such as “ensur[ing] the protection and security of the

foodstuffs, or otherwise, which are used in and form part of the official programme of the [United Nations Relief and Works] Agency”. See Nicolas Michel, Note to Mr Gaylard Re Legal aspects of practical problems experienced by United Nations Agencies operating in the occupied Palestinian Territory, 18 July 2008, p. 4, para. 22, cited in United Nations Department and Office of Political Affairs, Movement and Access Issues in the OPT Memorandums, Note to the Secretary-General, 25 July 2008 (<https://jstor.org/stable/community.26461108>). See also ILC, Practice of the United Nations, the specialized agencies and the International Atomic Energy Agency concerning their status, privileges and immunities, Study prepared by the Secretariat, *ILC Yearbook*, 1967, Vol. II, p. 249, para. 181 (Section 15).

⁴³⁷ See above, para. 2.12.

⁴³⁸ United Nations Charter, Art. 103.

⁴³⁹ So-named after its two signatories, Michael Comay, then Political Adviser to the Israeli Foreign Minister and Ambassador-at-Large to the State of Israel, and Laurence Michelmores, then UNRWA Commissioner-General (<https://www.un.org/unispal/document/auto-insert-198325/>). See also *UNTS*, Vol. 8955, p. 183.

personnel, installations and property of UNRWA”, “permit[ing] the free movement of UNRWA vehicles into, within and out of Israel” and the occupied Palestinian territory, “permit[ing] the international staff of the Agency to move in, out and within Israel and the areas in question”, and exempting UNRWA from “customs duties, taxes and charges on importation of supplies, goods and equipment”, did no more than reaffirm the obligations by which Israel was *already* bound and *remains* bound pursuant to Articles 2 (2), 2 (5) and 105 (1) of the Charter, the 1946 Convention, and customary international law, independently of the Agreement. Moreover, and as set out in Chapter 2 above, the ultimate right to consent to the presence and operations of the United Nations in the Occupied Palestinian Territory vests *in the people of Palestine*, pursuant to their fundamental right to self-determination, and not in Israel, whose presence in the territory has been deemed unlawful by the Court. Accordingly, it is for the *representatives of the Palestinian people*, not Israel, to consent to the presence and activities of the United Nations in and in relation to the Occupied Palestinian Territory, and they have so consented⁴⁴⁰. For all the reasons, Israel’s withdrawal from the Agreement while wrongfully reneging on its commitments to respect the privileges and immunities of the United Nations in accordance with the Charter, is consequently without material effect.

B. THE APPLICATION OF ISRAEL’S OBLIGATIONS TO SITUATIONS OF OCCUPATION AND ACTIVE HOSTILITIES

5.26. Israel’s obligations pursuant to Article 105 of the Charter and the 1946 Convention to ensure the inviolability of United Nations premises and to protect the immunity of United Nations property, assets and personnel⁴⁴¹ plainly apply within the occupied Palestinian territory. While Article 105 (1) refers to the obligation as binding in “the territory of Member States”⁴⁴², that simply reflects the fact that non-United Nations Member States are not bound by the Charter. The 1946 Convention itself – widely recognised as reflecting customary international law⁴⁴³ – makes clear that parties to the Convention are obliged to respect and

⁴⁴⁰ See above, para. 2.53.

⁴⁴¹ The immunities of United Nations personnel are dealt with further in Section III below.

⁴⁴² See also United Nations Charter, Art. 105 (2) concerned with the immunities of United Nations personnel, which contains the same wording.

⁴⁴³ See, e.g., Bruno Simma et al. (ed.), *The Charter of the United Nations: A Commentary*, 4th edition (Oxford University Press, 2024), p. 2810 (“the widespread acceptance of the Convention and the almost identical content of separate agreements entered into by host States and the United Nations can be seen as evidence of customary law in this respect”); Malcolm Evans (ed.), *International Law*, 6th edition (Oxford University Press, 2024), p. 268 (“In the absence of a treaty obligation, customary international law requires States to grant privileges and immunities to international organizations.”); Rosalyn Higgins, *Problems and Process: International Law and How We Use It* (Oxford University Press, 1995), p. 91 (“The issue is ... whether international law requires that a different type of international person, an international organization, be accorded functional immunities. The basis

protect the inviolability of *all* United Nations premises and property, *wherever* located and by whomever held⁴⁴⁴.

5.27. The obligations under Articles 2 (2), 2 (5) and 105 of the Charter, as developed in the 1946 Convention, are unqualified, and apply equally in times of peace and armed conflict. The inviolability of United Nations premises or the immunity of its property, assets and personnel may not be overridden by “demands of military expediency or security”, including in occupied territory⁴⁴⁵. Consequently, attacks by Israel on United Nations premises, property or personnel in the Occupied Palestinian Territory, in breach of their inviolability and immunities, violate international law⁴⁴⁶. Indeed, the need for the inviolability of United Nations premises and the immunity of United Nations property and assets to be rigorously enforced is *especially* stark in situations of active hostilities, when the very lives of United Nations staff and desperate civilians forced to seek shelter in United Nations facilities depend on the strict observance by belligerents of those international obligations.

5.28. This should be uncontroversial. Israel has itself previously recognised the inviolability of United Nations premises – in the Occupied Palestinian Territory – in the context of active armed hostilities by paying compensation for the damage it caused to those premises. In 2009, a United Nations Headquarters Board of Inquiry, convened by the Secretary-General to investigate various incidents in which United Nations personnel had been killed or injured and United Nations premises damaged during the course of Israel’s 2008-2009 military assault on the Gaza Strip, found that Israel’s “deliberate and intentional” strikes on UNRWA premises “amounted to an egregious breach of the inviolability of the United Nations premises and a failure to accord the property and assets of the Organization immunity from any form of

for an affirmative answer – which I believe to be correct – lies in good faith (that is, provision of what is necessary for an organization to perform its functions) ... The issue is not, so far as the membership is concerned, one of ‘recognition’ of the personality of the organization. It is simply that members – and a fortiori the headquarters state – may not at one and the same time establish an organization and fail to provide it with those immunities that ensure its role as distinct from that of the host state.”).

⁴⁴⁴ Convention on the Privileges and Immunities of the United Nations, 1946, Art. II, Section 3.

⁴⁴⁵ *Ibid.* See also ILC Draft Articles on the Effect of Armed Conflict of Treaties, Arts. 3 and 7, *ILC Yearbook*, 2011, Vol. II (2), pp. 111 and 114; Note from the United Nations Legal Counsel to the USG for Peacekeeping Operations, 11 June 2003, *UNJYB*, Chapter IV, p. 522, para. 11 (<https://legal.un.org/unjuridicalyearbook/volumes/2003/>).

⁴⁴⁶ Pursuant to the customary international law principle of proportionality, as enshrined *inter alia* in Additional Protocol to the Geneva Conventions of 12 August 1949, and Relating to Victims of International Armed Conflicts (Additional Protocol I), Art. 51 (5) (b), *UNTS*, Vol. 1125, p. 3. See also August Reinisch (ed.), *The Conventions on the Privileges and Immunities of the United Nations and its Specialized Agencies: A Commentary* (Oxford University Press, 2016), p. 131.

interference”⁴⁴⁷. The Board noted that “such inviolability and immunity could not be overridden by demands of military expediency”⁴⁴⁸. The Board further determined that the Israeli army had repeatedly failed to “make sufficient efforts or take adequate precautions to fulfil the responsibilities of the Government of Israel to protect United Nations personnel and civilians sheltering on United Nations premises and to protect United Nations premises and property”⁴⁴⁹, including by failing to maintain an adequate safety distance between whatever its target point might have been” and United Nations premises⁴⁵⁰. The Board recommended that the United Nations seek – in addition to compensation – a “formal acknowledgement by the Government of Israel that its public statements alleging that Palestinians had fired from within ... UNRWA [premises] *were untrue* and were regretted”⁴⁵¹. In that context, Israel paid UNRWA approximately \$ 10.5 million compensation for damage caused by Israel to UNRWA’s premises and harm caused to its personnel⁴⁵².

5.29. The United Nations, for its part, undertakes to “co-operate at all times with the appropriate authorities ... to facilitate the proper administration of justice, secure the observance of police regulations and prevent the occurrence of any abuse in connection with the privileges, immunities and facilities” provided for therein⁴⁵³. UNRWA and the Secretary-General have sought to cooperate at all times in relation to any allegations made against its staff, premises and property, and have acted to strengthen further UNRWA’s robust, established mechanisms to deal with any allegations of violation of privilege and immunities by its staff and to verify that the inviolability of its premises is not being abused.

5.30. However, it is for the United Nations Secretary-General – not Israel – to determine whether the United Nations premises retain their inviolability and to determine whether there has been an abuse of immunity in relation to United Nations property or personnel. The role and authority of the Secretary-General in this regard are critical to ensure the United Nations’ operational independence from States, and compliance with Articles 100 (1) and (2) of the

⁴⁴⁷ Letter from the Secretary-General addressed to the President of the Security Council transmitting summary of the report of the United Nations Headquarters Board of Inquiry into certain incidents in the Gaza Strip between 27 December 2008 and 19 January 2009, 4 May 2009, A/63/855-S/2009/250, Annex, paras. 16, 37-39, 44-45, 55-56, 65-67 and 74-76 (<https://docs.un.org/en/A/63/855>).

⁴⁴⁸ *Ibid.*, paras. 16, 26, 38, 54, 65, 75 and 83.

⁴⁴⁹ *Ibid.*, paras. 17 and 27. See also *ibid.*, para. 38.

⁴⁵⁰ *Ibid.*, para. 28.

⁴⁵¹ *Ibid.*, para. 110.

⁴⁵² “Israel compensates UN for damages during last year’s Gaza offensive”, *UN News*, 22 January 2010 (<https://news.un.org/en/story/2010/01/327352>).

⁴⁵³ Convention on the Privileges and Immunities of the United Nations, 1946, Art. V, Section 21.

Charter. In order to assist himself in making such a determination, the Secretary-General may convene an independent investigation⁴⁵⁴ – as he has done in relation to Israel’s recent allegations of involvement by UNRWA staff members in the events of 7 October 2023 – or ensure the publication of relevant legal opinions of UNRWA and the Office of Legal Affairs, in responding to any such allegations made⁴⁵⁵. Insofar as Israel continues to assert – *contra* the determination of the Secretary-General or independent officials appointed by him – that one or more United Nations premises in Occupied Palestinian Territory is no longer inviolable or that there has been any other abuse of the inviolability or immunity of the United Nations, its property, assets or personnel, any such dispute may be referred to the International Court of Justice for resolution pursuant to Section 30 of the 1946 Convention. However, Israel may *not* act unilaterally to sanction the United Nations. On the contrary: recourse to unilateral action by a State – such as Israel’s legislation and consequential action against UNRWA – constitutes a serious violation of Israel’s obligations under the United Nations Charter and the 1946 Convention.

C. THE CONSISTENT POSITION OF THE UNITED NATIONS REGARDING THE INVIOABILITY OF ITS PREMISES AND THE IMMUNITY OF ITS PROPERTY AND ASSETS

5.31. That the inviolability of United Nations premises and the immunity of its property and assets remain absolute in situations of active hostilities reflects the consistent position of the United Nations itself, as set out in numerous United Nations resolutions, including those adopted in the context of Israel’s prior and current military assaults in the Gaza Strip⁴⁵⁶.

5.32. The General Assembly has repeatedly “call[ed] upon Israel” – over the course of successive decades – to comply with “Articles 100, 104 and 105 of the Charter and with the Convention on the Privileges and Immunities of the United Nations”; to “respect the privileges and immunities of the Agency [UNRWA]”; “to ensure ... the protection of [UNRWA’s]

⁴⁵⁴ *Difference Relating to Immunity from Legal Process of a Special Rapporteur of the Commission on Human Rights, Advisory Opinion, I.C.J. Reports 1999*, pp. 84-85, para. 50.

⁴⁵⁵ *Ibid.*

⁴⁵⁶ Note from the Legal Counsel to the United Nations Secretary-General for Peacekeeping Operations, 11 June 2003, *UNJYB*, Chapter IV, p. 522, para. 11 (<https://legal.un.org/unjuridicalyearbook/volumes/2003/>); Letter from the Secretary-General addressed to the President of the Security Council transmitting summary of the report of the United Nations Headquarters Board of Inquiry into certain incidents in the Gaza Strip between 27 December 2008 and 19 January 2009, 4 May 2009, A/63/855-S/2009/250, Annex, para. 91 (<https://docs.un.org/en/A/63/855>). See further the opinion of the United Nations Legal Counsel Carl-August Fleischhauer, as reported in *Applicability of the Obligation to Arbitrate under Section 21 of the United Nations Headquarters Agreement of 26 June 1947, Advisory Opinion, I.C.J. Reports 1988*, pp. 19-20, paras. 17-18.

installations and the safeguarding of the security of its facilities in the Occupied Palestinian Territory, including East Jerusalem at all times”; “to cease obstructing the movement and access of the staff, vehicles and supplies of the Agency and levying taxes, extra fees and charges on the Agency”; and to compensate UNRWA for “damages to its property and facilities resulting from actions by the Israeli side”⁴⁵⁷. The General Assembly has also repeatedly “deplor[ed] “breaches of “the inviolability of United Nations premises”, including “damage and destruction caused to the facilities and properties of the Agency, including schools sheltering displaced civilians”⁴⁵⁸, “failure to accord the property and assets of the Organization immunity” and its “failure to protect United Nations ... premises and property and any disruption caused to Agency operations by such violations”⁴⁵⁹.

5.33. The General Assembly has also expressed “*deep concern* at measures taken by Israel that impede assistance to the Palestinian people, including through measures that affect the presence, activities and immunities of the United Nations, its agencies and bodies and those of other international organizations ... in the Occupied Palestinian Territory, including East Jerusalem”⁴⁶⁰. In the context of Israel’s ongoing assault in the Gaza Strip – and following the enactment by Israel of its anti-UNRWA legislation – the General Assembly “*demand[ed]*” that Israel:

“respect the mandate of the [United Nations Relief and Work] Agency and its privileges and immunities and act forthwith to enable its operations to proceed without impediment or restriction in the Gaza Strip and the West Bank, including East Jerusalem, including, inter alia, to allow and facilitate full, rapid, safe and unhindered humanitarian assistance in all its form into and throughout the entire Gaza Strip in accordance with the mandate of the Agency and to alleviate the humanitarian catastrophe”⁴⁶¹.

⁴⁵⁷ See, by way of mere illustrative example, General Assembly, Resolution 56/56, 14 February 2002, preamble and paras. 6-8; Resolution 57/121, 24 February 2003, preamble and paras. 7-9; Resolution 58/93, 17 December 2003, preamble and paras. 8-9; Resolution 59/119, 15 December 2004, preamble and paras. 10-11; Resolution 60/102, 16 January 2006, preamble and paras. 7-11; Resolution 61/114, 14 December 2006, preamble and paras. 10-11; Resolution 62/104, 10 January 2008, preamble and paras. 11-12; Resolution 69/88, 16 December 2014, preamble and para. 20; Resolution 79/88, 12 December 2024, preamble; Resolution 79/141, 12 December 2024, preamble; Resolution ES-10/25, 16 December 2024, paras. 14 and 31.

⁴⁵⁸ General Assembly, Resolution ES-10/25, 16 December 2024, preamble.

⁴⁵⁹ *Ibid.*, para. 10.

⁴⁶⁰ See General Assembly resolutions referred to in fn. 457 above. See also, more recently, General Assembly, Resolution 79/232, 19 December 2024, preamble.

⁴⁶¹ General Assembly, Resolution ES-10/25, 16 December 2024, para. 12.

5.34. As repeatedly asserted by the United Nations Secretary-General, “United Nations premises *must* remain inviolable at all times”⁴⁶². Israel must “act consistently with its obligations under the Charter of the United Nations and ... those concerning privileges and immunities of the United Nations”. Furthermore, as the Secretary-General underscored, “[n]ational legislation cannot alter those obligations”⁴⁶³.

III. Israel’s Obligations towards United Nations Officials and Personnel

A. ISRAEL’S OBLIGATION TO ENSURE THE FULL ENJOYMENT OF THE PRIVILEGES AND IMMUNITIES OF UNITED NATIONS OFFICIALS AND EXPERTS

5.35. Israel is obliged pursuant to Article 105 (2) of the Charter and the 1946 Convention to ensure the enjoyment by United Nations officials – and representatives of Members of the United Nations – of “such privileges and immunities as are necessary for the independent exercise of their functions”. As the Court has underscored, such protections are necessary “[t]o ensure the independence of the agent, and, consequently, the independent action of the Organization itself”⁴⁶⁴. That means that the “obligations entered into by States to enable the agents of the Organization to perform their duties are undertaken not in the interest of the agents, but in that of the Organization”⁴⁶⁵.

5.36. As specified in the 1946 Convention, giving effect to Article 105(3) of the Convention, Israel must respect and guarantee the immunities and privileges of *all* United Nations officials designated by the Secretary-General as benefiting from such immunities and privileges⁴⁶⁶. Those officials who have been so-designated include “all members of the staff of the United Nations, with the exception of those who are recruited locally *and* are assigned the hourly rate”, regardless of nationality, residence, location of recruitment or rank⁴⁶⁷. This plainly includes Palestinian United Nations staff located and recruited in the Occupied

⁴⁶² Secretary-General’s remarks to the Cairo Ministerial Conference to Enhance the Humanitarian Response in Gaza, 2 December 2024 (<https://www.un.org/sg/en/content/sg/statement/2024-12-02/secretary-generals-remarks-the-cairo-ministerial-conference-enhance-the-humanitarian-response-gaza-scroll-down-for-arabic>).

⁴⁶³ Statement of the Secretary-General on Israeli legislation on UNRWA, 28 October 2024 (<https://www.un.org/sg/en/content/sg/statement/2024-10-28/statement-of-the-secretary-general-israeli-legislation-unrwa>).

⁴⁶⁴ *Reparation for Injuries Suffered in the Service of the United Nations, Advisory Opinion, I.C.J. Reports 1949*, p. 183.

⁴⁶⁵ *Ibid.*, p. 184.

⁴⁶⁶ Convention on the Privileges and Immunities of the United Nations, 1946, Art. V, Sections 18-20.

⁴⁶⁷ General Assembly, Resolution 76 (I), 7 December 1946 (emphasis added).

Palestinian Territory, who are not assigned an hourly rate. Pursuant to the 1946 Convention, they are “immune from legal process in respect of words spoken or written and all acts performed by them in their official capacity”⁴⁶⁸. Israel must respect their immunities, and may not subject them to attack or other form of duress. In addition, Israel must ensure for the Secretary-General and those officials holding the rank of Under-Secretary-General, including the Commissioner-General of UNRWA⁴⁶⁹, “the privileges and immunities, exemptions and facilities accorded to diplomatic envoys, in accordance with international law”⁴⁷⁰.

5.37. Separately, and in addition to United Nations officials, Israel is also required to accord experts performing missions for the United Nations “such privileges and immunities as are necessary for the independent exercise of their functions during the period of their missions, including the time spent on journeys in connection with their missions”⁴⁷¹. These experts would include Special Rapporteurs, members of other Special Procedures appointed by the Human Rights Council or by other United Nations bodies, and members of commissions of inquiry established by the United Nations, including the Secretary-General and the Human Rights Council⁴⁷². Israel’s failure to allow access to the Occupied Palestinian Territory to the Special Rapporteur on the Occupied Palestinian Territory, the Human Rights Council’s Commission of Inquiry on the Occupied Palestinian Territory and other United Nations experts flagrantly violate these obligations.

5.38. United Nations officials and experts on missions must be granted freedom of movement by Israel to enable them independently to exercise their functions⁴⁷³. This requires Israel to recognize and accept as valid travel documents any “laissez-passers” or “certificates” issued by the United Nations, confirming that the holders are travelling on the business of the United Nations⁴⁷⁴. It must also deal with applications for visas by holders of such travel documents “as speedily as possible” and must grant them facilities for speedy travel⁴⁷⁵. These

⁴⁶⁸ Convention on the Privileges and Immunities of the United Nations, 1946, Art. V, Section 18 (a).

⁴⁶⁹ See ILC, Practice of the United Nations, the specialized agencies and the International Atomic Energy Agency concerning their status, privileges and immunities, Study prepared by the Secretariat, *ILC Yearbook*, 1967, Vol. II, pp. 281-282, paras. 332-333.

⁴⁷⁰ Convention on the Privileges and Immunities of the United Nations, 1946, Art. V, Section 19.

⁴⁷¹ *Ibid.*, Art. VI, Section 22.

⁴⁷² As provided for in the United Nations Charter, Arts. 11(1), 34 and 99, and pursuant to General Assembly, Resolution 60/251, 3 April 2006 (<https://docs.un.org/en/A/RES/60/251>).

⁴⁷³ ILC, Practice of the United Nations, the specialized agencies and the International Atomic Energy Agency concerning their status, privileges and immunities, Study prepared by the Secretariat, *ILC Yearbook*, 1967, Vol. II, p. 289, para. 364 (Section 37).

⁴⁷⁴ Convention on the Privileges and Immunities of the United Nations, 1946, Art. VII, Sections 24 and 26.

⁴⁷⁵ *Ibid.*, Art. VII, Section 25.

practical arrangements are critical to fulfilment of by United Nations officials and experts of their missions and the mandates of the United Nations organs, agencies or entities to which they are attached. Consequently, the right of entry of United Nations personnel travelling on official business is unqualified: it cannot be denied on any grounds, including nationality or criticism of the host State in the course of the official's fulfilment of his/her functions⁴⁷⁶. Nor may Israel declare United Nations officials or experts *persona non grata*: that is because United Nations officials are employed "on behalf of all Member States, for purposes chosen by those States as a result of action taken on a multilateral plane"; their presence in a State is not dependent on the recognition of credentials, as in the case of diplomats representing a State⁴⁷⁷. Israel's declaration of the Secretary-General of the United Nations as *persona non grata* constitutes a violation of this obligation, as does its prohibition on the entry of the UNRWA Commissioner-General to the Occupied Palestinian Territory.

5.39. Pursuant to Section 28 of the 1946 Convention, representatives of United Nations Specialized agencies – such as the United Nations Educational, Scientific and Cultural Organization (UNESCO) and the World Health Organization (WHO) – who have been issued a United Nations laissez-passers must also be allowed freedom of movement through Israel to and from the Occupied Palestinian Territory when travelling on official United Nations business. Israel is required to deal speedily with their visa applications; and to grant them facilities for travel, despite Israel not being party to the 1947 Convention on the Privileges and Immunities of the Specialized agencies ("1947 Convention")⁴⁷⁸. Within the Occupied Palestinian Territory, the 1947 Convention applies in relation to *all* United Nations Specialized agencies and their officials, since the State of Palestine acceded to the Convention in 2018⁴⁷⁹. Similarly to the 1946 Convention, the 1947 Convention provides *inter alia* for the inviolability of the premises and archives of the Specialized agencies, for their immunity and that of their

⁴⁷⁶ ILC, Practice of the United Nations, the specialized agencies and the International Atomic Energy Agency concerning their status, privileges and immunities, Study prepared by the Secretariat, *ILC Yearbook*, 1967, Vol. II, p. 290, paras. 366-367 (Section 37).

⁴⁷⁷ *Ibid.*, p. 290, paras. 364 and 368 (Section 37).

⁴⁷⁸ See United Nations, Guide to the Issuance of United Nations Travel Documents, revised July 2012, issued by the Office of Central Support Services of the Department of Management, p. 4, which provides that "officials of the UN (or of a Specialized Agency) are eligible to be issued a laissez-passers", cited in Michael Schoiswohl, "Laissez-Passers (Art. VII Sections 24–28 General Convention)", in August Reinisch (ed.), *The Conventions on the Privileges and Immunities of the United Nations and its Specialized Agencies: A Commentary* (Oxford University Press, 2016), p. 478, fn. 6. see also Letter from the United Nations Office of Legal Affairs to the Director of Personnel of the European Organization for the Safety of Air Navigation, 19 October 1993, *UNJYB*, pp. 410-411.

⁴⁷⁹ Convention on the Privileges and Immunities of the Specialized Agencies, 21 November 1947, *UNTS*, Vol. 33, p. 261. State of Palestine acceded to the 1947 Convention on 29 March 2018.

property and assets from legal process, and for the immunity of their officials⁴⁸⁰. Israel may not lawfully impose impediments or obstacles to the full implementation of the 1947 Convention and the full enjoyment of the protections it affords to the United Nations agencies and their officials in a territory in which it is unlawfully present.

5.40. Israel has repeatedly violated its above obligations, including by refusing or revoking visas for United Nations officials, and flaunting its violations publicly. By way of example, in December 2023, the Minister of Foreign affairs announced on “X” (formerly Twitter) that he had “decided to revoke the residence visa to Israel” of the United Nations Deputy Special Coordinator for the Middle East Peace Process and United Nations Resident Coordinator for the Occupied Palestinian Territory – the seniormost United Nations official based in the Occupied Palestinian Territory – on allegations of “bias of the UN”, declaring that she “cannot serve in the UN and cannot enter Israel!”⁴⁸¹. Just over two weeks later the Minister further announced that he had “instructed the Ministry of Foreign Affairs not to extend the visa of one of the organization’s employees in Israel, and to deny the visa request of another employee”, asserting that “the conduct of the UN since October 7th is a disgrace to the organization and the international community”, and accusing the Secretary-General, the United Nations High Commissioner for Human Rights and UN Women *inter alia* of bias, of “cooperat[ing] with ... Hamas ... propaganda”, and of “publish[ing] unsubstantiated blood libels”⁴⁸². No international staff member of UNRWA has been granted a visa to remain in Israel or the Occupied Palestinian Territory beyond 28 January 2025, the date on which Israel’s anti-UNRWA legislation entered into effect⁴⁸³. Such attacks by Israel against United Nations bodies and officials are typically made in response to and as apparent retribution for mere calls for Israel to respect its international legal obligations, as an Occupying Power, and to cease its violations of the same, including in relation to the provision of humanitarian assistance to the Palestinian people by the United Nations, international organizations and third States.

⁴⁸⁰ *Ibid.*, Art. III, Sections 6- 4 and Art. VI, Section 19.

⁴⁸¹ Post of the Israeli Foreign Minister, Eli Cohen, @elico1, 10:42pm, 5 December 2023 (<https://x.com/elico1/status/1732153434902524371>).

⁴⁸² Post of the Israeli Foreign Minister, Eli Cohen, @elico1, 1:15pm, 25 December 2023 (<https://x.com/elico1/status/1739258572456763877>).

⁴⁸³ “Israel’s new laws banning UNRWA already taking effect”, 30 January 2025 (<https://palestine.un.org/en/288442-israel%E2%80%99s-new-laws-banning-unrwa-already-taking-effect>).

5.41. Israel's conduct in this regard is in violation of its obligations under Articles 2 (2), 2 (5) and 100 (2) of the Charter, and of the 1946 Convention.

B. ISRAEL'S OBLIGATION TO ENSURE SPECIAL PROTECTIONS FOR UNITED NATIONS OFFICIALS

5.42. Israel is required to afford further "special protection" to United Nations officials and to representatives or officials or other agents of international organizations of an intergovernmental character, pursuant to the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, of 1973 to which the States of Israel and Palestine acceded in 1980 and 2014 respectively⁴⁸⁴. *Per* its preamble, the 1973 Convention was adopted, having regard *inter alia* to "the purposes and principles of the Charter of the United Nations concerning the maintenance of international peace and the promotion of friendly relations and cooperation among States", and to the belief that the commission of crimes against internationally protected persons are "a matter of grave concern to the international community", requiring the urgent adoption of "appropriate and effective measures" for their prevention and punishment. The 1973 Convention criminalises violent attacks and attempted violent acts on United Nations officials, official premises and means of transport, as well as threats thereof⁴⁸⁵. This includes military attacks on United Nations personnel by Israeli nationals, including members of its military forces and settlers, in the Gaza Strip and the West Bank. Israel is required to prosecute those responsible for such attacks, when the alleged criminal activity occurs in Israel or is perpetrated by a suspect who is an Israeli national⁴⁸⁶. Notably, having regard to the interest of the international community as a whole in the prosecution and suppression of crimes against United Nations staff, the Convention provides for *universal* jurisdiction over such crimes: States are thus required to prosecute or extradite suspects, including non-national suspects, in their territory for crimes committed elsewhere⁴⁸⁷. Importantly, States must also cooperate in the *prevention* of such crimes⁴⁸⁸.

5.43. As the 1973 Convention makes clear, it is to be read in conjunction with other obligations under international law to take all appropriate measures to prevent attacks on the

⁴⁸⁴ Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, 14 December 1973, *UNTS*, Vol. 1035, p. 167.

⁴⁸⁵ *Ibid.*, Art. 2.

⁴⁸⁶ *Ibid.*, Art. 3.

⁴⁸⁷ *Ibid.*, Art. 3.

⁴⁸⁸ *Ibid.*, Art. 4.

person, freedom or dignity of internationally protected persons. Such other obligations include those provided for in the 1946 Convention, and those reflected in the 1994 Convention on the Safety of United Nations and Associated Personnel⁴⁸⁹, which also criminalises attacks against United Nations personnel, premises and vehicles⁴⁹⁰.

5.44. The 1994 Convention requires States *inter alia* to ensure the safety and security of United Nations personnel, including by not making them the object “of attack or any action that prevents them from discharging their mandate”, taking all appropriate steps to ensure their safety, including by: (i) protecting them from violent attack; and ensuring that those captured or detained in the course of the performance of their duties are (ii) not interrogated, (iii) promptly released to the United Nations, and (iv) are treated in accordance with “universally recognised standards of human rights and the principles and spirit of the Geneva Convention of 1949”⁴⁹¹. The duty of protection at the core of the 1994 Convention has repeatedly been recalled by the General Assembly in the context of Israel’s military assaults against the Occupied Palestinian territory, including in General Assembly resolutions in 2023 and 2024⁴⁹². More generally, the duty of protection has also repeatedly been affirmed by both the General Assembly and the Security Council as a principle of general international law, in resolutions which “strongly demand ... that host countries and all parties to a conflict take all measures possible” to ensure the safety of United Nations personnel⁴⁹³, and “[a]ffirm ... the obligation of *all States* to comply fully with their obligations under the relevant rules and principles of international law in relation to the safety and security of United Nations and associated personnel”⁴⁹⁴. Most recently, Security Council resolution 2730 (2024), adopted in response to Member States’ “grave ... concern” over the “growing numbers of attacks, acts of violence, and threats” against United Nations personnel and premises, calls upon all States “to

⁴⁸⁹ Convention on the Safety of United Nations and Associated Personnel, 9 December 1994, *UNTS*, Vol. 2051, p. 363.

⁴⁹⁰ *Ibid.*, Art. 9.

⁴⁹¹ *Ibid.*, Arts. 7 and 8.

⁴⁹² See, e.g., General Assembly, Resolution 78/73, 11 December 2023, preamble; General Assembly, Resolution ES-10/25, 16 December 2024, preamble; General Assembly, Resolution 79/232, 19 December 2024, preamble.

⁴⁹³ General Assembly, Resolution 47/72, 14 December 1992, paras. 3-4.

⁴⁹⁴ General Assembly, Resolution 58/82, 8 January 2004, para. 4. See also Security Council, Resolution 1265 (1999), 17 September 1999, para. 8; General Assembly, Resolution 54/192, 21 February 2000, paras. 1 and 2; General Assembly, Resolution 55/175, 7 March 2001, paras. 2 and 3; General Assembly, Resolution 59/276, 17 January 2005, Section XI, para. 3; General Assembly, Resolution 59/211, 28 February 2005, para. 5; General Assembly, Resolution 71/129, 26 January 2017, paras. 2 and 4. See also Report of the Secretary-General on the Safety and Security of Humanitarian Personnel and Protection of United Nations Personnel, A/59/332, 3 September 2004, para. 47 (<https://docs.un.org/en/A/59/332>).

respect and protect ... United Nations and associated personnel ... in accordance with their obligations under international law”, and “demands that all parties to armed conflict fully comply with their obligations under international law”, including “their obligations related to the respect and protection of ... United Nations and associated personnel”⁴⁹⁵. There can be no doubt that Israel is bound by that duty in relation to the United Nations premises and personnel in the Occupied Palestinian Territory, in accordance with its obligations under the Charter, the 1946 and 1973 Conventions, as well as customary and general international law.

C. ISRAEL’S PERSISTENT EGREGIOUS VIOLATIONS OF ITS OBLIGATIONS TOWARDS UNITED NATIONS OFFICIALS AND EXPERTS

5.45. Israel has repeatedly violated its obligations in relation to United Nations personnel, including by persistently: failing to protect and ensure their immunity; denying them access to the Occupied Palestinian Territory and hindering their movement; failing to prevent repeated attacks on them by Israeli nationals, including Israeli officials, forces and settlers; engaging in military attacks on United Nations staff and premises in the Gaza Strip and in the West Bank, including East Jerusalem; killing, maiming, unlawfully detaining, and subjecting United Nations staff in its custody to interrogation and ill-treatment, including physical and sexual torture⁴⁹⁶. United Nations staff released from Israeli custody report being severely beaten, including with metal rods and on their genitals, being subjected to waterboarding-type techniques, being forced to maintain stress positions for extensive periods of time, and being subjected to forced nudity and other torture techniques, including sensory deprivation, loud noise and the deprivation of food⁴⁹⁷. Detained United Nations staff also report threats – including death and rape threats, and threats of electrocution – being made against themselves and against their family members in the Occupied Palestinian Territory⁴⁹⁸.

5.46. The General Assembly has repeatedly expressed “grave ... concern ...” about Israel’s failure to protect United Nations personnel⁴⁹⁹, the “endangerment” of United Nations

⁴⁹⁵ Security Council, Resolution 2730 (2024), 24 May 2024, preamble and paras. 1 and 3.

⁴⁹⁶ UNRWA, Detention and alleged ill-treatment of detainees from Gaza during Israel-Hamas War, 16 April 2024 (https://www.unrwa.org/sites/default/files/content/resources/summary_on_detention_and_alleged_ill-treatmentupdated.pdf).

⁴⁹⁷ *Ibid.* See also “UNRWA chief renews call for probe into attacks on humanitarians in Gaza”, *UN News*, 31 December 2024 (<https://news.un.org/en/story/2024/12/1158641>).

⁴⁹⁸ *Ibid.*

⁴⁹⁹ See, e.g., General Assembly Resolution 64/89, 19 January 2010, preamble.

staff “as a result of Israeli military operations”⁵⁰⁰, “the continuing restrictions on ... freedom of movement”, “including the harassment of personnel, injury, harassment and intimidation” of United Nations staff⁵⁰¹, and the “denial of entry visas”, which “undermine and obstruct the work” UNRWA⁵⁰². As repeated General Assembly resolutions make clear, Israeli measures individually and collectively “adversely affect ... the ability of the Agency to provide its services, including its educational, health and relief and social services”⁵⁰³, and “life-saving assistance and essential basic and emergency services in accordance with its mandate”⁵⁰⁴.

5.47. The General Assembly has also repeatedly “deplor[ed]” Israel’s “killing” and “injury” of large numbers of United Nations staff members over the course of the last three decades⁵⁰⁵, including the “unprecedented high number of casualties inflicted on Agency personnel in the Gaza Strip by military attacks” by Israel since October 2023⁵⁰⁶. The General Assembly has repeatedly called on Israel “to abide by the Charter of the United Nations and the Convention on the Privileges and Immunities of the United Nations in order to ensure the safety of the personnel of the United Nations”⁵⁰⁷, to “ensure safe and unhindered access by humanitarian personnel and delivery of supplies and equipment, in order to allow such personnel to efficiently perform their task of assisting affected civilian populations”⁵⁰⁸, and “to

⁵⁰⁰ See, e.g., General Assembly, Resolution 57/121, 24 February 2003, preamble; Resolution 58/93, 17 December 2003, preamble; Resolution 59/119, 15 December 2004, preamble; Resolution 60/102, 16 January 2006, preamble; Resolution 61/114, 14 December 2006, preamble; Resolution 62/104, 10 January 2008, preamble.

⁵⁰¹ See, e.g., General Assembly, Resolution 63/93, 18 December 2008, preamble; Resolution 64/89, 19 January 2010, preamble; Resolution 68/78, 16 December 2013, preamble; Resolution 69/88, 16 December 2014, preamble; Resolution 77/122, 15 December 2022, preamble.

⁵⁰² General Assembly, Resolution ES-10/25, 16 December 2024, preamble; Resolution 63/93, 18 December 2008, preamble; Resolution 64/89, 19 January 2010, preamble; Resolution 68/78, 16 December 2013, preamble; Resolution 69/88, 16 December 2014, preamble; Resolution 77/122, 15 December 2022, preamble.

⁵⁰³ General Assembly, Resolution 57/121, 24 February 2003, preamble; Resolution 58/93, 17 December 2003, preamble; Resolution 59/119, 15 December 2004, preamble; Resolution 60/102, 16 January 2006, preamble; Resolution 61/114, 14 December 2006, preamble; Resolution 62/104, 10 January 2008, preamble; Resolution 78/73, 11 December 2023, preamble.

⁵⁰⁴ General Assembly, Resolution ES-10/25, 16 December 2024, preamble.

⁵⁰⁵ General Assembly, Resolution 59/119, 15 December 2004, preamble; Resolution 63/93, 18 December 2008, preamble; Resolution 60/102, 16 January 2006, preamble; Resolution 61/114, 14 December 2006, preamble; Resolution 62/104, 10 January 2008, preamble; Resolution 68/78, 16 December 2013, preamble; Resolution 69/88, 16 December 2014, preamble; Resolution 77/122, 15 December 2022, preamble; Resolution ES-10/25, 16 December 2024, preamble.

⁵⁰⁶ General Assembly, Resolution ES-10/25, 16 December 2024, preamble.

⁵⁰⁷ See, e.g., General Assembly, Resolution ES-10/25, 16 December 2024, para. 14; Resolution 79/232, 19 December 2024, para. 8.

⁵⁰⁸ See, e.g., General Assembly, Resolution 64/125, 21 January 2010, para. 18; Resolution 64/100, 18 February 2014, para. 18; Resolution 69/242, 30 January 2015, para. 17; Resolution 77/30, 8 December 2022, para. 17.

cease obstructing the movement and access of the staff”⁵⁰⁹. Israel continues to act in egregious and persistent violation of its international obligations and of those resolutions.

IV. Conclusion

5.48. Israel is in ongoing and serious breach of its obligations under the United Nations Charter, the 1946 and 1973 Conventions, and customary and general law to cooperate in good faith with the United Nations, its organs, entities and experts, to respect their mandates, to accord privileges and immunities to the Organization’s personnel, property and premises, and to ensure their protection, in and in relation to the Occupied Palestinian Territory, including in the provision of urgently needed supplies, basic goods and services, and humanitarian and developmental assistance to the Palestinian civilian population.

5.49. As this Chapter and Chapter 6 demonstrate, Israel is engaged in nothing short of a campaign of delegitimization against the United Nations as a whole, with profound consequences not only for the Palestinian people but for the United Nations itself. Israel’s violent, lethal and defamatory attacks on the Organization, its officials, property and premises, and its deliberate interference in and obstruction of their work and mandates are as extreme as they are unprecedented in the history of the United Nations. They demonstrate not only an unwillingness by Israel to carry out its obligations as a Member of the United Nations under the United Nations Charter, but a fundamental rejection of those very obligations, incompatible with and antithetical to the actions of a responsible and law-abiding member of the international community.

⁵⁰⁹ See, e.g., General Assembly, Resolution 62/104, 10 January 2008, para. 13; Resolution 56/56, 14 February 2002, para. 8; Resolution 57/121, 24 February 2003, para. 7; Resolution 58/93, 17 December 2003, para. 10.

Chapter 6.

ISRAEL'S CAMPAIGN OF DELEGITIMISATION AGAINST UNRWA IN VIOLATION OF ITS OBLIGATIONS UNDER INTERNATIONAL LAW

6.1. Israel's violations of its international obligations as set out in the previous five Chapters, in relation to the presence and activities of the United Nations, 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, are brought into particularly stark relief in relation to Israel's aggressive and often violent decades-long delegitimisation campaign against UNRWA, which has escalated exponentially since October 2023. That existential assault by Israel against UNRWA – the “backbone”⁵¹⁰ of the United Nations humanitarian relief effort in the Occupied Palestinian Territory and an “irreplaceable lifeline for millions of Palestinians”⁵¹¹ – is the subject of this Chapter.

6.2. Section I focuses on attacks by Israel on UNRWA premises, property and personnel in the Occupied Palestinian Territory, including the killing, ill-treatment and torture of UNRWA staff. Section II demonstrates Israel's willful obstruction of the fulfilment of UNRWA's mandate in and in relation to the Occupied Palestinian Territory. Section III addresses Israel's broader attempts to ensure the shuttering of the entire Agency and the destruction of its mandate. As the Chapter makes clear, Israel is engaged in an unprecedented and unparalleled attempt by a United Nations Member State to destroy a United Nations entity.

6.3. It is clear that Israel's actions against UNRWA constitute serious violations of its obligations – as a Member of the United Nations and an occupying Power – under international law. These include violations of Israel's obligations to promote the realisation of the self-determination of the Palestinian people, its duty to cooperate with the United Nations in good

⁵¹⁰ General Assembly, Resolution 79/232, 19 December 2024, preamble.

⁵¹¹ “With Over 43,000 Palestinians Killed, Worsening Humanitarian Crisis, ‘Past Time’ for Immediate Ceasefire in Gaza, Secretary-General Observance Message Says”, United Nations, Press Release, 22 November 2024 (<https://press.un.org/en/2024/sgsm22470.doc.htm>); Secretary-General's remarks to the Security Council – on the Middle East [as delivered], 20 January 2025 (<https://www.un.org/sg/en/content/sg/statement/2025-01-20/secretary-generals-remarks-the-security-council-the-middle-east-delivered>).

faith, and its other obligations under the United Nations Charter and other multilateral treaties to which it is a party, governing the protection, privileges, and immunities of the United Nations, its premises, property and its personnel. They also include Israel's violation of its obligations under international humanitarian and human rights treaties, notably the Fourth Geneva Convention, the Genocide Convention, the United Nations Convention Against Torture (UNCAT), the International Covenant on Civil and Political Rights (ICCPR)⁵¹², the International Covenant on Economic and Social Rights (ICESR)⁵¹³, including, *inter alia*, the rights to food, water, health, shelter and education, and as well as general and customary international law, including the prohibitions on collective punishment and torture. They further include Israel's violations of the provisional measures ordered by the Court in the case of *South Africa v. Israel*, requiring Israel to ensure humanitarian assistance and basic services to the Palestinian population in the Gaza Strip⁵¹⁴, as well as the Court's 2024 Advisory Opinion, which emphasises the protection of civilian populations and humanitarian operations, and the right of return of Palestinians displaced since 1967 to their homes⁵¹⁵. Finally, Israel's actions against UNRWA violate numerous United Nations resolutions, including General Assembly resolution 302 (IV) of 1949, which mandates UNRWA's role in providing assistance to Palestine refugees⁵¹⁶, resolution 77/123 of 2022 extending that mandate for a further renewable three years until 2026⁵¹⁷, resolution ES-10/24 of 2024, endorsing the 2024 Advisory Opinion⁵¹⁸, and resolution ES-10/25 of 11 December 2024.

I. Israel's Attacks on UNRWA Premises, Property and Personnel since October 2023

6.4. Over the course of the past three decades, in particular, Israel has repeatedly engaged in direct and indirect attacks on UNRWA property and premises in the Occupied Palestinian Territory, including UNRWA facilities providing services to Palestinians civilians and those serving as *ad hoc* shelters for the Palestinian civilians displaced by Israel, including as a result of Israel's military attacks on the territory⁵¹⁹. However, the scale of Israel's violent attacks on

⁵¹² International Covenant on Civil and Political Rights, 16 December 1966 (entry into force: 23 March 1976), *UNTS*, Vol. 999, p. 171 (ratified by Israel on 3 October 1991).

⁵¹³ International Covenant on Economic, Social and Cultural Rights, 16 December 1966 (entry into force: 3 January 1976), *UNTS*, Vol. 993, p. 3 (ratified by Israel on 3 October 1991).

⁵¹⁴ See above, paras. 5.16-5.18.

⁵¹⁵ 2024 Advisory Opinion, para. 270.

⁵¹⁶ General Assembly, Resolution 302 (IV), 8 December 1949.

⁵¹⁷ General Assembly, Resolution 77/123, 12 December 2022.

⁵¹⁸ Assembly General, Resolution ES-10/24, 18 September 2024.

⁵¹⁹ See, e.g., post of the Commissioner-General of UNRWA, Philippe Lazzarini, @UNLazzarini, 9:22am, 31 December 2024 (<https://x.com/UNLazzarini/status/1874008188019732784>); UNRWA, "No shelter from war:

UNRWA personnel and premises since October 2023 is unprecedented both in United Nations history, and in relation to the Occupied Palestinian Territory in particular, in both the Gaza Strip and the West Bank, including East Jerusalem⁵²⁰.

A. THE GAZA STRIP

6.5. Since October 2023, over 273 United Nations personnel have been killed in violent attacks by Israel in the Gaza Strip⁵²¹, the vast majority of them UNRWA staff, many of whom were killed while performing their official duties at UNRWA premises targeted by Israel⁵²². Hundreds of other UNRWA staff have been wounded by Israel in the Gaza Strip, with some undergoing double amputations. Numerous others, including doctors and teachers, have been forcibly seized by Israeli forces from UNRWA premises, and subjected to gross humiliations and inhuman and degrading treatment⁵²³. Dozens of UNRWA staff have been transferred to detention facilities in the West Bank and Israel, where they have been subjected to extreme ill-treatment, abuse and torture, with many compelled to sign forced confessions implicating themselves, other UNRWA officials and UNRWA itself in the 7 October 2023 attacks on Israel and/or hostage-taking⁵²⁴. UNRWA Commissioner-General informed the Security Council almost a year ago that released UNRWA staff had given “harrowing accounts of mistreatment and torture in detention”⁵²⁵, including of being water-boarded, beaten with iron rods, and

The bombing of Block 2 at the UNRWA Nuseirat School”, 7 June 2024 (<https://www.unrwa.org/newsroom/features/no-shelter-war-bombing-block-2-unrwa-nuseirat-school>); “Schools ‘bombed-out’ in latest Gaza escalation, says UNRWA chief”, *UN News*, 10 July 2024 (<https://news.un.org/en/story/2024/07/1151921>); post of the Commissioner-General of UNRWA, Philippe Lazzarini, @UNLazzarini, 9:22am, 31 December 2024 (<https://x.com/UNLazzarini/status/1874008188019732784>).

⁵²⁰ See, e.g., Letter from the Secretary-General addressed to the President of the Security Council, 27 April 2015, S/2015/286, Annex, para. 40 (<https://docs.un.org/en/S/2015/286>); “UN agency in Gaza voices deep concern over escalation of deadly violence”, *UN News*, 15 November 2012 (<https://news.un.org/en/story/2012/11/425722>); “2 UN workers among 10 killed in Israeli raid on Gaza camp”, *UN News*, 6 December 2002 (<https://news.un.org/en/story/2002/12/53452>).

⁵²¹ UNRWA Situation Report #158 on the Humanitarian Crisis in the Gaza Strip and the West Bank, including East Jerusalem, 7 February 2025 (<https://www.unrwa.org/resources/reports/unrwa-situation-report-158-situation-gaza-strip-and-west-bank-including-east-jerusalem>).

⁵²² UNRWA, World Humanitarian Day 2024 – 207 UNRWA colleagues killed in Gaza since the war began, 19 August 2024 (<https://www.unrwa.org/newsroom/videos/world-humanitarian-day-2024-207-unrwa-colleagues-killed-gaza-war-began>).

⁵²³ UNRWA, Detention and alleged ill-treatment of detainees from Gaza during Israel-Hamas War, 16 April 2024 (https://www.unrwa.org/sites/default/files/content/resources/summary_on_detention_and_alleged_ill-treatmentupdated.pdf).

⁵²⁴ See, e.g., *ibid.*; “UNRWA chief renews call for probe into attacks on humanitarians in Gaza”, *UN News*, 31 December 2024 (<https://news.un.org/en/story/2024/12/1158641>).

⁵²⁵ UNRWA, Statement by the Commissioner-General of UNRWA to the Security Council, 17 April 2024 (<https://www.unrwa.org/newsroom/official-statements/statement-commissioner-general-unrwa-security-council>).

subjected to extreme humiliation as well as death threats to them and their families⁵²⁶. Many remain in detention⁵²⁷. Israel has persistently ignored requests for access to or information about Palestinians from the Gaza Strip detained by Israel.

6.6. In parallel, Israel has damaged or destroyed over 205 United Nations properties in the Gaza Strip since October 2023⁵²⁸, including schools and healthcare facilities, in direct and indirect attacks in which thousands of Palestinian men, women and children have been killed and injured⁵²⁹. Israel has failed to provide proof for its repeated allegations that Palestinian armed groups routinely engage in military operations from the cover of UNRWA premises sheltering displaced Palestinians. Similar claims made by Israel in previous large-scale assaults in the Gaza Strip have been likewise unsubstantiated. By way of example, “[o]n the basis of its own investigations and statements by United Nations officials” a United Nations Human Rights Council-appointed fact-finding mission investigating Israel’s attacks in the Gaza Strip in 2008-2009 in which over 1,400 Palestinians were killed, including many who were sheltering at UNRWA facilities, “*exclude[d]* that Palestinian armed groups engaged in combat activities from United Nations facilities that were used as shelters during the military operations”⁵³⁰. Similarly, the United Nations Headquarters independent Board of Inquiry appointed by the Secretary-General to investigate attacks on UNRWA premises during the course of the 2008-2009 attacks, recommended that the United Nations seek a “formal acknowledgement by the Government of Israel that its public statements alleging that Palestinians had fired from within ... UNRWA [premises] *were untrue* and were regretted”⁵³¹. These findings are reflected more recently in the statement by the International Criminal Court (ICC) Prosecutor leading the Court’s investigation into the Situation in the State of Palestine, who has asserted that Israel’s claims about the purported use by Hamas of healthcare facilities in the Gaza Strip to

⁵²⁶ *Ibid.*

⁵²⁷ UNRWA, Detention and alleged ill-treatment of detainees from Gaza during Israel-Hamas War, 16 April 2024 (https://www.unrwa.org/sites/default/files/content/resources/summary_on_detention_and_alleged_ill-treatmentupdated.pdf); UNRWA, “Fifteen Months on the War in Gaza Horrors Continue Unabated Under the World’s Watch”, 31 December 2024 (<https://www.unrwa.org/newsroom/official-statements/fifteen-months-war-gaza-horrors-continue-unabated-under-world%E2%80%99s-watch>).

⁵²⁸ UNRWA Situation Report #158 on the Humanitarian Crisis in the Gaza Strip and the West Bank, including East Jerusalem, 7 February 2025 (<https://www.unrwa.org/resources/reports/unrwa-situation-report-158-situation-gaza-strip-and-west-bank-including-east-jerusalem>).

⁵²⁹ OCHA, Humanitarian Situation Update #265 | Gaza Strip, 18 February 2025 (<https://www.ochaopt.org/content/humanitarian-situation-update-265-gaza-strip>).

⁵³⁰ Human Rights Council, Report of the United Nations Fact-Finding Mission on the Gaza Conflict, 25 September 2009, A/HRC/12/48 (<https://docs.un.org/en/A/HRC/12/48>).

⁵³¹ Letter from the Secretary-General addressed to the President of the Security Council, 4 May 2009, Annex, A/63/855-S/2009/250, para. 110 (Recommendation 1) (<https://docs.un.org/en/A/63/855>) (emphasis added).

attack Israeli forces in order to justify Israeli military assaults against them have been “grossly exaggerated”⁵³².

6.7. Notably, UNRWA has robust mechanisms in place to deal with any allegations of violation of privilege and immunities by its staff or of its property or premises, and, with the rest of the United Nations has sought to cooperate with Israel in relation to any and all allegations raised. UNRWA conducts regular inspections of its premises in the Occupied Palestinian Territory, where the prevailing security situation allows, and – on the limited occasions on which it has discovered evidence of abuse in relation to its privileges and immunities – promptly and publicly condemns such abuse and takes steps to prevent recurrences⁵³³. UNRWA also provides Israel, on an annual basis, with a list of the names of all UNRWA officials in the occupied Palestinian territory, who enjoy United Nations privileges and immunities, as well as the names of United Nations staff who do not⁵³⁴. Israel’s failure previously to raise concerns with UNRWA about any staff members included on UNRWA’s lists is indicative of the lack of good faith in its recent allegations that UNRWA is widely “infiltrated” by Hamas and that large numbers of UNRWA officials are Hamas members.

6.8. Conversely, there is *extensive* evidence of Israeli troops repeatedly violating the inviolability and immunity of United Nations premises and property, transforming United Nations schools and hospitals into military bases and directing fire from within them⁵³⁵. Israeli flags have been flown from atop United Nations buildings, and United Nations premises vandalised.

⁵³² “Claim of Hamas fighters in Gaza hospitals have been exaggerated, says senior ICC prosecutor”, *The Guardian*, 11 December 2024 (<https://www.theguardian.com/law/2024/dec/11/claims-of-hamas-fighters-in-gaza-hospitals-may-have-been-exaggerated-says-senior-icc-prosecutor>).

⁵³³ See, e.g., Report of the Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East, 2015, A/70/13, para. 4 (<https://docs.un.org/en/A/70/13>); Letter from the Secretary-General addressed to the President of the Security Council, 27 April 2015, Annex, S/2015/286 (<https://docs.un.org/en/S/2015/286>); “UNRWA Condemns Israeli Strike Next to UNRWA School Killing Civilians”, 3 August 2014 (<https://www.unrwa.org/newsroom/official-statements/unrwa-condemns-israeli-strike-next-unrwa-school-killing-civilians>).

⁵³⁴ Convention on the Privileges and Immunities of the United Nations, 1946, Art. V, Section 18.

⁵³⁵ “Gaza war: ‘Direct hits’ on more than 200 schools since Israeli bombing began”, *UN News*, 27 March 2024 (<https://news.un.org/en/story/2024/03/1148031>).

B. WEST BANK, INCLUDING EAST JERUSALEM

6.9. Israel has also long failed to uphold the protection of UNRWA premises, property and personnel in the West Bank from attack, including fatal attack⁵³⁶ by Israeli military forces and settlers⁵³⁷. Such attacks on UNRWA premises in East Jerusalem, particularly on UNRWA Headquarters, have increased since October 2023, including in the context of violent demonstrations instigated and encouraged by Israeli officials, including the Israeli so-called “Deputy Mayor of Jerusalem”⁵³⁸. So too have direct and indirect attacks on UNRWA property and premises – including schools and health centres – in the rest of the West Bank, including after the announcement of the Gaza ceasefire agreement of 19 January 2025. UNRWA facilities have been repeatedly damaged in attacks by the Israeli army, whether by live ammunition, air strikes, or by militarised bulldozers and other heavy-duty weaponry, routinely deployed to destroy the infrastructure, including basic services, of refugee camps. United Nations premises are also repeatedly subjected to unauthorised and forcible entries and takeovers by Israeli soldiers, using UNRWA premises as military bases, often causing extensive damage, including to medical equipment, and leading to the repeated suspension of UNRWA’s medical services to Palestinian civilians. By way of example, UNRWA services in the Jenin Refugee Camp have been suspended since December 2024, and 13 UNRWA schools serving more than 5,000 children in the northern West Bank have been forced to remain closed since the beginning of the school term on 2 February 2025, due to Israel’s continuing incursions and attacks⁵³⁹. Additionally, on 18 February 2025, Israeli occupying forces and personnel forcibly entered the UNRWA Kalandia Training Centre, ordering the evacuation of its 350 students and 30 staff

⁵³⁶ “The West Bank: UNRWA mourns death of staff member killed”, Statement from Roland Friedrich, Director of UNRWA Affairs in the West Bank, 13 September 2024 (<https://www.unrwa.org/newsroom/official-statements/west-bank-unrwa-mourns-death-staff-member-killed>).

⁵³⁷ See for example, UNRWA, “This evening, Israeli residents set fire twice to the perimeter of the UNRWA Headquarters in occupied East Jerusalem”, 9 May 2024 (<https://www.unrwa.org/newsroom/official-statements/evening-israeli-residents-set-fire-twice-perimeter-unrwa-headquarters>).

⁵³⁸ “UNRWA staff ‘not going anywhere’ despite forced closure of East Jerusalem compound”, *UN News*, 10 May 2024 (<https://news.un.org/en/story/2024/05/1149586>; <https://news.un.org/en/story/2024/05/1149621>); “UN agency closes East Jerusalem HQ after arson attack by ‘Israeli extremists’”, *The Guardian*, 10 May 2024 (<https://www.theguardian.com/global-development/article/2024/may/09/unrwa-jerusalem-hq-closed-after-israeli-extremist-arson-attack>).

⁵³⁹ UNRWA Situation Report #158 on the Humanitarian Crisis in the Gaza Strip and the West Bank, including East Jerusalem, 7 February 2025 (<https://www.unrwa.org/resources/reports/unrwa-situation-report-158-situation-gaza-strip-and-west-bank-including-east-jerusalem>).

while firing tear gas and sound bombs, and ordered the closure of three UNRWA schools in East Jerusalem, affecting 250 children⁵⁴⁰.

C. VIOLATIONS OF INTERNATIONAL LAW

6.10. For the reasons set out in the preceding chapters, such direct and indirect attacks by Israel on UNRWA personnel, premises, and property in the Gaza Strip and the West Bank, including East Jerusalem, constitute systematic, flagrant and egregious breaches by Israel of its obligations under international treaties to which it is a party and general and customary international law, including its obligations under the United Nations Charter, the 1946 Convention and the 1973 Convention, to cooperate in good faith with UNRWA, to ensure and respect the privileges and immunities of UNRWA premises, property, assets and officials, and to ensure the safety of UNRWA personnel. They also give rise to serious violations of international human rights and humanitarian law, including the Fourth Geneva Convention, the Genocide Convention, the ICCPR, the ICESR, the UNCAT, as well as wider general and customary international law. They are in violation of Security Council and General Assembly resolutions⁵⁴¹.

II. Obstruction of UNRWA’s Mandate in and in Relation to the Occupied Palestinian Territory since October 2023

6.11. Israel’s has long sought to obstruct, hinder and impede UNRWA’s mandate in the Occupied Palestinian Territory, notably its provision of “direct relief and works programmes” to Palestine refugees and other displaced Palestinians in the Gaza Strip and the West Bank, including East Jerusalem, until such time as their plight is resolved in accordance with international law⁵⁴². The “complete siege” of Gaza – announced by then Israeli Defence Minister, Yoav Gallant, on 9 October 2023, and consisting of a “[n]o electricity, no food, no water, no fuel” to the Palestinian population, referred to as “human animals”⁵⁴³ – represented

⁵⁴⁰ UNRWA, “Children and young people in East Jerusalem denied of their right to education in UNRWA schools”, 18 February 2025 (<https://www.unrwa.org/newsroom/official-statements/children-and-young-people-east-jerusalem-denied-their-right-education>); UNRWA Situation Report #160 on the humanitarian crisis in the Gaza Strip and the West Bank, including East Jerusalem, 21 February 2025 (<https://www.unrwa.org/resources/reports/unrwa-situation-report-160-situation-gaza-strip-and-west-bank-including-east-jerusalem>).

⁵⁴¹ See above, paras. 4.17-4.65.

⁵⁴² General Assembly, Resolution 302(IV), 8 December 1949, para. 7 ([https://docs.un.org/en/A/RES/302\(IV\)](https://docs.un.org/en/A/RES/302(IV))), and subsequent General Assembly resolutions, expanding and extending UNRWA’s mandate.

⁵⁴³ “‘We are fighting human animals’ said Israeli Defence Minister Yoav Gallant”, *Youtube*, 10 October 2023 (<https://www.youtube.com/watch?v=ZbPdR3E4hCk>).

a continuation, in extreme form, of Israel's blockade imposed on the Gaza Strip and its population, the majority of whom are Palestine refugees over the course of the previous 16 years, and indeed of the prior restrictions on movements and goods imposed since the early 1990s.

6.12. Similarly, Israel's current legislative and enforcement actions against the Agency, represent the escalation – again in extreme form – of prior restrictions it had long imposed from time to time on Palestinian staff of the Agency, civilians and service provision throughout the West Bank, including in relation to their access to UNRWA's headquarters and services, including in East Jerusalem. Israel has also previously repeatedly attempted to force the resettlement of Palestine refugees in host countries, to terminate the mandate of UNRWA, to transfer the responsibility of the refugees to other international agencies, such as UNHCR, and to redefine "Palestine refugee" status to be limited to Palestinians who were forcibly displaced in 1948 as a means to revoke the refugee status from their descendants, i.e., the children and grandchildren of Palestine refugees.

6.13. However, the scope and impact of Israel's actions against UNRWA since October 2023 are unprecedented in the history of the Agency, and represent a moment of acute and extreme peril not only for UNRWA itself and for Palestinians civilians reliant on the Agency including for humanitarian assistance and basic service provision, including access to food, health services, education and employment, but also for the authority of the United Nations as a whole and peace and security in the broader region.

A. ISRAEL'S OBSTRUCTION OF UNRWA'S MANDATE IN THE GAZA STRIP SINCE OCTOBER 2023

6.14. Since October 2023, in particular, Israel's actions against UNRWA have caused widespread starvation across the Gaza Strip, resulting in mass malnourishment across the Palestinian population, particularly among children, causing numerous deaths among the Gaza Strip's vulnerable men women and children, including newborn babies, the disabled and the elderly⁵⁴⁴. While Israeli restrictions on the delivery into the Gaza Strip of humanitarian aid and

⁵⁴⁴ "First Person: Gaza, where starving people are trapped in a land reduced to rubble", *UN News*, 6 January 2025 (<https://news.un.org/en/story/2025/01/1158761>); "As Gaza Faces Starvation, Food Rights Expert Tells Third Committee 'You Did Not Act' on Genocide Risk", United Nations Meetings Coverage, 18 October 2024 (<https://press.un.org/en/2024/gashc4414.doc.htm>); IPC, Gaza Strip: Acute Food Insecurity Situation for September – October 2024 and Projection for November 2024 – April 2025, 17 October 2024 (<https://www.ipcinfo.org/ipc-country-analysis/details-map/en/c/1157985/?iso3=PSE>); "Gaza: 'Children are

equipment affect all humanitarian actors in the Gaza Strip, Israel has subjected UNRWA to particularly severe obstructions⁵⁴⁵. During the course of its military offensive against the Gaza Strip, Israel also imposed a blanket ban on access by UNRWA's team to the North of Gaza, while in parallel preventing UNRWA's access to its major distribution depot Rafah, where its fuel station is located, which the Israeli army commandeered as a military base, in violation of international law. Other United Nations agencies have been informed by the Israeli authorities that authorisation for *their* cargo to enter the Gaza Strip will be denied if UNRWA is listed in the paperwork, including as an interim recipient of the humanitarian aid.

6.15. Israel's evacuation orders – which at one stage covered over 83 percent of the Gaza Strip's territory⁵⁴⁶ – significantly impacted UNRWA premises and facilities, including distribution hubs and shelters, as well as UNRWA staff who were themselves forced to flee their homes in areas under evacuation order, with their families. Many UNRWA premises and facilities were forced to evacuate without suitable alternatives, given the overwhelming lack of shelter options available to displaced civilians. As a result of these evacuation orders and Israel's intense military attacks across the Gaza Strip, UNRWA was also required to suspend much of its services, including schools and health care provision, at a time of desperate and acute need⁵⁴⁷.

6.16. Israel's continuing restrictions on the importation of humanitarian aid, which have continued despite the 19 January 2025 ceasefire agreement, in violation of Security Council resolution 2735 (2024), prevent not only the provision of sufficient food, water, medicines and fuel to the Palestinian civilian population in the Gaza Strip, but also items necessary during winter for warmth and shelter, including tens of thousands of prefabricated housing units, tents and blankets. Israel also continues to block the agreed entry into the Gaza Strip of heavy equipment and machinery needed to clear the 55 million tons of rubble to which Israel has

dying from hunger', says UN aid coordinator", *UN News*, 6 March 2024 (<https://news.un.org/en/story/2024/03/1147312>).

⁵⁴⁵ UNRWA, "Gaza: the Israeli Authorities continue to deny humanitarian missions", 21 October 2024 (<https://www.unrwa.org/newsroom/official-statements/gaza-israeli-authorities-continue-deny-humanitarian-missions>). See also post of the Commissioner-General of UNRWA, Philippe Lazzarini, @UNLazzarini, 1:49pm, 21 October 2024 (<https://x.com/UNLazzarini/status/1848330806084726795>).

⁵⁴⁶ OCHA, Humanitarian Situation Update #194 | Gaza Strip, 22 July 2024 (<https://www.ochaopt.org/content/humanitarian-situation-update-194-gaza-strip>).

⁵⁴⁷ "UN says Gaza aid operation paused due to evacuation orders", *BBC*, 26 August 2024 (<https://www.bbc.com/news/articles/cr40d32zqz4o>).

reduced much of the Gaza Strip⁵⁴⁸. These ongoing restrictions on the entry of humanitarian aid and basic service, continue to cause widespread harm to the civilian population of the Gaza Strip, including the 1.9 million men, women and children who have been forcibly displaced, many of them repeatedly, and whose homes have been damaged or destroyed, at a time of extreme weather conditions affecting the Gaza Strip⁵⁴⁹. 74 Palestinian children, including eight new-born babies, are reported to have died of hypothermia or weather-related conditions in 2025 alone⁵⁵⁰.

6.17. The catastrophic impacts of Israel’s continuing restrictions on the entry of humanitarian aid and the provision of basic services to the civilian population of the Gaza Strip since October 2023 have been magnified by the pre-existing conditions created by Israel’s now 18-year blockade of the Gaza Strip, over the course of which Israel “us[ed] food as a weapon” against the Palestinian people in the Gaza Strip⁵⁵¹, deliberately restricting its entry and that of other humanitarian goods and services. As described by the advisor to the then Prime Minister of Israel, “the idea [wa]s to put the Palestinians on a diet, but not to make them die of hunger”⁵⁵². Israel’s then policy was to “allow only enough goods to enter Gaza so that it made people hungry but did not cross a ‘red line’ and trigger a humanitarian crisis”, with the Israeli Ministry of Health “calculat[ing] the calories needed for different age and gender groups in Gaza, then us[ing] this to determine the quantity of staple foods that it would allow into the Strip every day”⁵⁵³. After October 2023, however, these minimum caloric allowances were dispensed with and the mass starvation of the Gaza Strip’s population *became* the Israeli policy.

B. THE WEST BANK, INCLUDING EAST JERUSALEM

6.18. Israel has now forced the closure of UNRWA’s headquarters in East Jerusalem, pursuant to anti-UNRWA legislation which entered into effect on 28 January 2025, and is

⁵⁴⁸ “ Hamas claims Israel’s block on heavy machinery entering Gaza affecting efforts to extract hostages’ bodies”, *The Times of Israel*, 7 February 2025 (https://www.timesofisrael.com/liveblog_entry/hamas-claims-israels-block-on-heavy-machinery-entering-gaza-affecting-efforts-to-extract-hostages-bodies/).

⁵⁴⁹ UNRWA Situation Report #157 on the Humanitarian Crisis in the Gaza Strip and the West Bank, including East Jerusalem, 31 January 2025 (<https://www.unrwa.org/resources/reports/unrwa-situation-report-157-situation-gaza-strip-and-west-bank-including-east-jerusalem>).

⁵⁵⁰ “Children are now freezing to death’: harrowing updates from Gaza”, *UN News*, 9 January 2025 (<https://news.un.org/en/story/2025/01/1158881>); “Gaza babies dying from the cold as winter temperatures drop, *BBC*, 31 December 2024 (<https://www.bbc.com/news/articles/cd0ep0j83p7o>).

⁵⁵¹ Report of the Special Rapporteur on the right to food, 17 July 2024, A/79/171, para. 71 (<https://docs.un.org/en/A/79/171>).

⁵⁵² *Ibid.*

⁵⁵³ *Ibid.*

actively, physically, obstructing UNRWA's mandate across the West Bank, including by forcing the evacuation of UNRWA premises, including UNRWA schools, at gunpoint⁵⁵⁴. This is considered in detail in Section C below.

6.19. However, even prior to February 2025, stringent restrictions on freedom of movement had already severely obstructed access by local Palestinian UNRWA staff to UNRWA premises in occupied East Jerusalem, and throughout the rest of West Bank⁵⁵⁵. By way of illustration, approximately 470 UNRWA staff members with valid permits to access Jerusalem had been unable to access UNRWA's headquarters, field office or health centers and schools in East Jerusalem after October 2023, with severe effects on UNRWA's activities and mandate⁵⁵⁶. Israel has similarly restricted access to the Occupied Palestinian Territory by UNRWA's international staff, including UNRWA Commissioner-General, Philippe Lazzarini, by refusing them the necessary entry requirements⁵⁵⁷, further significantly impacting the Agency and its operations. As set out above, no international staff member of UNRWA has been granted a visa to enter or remain in the Occupied Palestinian Territory after 28 January 2025, the date on which the anti-UNRWA legislation entered into effect.

C. VIOLATIONS OF INTERNATIONAL LAW

6.20. Israel's deliberate, longstanding impairment of UNRWA's fulfilment of its mandate including its longstanding, deliberate obstruction of humanitarian aid into the Gaza Strip constitute extremely serious breaches of its obligations under international law. Those obligations include the duty to cooperate in good faith with the United Nations, including in relation to the delivery of humanitarian aid, and to ensure and respect the privileges and immunities of UNRWA premises, property, assets and officials, including their free movement,

⁵⁵⁴ UNRWA, "Children and young people in East Jerusalem denied of their right to education in UNRWA schools", 18 February 2025 (<https://www.unrwa.org/newsroom/official-statements/children-and-young-people-east-jerusalem-denied-their-right-education>).

⁵⁵⁵ See, e.g., General Assembly, Resolution 78/73, 11 December 2023; UNRWA Situation Report #135 on the situation in the Gaza Strip and the West Bank, including East Jerusalem, 11 September 2024 (<https://www.unrwa.org/resources/reports/unrwa-situation-report-135-situation-gaza-strip-and-west-bank-including-east>).

⁵⁵⁶ Report of the Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East, 2024, A/79/13, para. 17 (<https://docs.un.org/en/A/79/13>).

⁵⁵⁷ UNRWA, #Gaza: The Israeli Authorities continue to deny humanitarian access to the United Nations, 5 May 2024 (<https://www.unrwa.org/newsroom/official-statements/gaza-israeli-authorities-continue-deny-humanitarian-access-united-nations>); post of the Commissioner-General of UNRWA, Philippe Lazzarini, @UNLazzarini, 2:05pm, 18 March 2024 (<https://x.com/UNLazzarini/status/1769711761136009310>).

in accordance with the United Nations Charter, the 1946 Convention, the 1973 Convention, as well as general international law.

III. Elimination of UNRWA and Its Mandate

6.21. Despite being bound under international law, including Articles 2 (2), 2 (5), 56 and 100 (2) of the Charter, to cooperate in good faith with UNRWA – a United Nations subsidiary organ, established pursuant to Articles 7 (1) and 22 of the Charter, and forming an integral part of the United Nations⁵⁵⁸ – in any action it takes in accordance with the relevant decisions of the United Nations’ principal organs, adopted pursuant to the provisions of the Charter⁵⁵⁹, Israel is engaged in an existential attack on UNRWA in an attempt to undermine, and ultimately to terminate, the Agency’s General Assembly mandate⁵⁶⁰, for which Israel had voted in favour following its accession to the United Nations⁵⁶¹.

6.22. Resolution 77/123 of 12 December 2022, the latest General Assembly resolution extending UNRWA’s mandate:

“[a]cknowledge[s] the essential role that the Agency has played for more than seven decades since its establishment in ameliorating the plight of the Palestine refugees through the provision of education, health, relief and social services and ongoing work in the areas of camp infrastructure, microfinance, protection and emergency assistance; [and]

[a]ffirm[s] the necessity for the continuation of the work of the United Nations Relief and Works Agency for Palestine Refugees in the Near East and the importance of its unimpeded operation and its provision of services, including emergency assistance, for the well-being, protection and human development of the Palestine refugees and for the stability of the region, pending the just resolution of the question of the Palestine refugees”⁵⁶².

6.23. It is precisely because of the “essential” and “necessary” role played by UNRWA in relation to Palestine refugees forcibly displaced from their homes in the context of the 1948

⁵⁵⁸ *Repertory of Practice of the United Nations Organs*, Supplement No. 1 (1954–1955), Vol. 1, Article 7, p. 100.

⁵⁵⁹ See in this regard, Letter from the Secretary-General addressed to the President of the General Assembly and the President of the Security Council regarding UNRWA’s operations in the Occupied Palestinian Territories, 9 December 2024, A/79/684-S/2024/892 (<https://docs.un.org/en/A/79/684>).

⁵⁶⁰ General Assembly, Resolution 302 (IV), 8 December 1949.

⁵⁶¹ See above, Chapters 4 and 5.

⁵⁶² General Assembly, Resolution 77/123, 12 December 2022. For a historic review of UNRWA’s mandate, see Sir William Dale, *UNRWA—A Subsidiary Organ of the United Nations*, *International and Comparative Law Quarterly*, Vol. 23, 1974, p. 576, at pp. 583-586.

Nakba, and other Palestinians, including those displaced by the 1967 War, that Israel has waged a decades-long campaign to defame, delegitimise, defund and ultimately destroy the Agency, and its operations. 21 years ago already – in 2004 – the General Assembly was compelled to register its “deep ... concern” about “serious accusations” made against UNRWA by Israel which not only “proved to be unfounded” but “which undermine and obstruct the Agency’s work, including its ability to provide its essential services, notably its education, health and relief and social services”⁵⁶³. However, the scale of Israel’s attack on the Agency in egregious violation of its obligations as a Member of the United Nations and an occupying Power, including under the United Nations Charter, the Fourth Geneva Convention, and other multilateral treaties to which Israel is a party, as well as customary and general international law, has intensified significantly in the context of Israel’s military assault in the Gaza Strip, with the destruction of UNRWA having been reportedly identified by senior Israeli officials as one of its “war goal” in the Gaza Strip⁵⁶⁴.

A. ISRAEL’S RECENT FOCUSED ATTEMPTS TO DEFUND UNRWA

6.24. On 26 January 2024, the date of the Court’s first Provisional Measures Order in the *South Africa v. Israel* case, when “famine [wa]s around the corner” for the Palestinian population in the Gaza Strip⁵⁶⁵, Israel unleashed an all-out attack on UNRWA, seeking to strip it entirely of its funding⁵⁶⁶. Israel urged States to defund UNRWA on the false accusation that the Agency and large numbers of its staff were implicated in the 7 October 2023 attacks by Hamas and other Palestinian armed groups on Israel⁵⁶⁷. In a dossier provided by Israel to UNRWA funders – but not directly to UNRWA itself⁵⁶⁸ – and widely reported in the international media, Israel alleged that up to 12 of UNRWA’s 13,000 Gaza Strip employees

⁵⁶³ General Assembly, Resolution 59/119, 15 December 2004.

⁵⁶⁴ UNPAL, Israeli legislation against UNRWA – Statement of UNRWA Commissioner-General Philippe Lazzarini to the General Assembly, 6 November 2024 (<https://www.un.org/unispal/document/statement-of-unrwa-commissioner-general-06nov24/>).

⁵⁶⁵ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)*, Provisional Measures, Order of 26 January 2024, para. 47.

⁵⁶⁶ UNRWA, “UNRWA’S lifesaving aid may end due to funding suspension”, 27 January 2024 (<https://www.unrwa.org/newsroom/official-statements/unrwa%E2%80%99s-lifesaving-aid-may-end-due-funding-suspension>); “Israel/OPT: States must reverse cruel decision to withdraw UNRWA funding”, *Amnesty International*, 29 January 2024 (<https://www.amnesty.org/en/latest/news/2024/01/israel-opt-states-must-reverse-cruel-decision-to-withdraw-unrwa-funding/>).

⁵⁶⁷ See, e.g., post of the Israeli Ambassador to the United Nations, Guilad Erdan, @giladerdan1, 6:15pm, 26 January 2024 (<https://twitter.com/giladerdan1/status/1750930495276302500>) (asserting that “UNRWA employees’ participat[ed] in the October 7 massacre”, he alleged that “[t]he UN is not only weaponized to delegitimize our existence, but also to physically exterminate us”).

⁵⁶⁸ UNRWA: Claims versus Facts, February 2024 (<https://www.unrwa.org/resources/fact-sheet/unrwa-claims-versus-facts>).

had participated in the attacks, including by “infiltrat[ing]” Israel, being “involved in kidnapping Israelis” and/or providing “logistics support”⁵⁶⁹. Israel has also repeatedly publicly claimed – without substantiation – that “out of approx. 12,000 UNRWA employees in [the Gaza Strip], about 10% are Hamas/[Palestinian Islamic Jihad] operatives and about 50% are first-degree relatives with a Hamas operative”⁵⁷⁰.

6.25. UNRWA responded to Israel’s latest allegations against individual Agency staff by immediately terminating their appointments “in the interest of the Agency” in order to attempt to protect UNRWA’s mandate and its ability to continue to urgently deliver humanitarian assistance to Gaza at a time of unprecedented crisis⁵⁷¹. At the request of the Secretary-General, the Office of Internal Oversight Services (OIOS) – the highest investigative body at the United Nations – then began an investigation into the allegations by Israel against a total of 19 UNRWA staff members. The OIOS investigation concluded that there was insufficient evidence to support the allegations against ten of these staff members, but that the evidence obtained by OIOS could be capable of indicating possible involvement by nine staff members in the events of 7 October 2023⁵⁷², “if authenticated and corroborated”⁵⁷³. Their employment was therefore terminated “in the interest of the Agency”⁵⁷⁴. Israel has provided no information or evidence to UNRWA or to the United Nations regarding its broader claims against the Agency, including its claims of widespread Hamas infiltration of or affiliation with UNRWA⁵⁷⁵.

6.26. In parallel, the report of an independent review of the adequacy and implementation of UNRWA’s procedures to uphold neutrality (‘the Colonna Report’), initiated in January 2024

⁵⁶⁹ See, e.g., “Israeli intelligence report claims four UNRWA staff in Gaza involved in Hamas kidnappings”, *Sky News*, 30 January 2024 (<https://news.sky.com/story/israeli-intelligence-report-claims-four-unrwa-staff-in-gaza-involved-in-hamas-kidnappings-13059967>); “Israel’s evidence of UNRWA Hamas allegations examined”, *Channel 4*, 5 February 2024 (<https://www.channel4.com/news/israels-evidence-of-unrwa-hamas-allegations-examined>); “Israeli Intel Report Accuses 190 UNRWA Staff of Being ‘Hardened’ Militants”, *Haaretz*, 29 January 2024 (<https://www.haaretz.com/israel-news/2024-01-29/ty-article/israel-accuses-190-unrwa-staff-of-being-hardened-militants-intel-memo-alleges/0000018d-5637-d0fc-a9bd-5e7fcbd50000>).

⁵⁷⁰ *Ibid.*

⁵⁷¹ UNRWA, “Serious allegations against UNRWA staff in the Gaza Strip”, 26 January 2024 (<https://www.unrwa.org/newsroom/official-statements/serious-allegations-against-unrwa-staff-gaza-strip>); UNRWA: Claims versus Facts, February 2024 (<https://www.unrwa.org/resources/fact-sheet/unrwa-claims-versus-facts>).

⁵⁷² UNRWA, “Investigation completed: Allegations on UNRWA staff participation on the 7 October attacks”, 5 August 2024 (<https://www.unrwa.org/newsroom/official-statements/investigation-completed-allegations-unrwa-staff-participation-7-october>).

⁵⁷³ *Ibid.*

⁵⁷⁴ *Ibid.*

⁵⁷⁵ *Ibid.*

by UNRWA Commissioner-General, confirmed that the Agency had long established policies, mechanisms and procedures to ensure compliance with the principle of neutrality; that it had systems in place to address allegations of neutrality breaches, including through disciplinary sanctions; and that UNRWA had reviewed all allegations against staff members made over the course of the previous two years, and had opened investigations where there was evidence of misconduct. The Report concluded that UNRWA “possesses a more developed approach to neutrality than other similar United Nations or NGO entities” while also “identif[y]ing several measures to help UNRWA address its neutrality challenges in eight critical areas requiring immediate improvement”⁵⁷⁶.

6.27. UNRWA itself immediately began implementing the Colonna Report recommendations, “supported by a high-level action plan that is regularly updated, with progress shared transparently, including on the UNRWA website”⁵⁷⁷. A statement by the Security Council on 30 October 2024 “welcomed the Secretary-General’s and the Agency’s commitment to fully implement [the] recommendations and called for their accelerated implementation, in line with UNRWA’s commitment to the principle of neutrality”⁵⁷⁸. The Statement emphasized the vital role of UNRWA, underscoring that UNRWA remains the backbone of all humanitarian response in the Gaza Strip, and affirming that no organization can replace or substitute UNRWA’s capacity and mandate to serve Palestinian refugees and civilians in urgent need of life-saving humanitarian assistance.

6.28. Almost all of the eighteen States which had paused UNRWA’s funding pending the conclusion of the above investigation and review have reinstated their funding to UNRWA and

⁵⁷⁶ Independent Review of Mechanisms and Procedures to Ensure Adherence by UNRWA to the Humanitarian Principle of Neutrality, Final Report for the United Nations Secretary-General, 20 April 2024, para. I (https://www.un.org/unispal/wp-content/uploads/2024/04/unrwa_independent_review_on_neutrality.pdf).

⁵⁷⁷ Identical letters from the Secretary-General addressed to the President of the General Assembly and the President of the Security Council, 8 January 2025, A/79/716-S/2025/18 (<https://docs.un.org/en/A/79/716>).

⁵⁷⁸ “Security Council press statement on United Nations Relief and Works Agency for Palestine Refugees in Near East (UNRWA)”, Press Releases, 30 October 2024 (<https://press.un.org/en/2024/sc15874.doc.htm>).

reaffirmed their support for its General Assembly mandate⁵⁷⁹. Israel called the decisions of States to resume funding “regrettable and disappointing”⁵⁸⁰.

6.29. As the Secretary-General has subsequently reported to the General Assembly:

“UNRWA engages with Israel with regard to allegations raised against UNRWA and its personnel and takes the steps necessary to investigate those allegations in accordance with the Organization’s regulations, rules and policies and in line with the status, privileges and immunities of the United Nations. In this regard, UNRWA has responded to *every allegation* that has been raised by the Government of Israel against personnel of UNRWA regarding possible political activity that may be against the interest of the United Nations or connections to acts of terror, based on its policy of zero tolerance for activities of this nature. This is demonstrated by the actions taken by UNRWA following allegations that its personnel may have been involved in the attacks of 7 October 2023. *Upon receiving the allegations, immediate administrative steps were taken.* I immediately referred the allegations to the Office of Internal Oversight Services

⁵⁷⁹ European Commission, Commission will proceed to paying EUR 50 million to UNRWA and increase emergency support to Palestinians by EUR 68 million in 2024, Press release, 1 March 2024 (https://enlargement.ec.europa.eu/news/commission-will-proceed-paying-eur-50-million-unrwa-and-increase-emergency-support-palestinians-eur-2024-03-01_en); “Canada Resumes Funding to UN Relief Agency for Palestinian Refugees”, CPAC, 8 March 2024 (<https://www.cpac.ca/headline-politics/episode/canada-resumes-funding-to-un-relief-agency-for-palestinian-refugees?id=ef8000b5-d290-43b1-ba2a-f2681fb289e0>); Swedish Ministry for Foreign Affairs, Government issues disbursement of SEK 200 million to UNRWA following new agreement on stricter controls, Press release, 9 March 2024 (<https://www.government.se/press-releases/2024/03/government-issues-disbursement-of-sek-200-million-to-unrwa-following-new-agreement-on-stricter-controls/>); Ministry for Foreign Affairs of United Kingdom, Funding for the United Nations Relief and Works Agency and Additional Support for Gaza, 15 March 2024 (<https://www.foreignminister.gov.au/minister/penny-wong/media-release/funding-united-nations-relief-and-works-agency-and-additional-support-gaza>); Government of Iceland, Iceland disburses annual core contribution to UNRWA, Press release, 19 March 2024 (<https://www.government.is/diplomatic-missions/embassy-article/2024/03/19/Iceland-disburses-annual-core-contribution-to-UNRWA/>); Finnish Ministry for Foreign Affairs, Finland continues funding UNRWA – funds directed to prevention of misconduct, Press release, 22 March 2024 (<https://tinyurl.com/yn4ceh4b>); “France to provide UNRWA funding ensuring right conditions are met – foreign ministry”, Reuters, 28 March 2024 (<https://www.reuters.com/world/france-provide-unrwa-funding-ensuring-right-conditions-are-met-foreign-ministry-2024-03-28/>); German Ministry for Foreign Affairs, “Gemeinsame Erklärung des Auswärtigen Amtes (AA) und des Bundesministeriums für wirtschaftliche Zusammenarbeit und Entwicklung (BMZ) zu UNRWA”, Press Release, 24 April 2024 (https://www.mofa.go.jp/press/kaiken/kaikenwe_000001_00053.html#)(<https://www.bmz.de/de/aktuelles/aktuelle-meldungen/gemeinsame-erklaerung-auswaertiges-amt-bmz-zu-unrwa-207472>); “Minister Tsahkna in Brussels: People of Gaza and Ukraine need quick decisions”, News, 8 May 2024 (<https://news.err.ee/1609335705/minister-tshakna-in-brussels-people-of-gaza-and-ukraine-need-quick-decisions>); Ministry of European and International Affairs, Statement on UNRWA, 18 May 2024 (<https://www.bmeia.gv.at/en/ministerium/presse/aktuelles/2024/05/statement-on-unrwa>); post of the Former EU High Representative for Foreign Affairs and Security Policy, Joseph Borrell, @JosepBorrellF, 8:54am, 23 May 2024 (<https://x.com/JosepBorrellF/status/1793535982169718818>); United Nations: Ad Hoc Committee for Announcing Voluntary Contributions to UNRWA, Relief Web, 13 July 2024 (<https://reliefweb.int/report/occupied-palestinian-territory/united-nations-ad-hoc-committee-announcing-voluntary-contributions-unrwa>); Government of United Kingdom, UK to restart funding to UNRWA, 19 July 2024 (<https://www.gov.uk/government/news/uk-to-restart-funding-to-unrwa>); General Assembly, Resolution ES-10/25, 16 December 2024.

⁵⁸⁰ Post of the Spokesperson of the Ministry of Foreign Affairs of Israel, Oren Marmorstein, @OrenMarmorstein, 7:16pm, 24 April 2024 (<https://twitter.com/OrenMarmorstein/status/1783183171166646431>); “Israel-Hamas war: Doubts grow over Ramadan cease-fire deal”, DW, 3 September 2024 (<https://www.dw.com/en/israel-hamas-war-doubts-grow-over-ramadan-cease-fire-deal/live-68478709#liveblog-post-68482066>).

for investigation under the Organization’s regulatory framework. *Such actions were consistent with the history of UNRWA engagement with the Government of Israel, whereby it has been responsive to allegations raised by the Government of wrongdoing by UNRWA personnel.*”⁵⁸¹

6.30. Nevertheless, and despite having failed to present credible evidence to support its allegations, Israel has pursued its relentless campaign against UNRWA, including by continuing repeatedly to falsely assert that the Agency and large numbers of its staff were involved in the attacks on Israel of 7 October 2023. As reported by UNRWA Commissioner-General, Israel’s efforts to impugn the Agency’s neutrality and integrity are part of a “deliberate and concerted campaign to undermine its operations and ultimately end them”⁵⁸², including by “inundating donors with misinformation designed to foster distrust and tarnish the reputation of the Agency”⁵⁸³. The Secretary-General has urged Israel to cease its dangerous and damaging misrepresentations about UNRWA, stating in a letter to the General Assembly dated 8 January 2025:

“I would ... like to take this opportunity to address the reference made in the letter from the Permanent Representative [of Israel] to “the significant national security risks posed by Hamas’s pervasive infiltration of UNRWA and the latter’s persistent refusal to remedy this intolerable situation”. Despite the explanations that I and the UNRWA Commissioner-General have given in the past on this matter, including to the General Assembly, I am concerned by the fact that *attempts have continued to be made to disseminate misunderstandings and misrepresentations*. I believe that it is in the interest of the United Nations to address these allegations, which continue to be *very damaging to the United Nations in general* and constitute an obstacle for UNRWA to operate effectively in the Occupied Palestinian Territory. *I call on the Government of Israel to refrain from such misrepresentations.*”⁵⁸⁴

⁵⁸¹ Identical letters from the Secretary-General addressed to the President of the General Assembly and the President of the Security Council, 8 January 2025, A/79/716-S/2025/18 (<https://docs.un.org/en/A/79/716>) (emphasis added).

⁵⁸² Statement of the Commissioner-General of UNRWA to the General Assembly, 4 March 2024 (<https://www.unrwa.org/newsroom/official-statements/statement-commissioner-general-unrwa-general-assembly>). See also “Why is Netanyahu trying to disband the UNRWA?”, *Aljazeera*, 22 June 2017 (<https://www.aljazeera.com/opinions/2017/6/22/why-is-netanyahu-trying-to-disband-the-unrwa>); “Israel wants UNRWA out of Gaza”, *Jewish News Service*, 31 December 2023 (<https://www.jns.org/israel-wants-unrwa-out-of-gaza/>).

⁵⁸³ *Ibid.*

⁵⁸⁴ Identical letters from the Secretary-General addressed to the President of the General Assembly and the President of the Security Council, 8 January 2025, A/79/716-S/2025/18 (<https://docs.un.org/en/A/79/716>) (emphasis added).

6.31. In serious violation of its obligations under the international law, including the United Nations Charter itself, Israel has not so refrained and persisted in its efforts to eliminate UNRWA and its mandate.

B. ISRAELI NATIONAL ANTI-UNRWA LEGISLATION

6.32. With most States having reinstated their funding to UNRWA, and Israel's attempts to cripple the Agency on the international plane having failed, Israel turned its efforts to destroying the Agency unilaterally. This strategy included enactment in October 2024 by the Israeli Knesset of two anti-UNRWA laws, which entered into effect on 28 January 2025. The first, entitled the 'Law to Cease UNRWA Operations' stipulates that Israeli governmental authorities "shall not have any contact with UNRWA or anyone acting on its behalf" in the West Bank and the Gaza Strip. The second, entitled the "Law to Cease UNRWA Operations in the Territory of the State of Israel", prohibits UNRWA activities within the so-called "sovereign territory of the State of Israel". As such, the legislation has particular implications for UNRWA's operations in East-Jerusalem, part of the Occupied Palestinian Territory which Israel has purported to "annex" in violation of international law and in relation to which Israel unlawfully purports to assert sovereignty⁵⁸⁵. However, they also have grave operational, legal, humanitarian and political consequences on millions of Palestine refugees and other displaced Palestinians, and on the situation not only in the Occupied Palestinian Territory, but in the broader region. In addition to constituting a continuing violation of the prohibition of the acquisition of territory by force in breach of Article 2 (4) of the United Nations Charter and customary international law, and a further violation of the fundamental right of the Palestinian people to self-determination, Israel's anti-UNRWA legislation constitutes nothing short of a repudiation by Israel of its obligations under Articles 2 (5) and 105 of the Charter, the 1946 Convention on the Privileges and Immunities of the United Nations, alongside and its broader obligations as an occupying Power under international humanitarian law. The legislation – together with Israel's broader attacks against UNRWA have been roundly rejected by the Security Council:

"The members of the Security Council strongly warned against any attempts to dismantle or diminish UNRWA's operations and mandate, recognizing that any interruption or suspension of its work would have severe humanitarian consequences

⁵⁸⁵ 2024 Advisory Opinion, para. 173.

for millions of Palestinian refugees who depend on the Agency's services and also implications for the region.

The members of the Security Council expressed their grave concern over legislation adopted by the Israeli Knesset. In this regard, they urged the Israeli Government to abide by its international obligations, respect the privileges and immunities of UNRWA and live up to its responsibility to allow and facilitate full, rapid, safe and unhindered humanitarian assistance in all its forms into and throughout the entire Gaza strip, including the provision of sorely needed basic services to the civilian population.

The members of the Security Council demanded to all parties to enable UNRWA to carry out its mandate, as adopted by the General Assembly, in all areas of operation, with full respect for the humanitarian principles of humanity, neutrality, impartiality and independence, and to respect international humanitarian law including the protection of UN and humanitarian facilities.”⁵⁸⁶

6.33. Nevertheless, in anticipation of the entry into force of Israel's anti-UNRWA legislation, Israel demanded that UNRWA vacate two of its premises in East Jerusalem, including UNRWA's West Bank Headquarters, asserting that “UNRWA's use of the properties is done without proper authorization”⁵⁸⁷. Israel also demanded that UNRWA “demoli[sh] all immovables constructed without acquiring the proper authorizations, and pay... for past use” of the premises⁵⁸⁸. Israel has publicly announced that it intends to expand Israeli settlements on the site of the UNRWA Headquarters in Sheikh Jarrah, including by constructing over 1,400 residential units, the preparatory stages for which have reportedly already begun⁵⁸⁹. UNRWA estimates that the closures in East Jerusalem alone will directly affect over 70,000 Palestinians with healthcare needs and over 1,000 students⁵⁹⁰. The State of Palestine's assessment is as follows:

“The collapse of the Agency will deprive more than 6 million of refugees of a lifeline of humanitarian assistance and intensify socio-economic hardships, including for widows and orphans. It will contribute to a rise of unemployment rates in the Occupied Palestinian Territory (OPT) leaving over 17,000 UNRWA staff members unemployed. In Gaza the rate has already reached a staggering 79.1%, and it has reached 32% in the West Bank. Since the start of Israel's latest aggression in October 2023, the overall

⁵⁸⁶ Security Council Press Statement on United Nations Relief and Works Agency for Palestine Refugees in Near East (UNRWA), 30 October 2024 (<https://press.un.org/en/2024/sc15874.doc.htm>).

⁵⁸⁷ Post of Israel's Ambassador to the United Nations, Danny Danon, @dannyanon, 4:34pm, 25 January 2025 (<https://x.com/dannyanon/status/1883176583223279675>).

⁵⁸⁸ *Ibid.*

⁵⁸⁹ UNRWA, “The Government of Israel orders UNRWA to vacate its premises in occupied East Jerusalem and cease operations in them”, 26 January 2025 (<https://www.unrwa.org/newsroom/official-statements/government-israel-orders-unrwa-vacate-its-premises-occupied-east>).

⁵⁹⁰ UNRWA, Statement by Philippe Lazzarini, Commissioner-General of UNRWA at the United Nations Security Council, 28 January 2025 (<https://www.unrwa.org/newsroom/official-statements/statement-philippe-lazzarini-commissioner-general-unrwa-united-nations>).

poverty rate in Gaza has already reached 100%, and in the West Bank, it has increased from 12% to 28%.

706 schools will be rendered non-operational, more than 660,000 students will have no access to education. Illiteracy rates will rise, despite Palestine currently having one of the lowest global illiteracy rates at 3.6%. Moreover, 65 health care centers across occupied Palestine will also be rendered non-operational; 26 in Gaza, and 43 in the West Bank, including East Jerusalem. These centers serve 84% of Palestine refugees in Gaza and about 46.7% in the West Bank. The centers handle 3.4 million annual visits in Gaza Strip, and 895,000 annual visits in the West Bank. 2.2 million Palestine refugees will be left with no access to essential healthcare. Additionally 390,443 Palestine refugees in the OPT will be deprived of UNRWA safety nets they are reliant on for subsistence. 1.6 million refugees, who are the majority among the 1.9 million internally displaced Palestinians, making up 90% of Gaza's population, will be left without emergency assistance, including food, water, shelter, and other essential services. Furthermore 27 refugee camps; 8 in Gaza and 19 in the West Bank will be left without any infrastructure support or access to essential services, leading to a severe deterioration in living conditions. Camps will be deprived of electricity, water, energy, and proper sewage and sanitation services, significantly increasing health risks for refugees and the wider population.

The collapse of UNRWA will further escalate these already-dramatic figures, extremely exacerbating an unprecedented man-made humanitarian crisis in the region.”

6.34. Notwithstanding those stark warnings, Israel has already begun violently implementing the legislation across the West Bank, including East Jerusalem, with its forces unlawfully entering UNRWA premises – including multiple UNRWA schools and a training facility – detonating sound bombs and tear gas cannisters, and forcing the evacuation of approximately 600 students and trainees and over 30 staff⁵⁹¹. As above, Israel has also failed to grant or renew visas for UNRWA’s international staff beyond the end of January 2025. These actions constitute grave violations by Israel of its obligations under the United Nations Charter, the 1946 and 1973 Conventions, including its obligations to protect and to respect the inviolability of United Nations premises, and the immunities and privileges of United Nations officials, as well as its broader obligations under international humanitarian and human rights law, including the right to education, and the fundamental right of the Palestinian people to self-determination.

⁵⁹¹ Post of the Commissioner-General of UNRWA, Philippe Lazzarini, @UNLazzarini, 1:32pm, 18 February 2025 (<https://x.com/UNLazzarini/status/1891828035776639433>).

6.35. UNRWA Commissioner-General has advised the Security Council in stark terms that “[o]perationally, the entire humanitarian response in Gaza – which rests on UNRWA’s infrastructure – may disintegrate” as a consequence of the implementation of the legislation⁵⁹².

C. ISRAEL’S END GAME

6.36. In fact, the “disintegration” and destruction of UNRWA and its mandate is Israel’s very objective. Israel’s highest government officials have openly acknowledged that their attempt to defund and destroy UNRWA is linked to the attempt to deny Palestine refugees the right of return, as guaranteed under international law⁵⁹³. Thus, by way of example, on 31 January 2024, the Israeli Prime Minister told a delegation of United Nations Ambassadors in Jerusalem:

“I think it’s time that the international community and the UN itself understand that *UNRWA’s mission has to end*. UNRWA is self-perpetuating. It is self-perpetuating also in its desire to keep alive the Palestinian refugee issue. And *we need to get other UN agencies and other aid agencies replacing UNRWA if we’re going to solve the problem of Gaza as we intend to do*.”⁵⁹⁴

6.37. In a similar vein, on 4 February 2024, Israel’s then Minister of Foreign Affairs asserted that:

“UNRWA is part of the problem. It’s part of the terrorist infrastructure of Hamas in Gaza. It’s part of *the Palestinian lie* that there are ‘refugees’ who need to return to the State of Israel. We are working to remove UNRWA from Gaza. They are the problem – not the solution.”⁵⁹⁵

6.38. Israel’s Ambassador to the United Nations now declares to the Security Council that:

“in the end, UNRWA is a Palestinian organization committed to the destruction of Israel! UNRWA’s goal is not to really provide aid or education, but to produce millions

⁵⁹² UNRWA, Statement of Philippe Lazzarini, Commissioner-General of UNRWA, at the United Nations Security Council, 9 October 2024 (<https://www.unrwa.org/newsroom/official-statements/statement-philippe-lazzarini-commissioner-general-unrwa-united-nations-security-council>).

⁵⁹³ See above, para. 2.14.

⁵⁹⁴ Israeli Prime Minister’s Office, “Prime Minister Benjamin Netanyahu to a Delegation of United Nations Ambassadors: ‘It’s time that the international community and the UN itself understand that UNRWA’s mission has to end’”, 31 January 2024 (<https://www.gov.il/en/departments/news/event-un310124>) (emphasis added).

⁵⁹⁵ Post of the Minister of Foreign Affairs, Israel Katz, @Israel_Katz, 5:05 pm, 4 February 2024 (https://twitter.com/Israel_katz/status/1754174311768695267) (our translation) (emphasis added); *ibid.*, 5:15 pm, 4 February 2024 (https://twitter.com/Israel_katz/status/1754176771967029757).

of Palestinian ‘refugees’ (they are not real refugees!) who believe in the *non-existent ‘right of return,’* in order to flood Israel and destroy the Jewish state”⁵⁹⁶.

6.39. Consequently, notwithstanding the findings of the Colonna Report and the Office of Internal Oversight Services investigation, and despite having failed to substantiate its claims against UNRWA with evidence, Israel persists in repeatedly, baselessly maligning UNRWA as a “as a terrorist organization posing as a humanitarian agency”, claiming that “[t]oday in Gaza, ‘UNRWA is Hamas and Hamas is UNRWA’”, and wrongfully accusing vast number of UNRWA employees of participation in the 7 October 2023 attacks on Israel⁵⁹⁷. Senior Israeli officials contemptuously dismiss the findings of the Colonna Report – which analysed such limited actual evidence as Israel *has* presented – as “another disgrace for the UN, which continues to refuse to accept reality”⁵⁹⁸, asserting that “[i]t is neither legitimate or moral to disregard the *undeniable fact* that UNRWA-Gaza has become a front for Hamas”⁵⁹⁹. Israel’s ongoing bad faith smears against UNRWA and its staff are not only wrongful, they are extraordinarily dangerous: they have set the stage not only for the widespread destruction of UNRWA premises and property, but also for the killing, maiming, detention and torture of UNRWA staff by Israeli military forces that have reached unprecedented levels in the history of the region and of the United Nations, in serious violation of the United Nations Charter, the 1947 Convention, the 1973 Convention, the ICCPR, UNCAT, as well as customary and general international law, as reflected in the 1994 Convention and repeated Security Council and General Assembly resolutions.

6.40. The rationale and objective behind Israel’s attempt to destroy the Agency was succinctly explained UNRWA Commissioner-General in an address to the Security Council in April 2024. As he reported, “calls for UNRWA’s closure are not about adherence to humanitarian principles. ... They seek to change the long-standing political parameters for

⁵⁹⁶ Post of the Israeli Ambassador to the United Nations, Guilad Erdan, @giladerdan1, 3:26pm, 18 April 2024 (<https://x.com/giladerdan1/status/1780950990918697035>).

⁵⁹⁷ Israeli Ministry of Foreign Affairs, MFA response to the interim report of the Independent Review Group led by Catherine Colonna, Media Statements, 29 March 2024 (<https://www.gov.il/en/pages/response-of-mfa-to-the-interim-report-led-by-catherine-colonna>).

⁵⁹⁸ “Israeli envoy: UN’s UNRWA probe a disgrace, ignored info on many more with terror ties”, *The Times of Israel*, 5 August 2024 https://www.timesofisrael.com/liveblog_entry/israeli-envoy-uns-unrwa-probe-a-disgrace-ignored-info-on-many-more-with-terror-ties/

⁵⁹⁹ “Danon: ‘UNRWA is beyond redemption, beyond reform’”, *Israel National News*, 29 October 2024 (<https://www.israelnationalnews.com/news/398313>).

peace in the occupied Palestinian territory set by the resolutions of the General Assembly and this Council.”⁶⁰⁰ The Commissioner-General continued:

“Legally, the Knesset legislation violates Israel’s obligations under the United Nations Charter and international law. It defies the will of the international community expressed through General Assembly resolution 302 on UNRWA, and deepens violations recognized by the International Court of Justice.

Politically, the anti-UNRWA legislation, which is part of a broader campaign to dismantle the Agency, seeks to strip Palestinians from their refugee status, and change – unilaterally – the parameters for a future political solution.”⁶⁰¹

6.41. Accordingly, far from fulfilling its obligations as a Member of the United Nations and an Occupying Power to cooperate with UNRWA in good faith, including to ensure the provision of humanitarian aid and basic services to the Palestinian population under its military occupation and subject to ongoing military assaults, Israel is seeking nothing less than the Agency’s complete destruction, in order to “eliminate UNRWA’s role in protecting the rights of Palestine Refugees and acting as a witness to their continuing plight”⁶⁰². This is an act of bad faith and a flagrant breach of Israel’s obligations under the United Nations Charter, the 1946 Convention, the 1973 Convention, humanitarian and human rights law, and general and customary international law, including the Fourth Geneva Convention, United Nations resolutions declaring and reaffirming the right of return of Palestine refugees, as well as the fundamental right of the Palestinian people to self-determination. It has severe, wide-ranging consequences for the ability of the Agency to implement its General Assembly mandate and to ensure the welfare, protection and human development of millions of Palestine refugees through the provision of basic services and humanitarian assistance, including emergency aid and shelter in times of ongoing conflict, and acute crisis, and extreme and unparalleled need. In the context of Israel’s actions against the Occupied Palestinian Territory since October 2023 and before, Israel’s assault on UNRWA, resulting in the deliberate infliction on Palestinians, including Palestine refugees of conditions of life calculated to bring about their physical

⁶⁰⁰ UNRWA, Statement by the Commissioner-General of UNRWA to the Security Council, 17 April 2024 (<https://www.unrwa.org/newsroom/official-statements/statement-commissioner-general-unrwa-security-council>).

⁶⁰¹ UNRWA, Statement of Philippe Lazzarini, Commissioner-General of UNRWA, at the United Nations Security Council, 9 October 2024 (<https://www.unrwa.org/newsroom/official-statements/statement-philippe-lazzarini-commissioner-general-unrwa-united-nations-security-council>).

⁶⁰² Letter from the Commissioner-General to the President of the United Nations General Assembly, 22 February 2024 (<https://www.unrwa.org/newsroom/official-statements/letter-commissioner-general-president-general-assembly>). See also UNRWA, Statement by the Commissioner-General of UNRWA to the Security Council, 17 April 2024 (<https://www.unrwa.org/newsroom/official-statements/statement-commissioner-general-unrwa-security-council>).

destruction in whole or in part, is properly to be considered genocidal, in fundamental and ongoing violation of rights of the Palestinian people to be free from acts in violation of the Genocide Convention. It is also in violation of related Orders of this Court⁶⁰³.

6.42. The United Nations Secretary-General had described the impact of Israel's relentless and misleading assault on UNRWA as being not only on the Agency itself, but also being "*very damaging to the United Nations in general*"⁶⁰⁴. That is by design. As Israel's representatives to the United Nations repeatedly and publicly underscore, Israel's actions in seeking to defund UNRWA appear to be but a harbinger of its broader aims to bring about the defunding of the entire United Nations, including this Court⁶⁰⁵.

⁶⁰³ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel), Request for the modification of the Order of 26 January 2024 indicating provisional measures*, Order of 28 March 2024.

⁶⁰⁴ Identical letters from the Secretary-General addressed to the President of the General Assembly and the President of the Security Council, 8 January 2025, A/79/716-S/2025/18 (<https://docs.un.org/en/A/79/716>) (emphasis added).

⁶⁰⁵ Post of the Israeli Ambassador to the United Nations, Gilad Erdan, @giladerdan1, 1:45am, 11 December 2023 (<https://x.com/giladerdan1/status/1866645502369968592>) (emphasis added). See also post of the Israeli Ambassador to the United Nations, Gilad Erdan, @giladerdan1, 6:23pm, 29 October 2023 (<https://x.com/giladerdan1/status/1718680059614036093>); post of the Israeli Ambassador to the United Nations, Gilad Erdan, @giladerdan1, 4:25pm, 6 May 2024 (<https://x.com/giladerdan1/status/1787488759442743589>); post of the Israeli Ambassador to the United Nations, Gilad Erdan, @giladerdan1, 9:18pm, 22 November 2024 (<https://x.com/giladerdan1/status/1860055162225651779>); post of the Israeli Ambassador to the United Nations, Gilad Erdan, @giladerdan1, 7:06, 22 January 2025 (<https://x.com/giladerdan1/status/1881946645660844071>).

Chapter 7.

LEGAL CONSEQUENCES RESULTING FROM ISRAEL'S BREACHES OF ITS INTERNATIONAL OBLIGATIONS

7.1. As detailed in the previous chapters, Israel's prevention, hinderance and interference with the humanitarian presence and activities of the United Nations, its bodies and agencies, other international organizations and third States in the Occupied Palestinian Territory for the benefit of the Palestinian civilian population and in support of the right of the Palestinian people to self-determination, constitute serious breaches of its international legal obligations, including under the Charter of the United Nations, international humanitarian law and human rights law.

7.2. This Chapter deals with the ensuing obligations – or legal consequences – resulting from these breaches. Section I will be devoted to the legal consequences for Israel of its own breaches. Section II will address the legal consequences of Israel's breaches for third States and international organizations.

I. Legal Consequences of Israel's Obstruction of Humanitarian Assistance in the Occupied Palestinian Territory

7.3. In accordance with the Articles on Responsibility of States for Internationally Wrongful Acts (ARSIWA), Israel's breaches of international law engage its international responsibility. Israel's responsibility results from the conduct of its officials and organs "whether the organ exercises legislative, executive, judicial or any other functions, whatever position it holds in the organization of the State, and whatever its character as an organ of the central Government or of a territorial unit of the State" as well as "any person or entity which has that status" in accordance with Israeli internal law⁶⁰⁶. Its responsibility also emanates from the conduct of its illegal settlers in the Occupied Palestinian Territory, especially their obstruction of the delivery of humanitarian aid and medical assistance to the Palestinian civilian population since they are "in fact acting on the instructions of, or under the direction or control of, [Israel] in carrying out the conduct"⁶⁰⁷. Israel is also responsible for failing to take the

⁶⁰⁶ Draft Articles on Responsibility of States for Internationally Wrongful Acts, *ILC Yearbook*, 2001, Vol. II (2) (hereinafter: "Articles on State Responsibility"), Art. 4 (1).

⁶⁰⁷ *Ibid.*, Art. 8.

necessary measures to put an end to the actions of the Israeli settlers and for failing to punish them⁶⁰⁸.

7.4. As shown below, Israel's refusal to allow humanitarian aid and medical assistance to be delivered to the Palestinian people entails an obligation to cease its internationally wrongful acts (A) and to make reparation for all the damage caused to the State of Palestine and its people and to third States and international organizations (B).

A. ISRAEL IS UNDER AN OBLIGATION TO CEASE ITS WRONGFUL ACTS AND TO GIVE
ASSURANCES AND GUARANTEES OF NON-REPETITION

7.5. As provided by Article 30 of the ARSIWA:

“The State responsible for the internationally wrongful act is under an obligation:

- (a) to cease that act, if it is continuing;
- (b) to offer appropriate assurances and guarantees of non-repetition, if circumstances so require.”⁶⁰⁹

7.6. There is no question that this is positive law reflecting customary international law⁶¹⁰. Accordingly, Israel must cease obstructing the provision of supplies, goods and services to the Palestinian civilian population, and the provision of humanitarian and developmental assistance to them, by the United Nations, other international organizations and other States for the benefit of the Palestinian civilian population and in support of the right of the Palestinian people to self-determination (1). In view of its repeated and ongoing violations of the Palestinian people's rights for 77 years, Israel must provide assurances and guarantees of non-repetition (2).

⁶⁰⁸ See, e.g., *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. 153 (“2024 Advisory Opinion”); *Questions relating to the Obligation to Prosecute or Extradite (Belgium v. Senegal)*, Judgment, I.C.J. Reports 2012, p. 460, para. 115.

⁶⁰⁹ Articles on State Responsibility, Art. 30.

⁶¹⁰ See, e.g., *Dispute regarding Navigational and Related Rights (Costa Rica v. Nicaragua)*, Judgment, I.C.J. Reports 2009, p. 267, para. 150; *Certain Activities Carried Out by Nicaragua in the Border Area (Costa Rica v. Nicaragua)* and *Construction of a Road in Costa Rica along the San Juan River (Nicaragua v. Costa Rica)*, Judgment, I.C.J. Reports 2015, p. 717, para. 141; *Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965*, Advisory Opinion, I.C.J. Reports 2019, pp. 138-139, paras. 177 and 178.

1. Israel's Obligation to Cease Its Wrongful Acts

7.7. The obligation to cease an internationally wrongful act is an automatic consequence of the determination of the existence of a breach of an obligation. In the *Chagos* Advisory Opinion, the Court explained that:

“The Court having found that the decolonization of Mauritius was not conducted in a manner consistent with the right of peoples to self-determination, it follows that the United Kingdom’s continued administration of the Chagos Archipelago constitutes a wrongful act entailing the international responsibility of that State ... It is an unlawful act of a continuing character which arose as a result of the separation of the Chagos Archipelago from Mauritius.

Accordingly, the United Kingdom is under an obligation to bring an end to its administration of the Chagos Archipelago as rapidly as possible, thereby enabling Mauritius to complete the decolonization of its territory in a manner consistent with the right of peoples to self-determination.”⁶¹¹

7.8. More recently, in specific regard to the Occupied Palestinian Territory, the Court affirmed that:

“With regard to the Court’s finding that Israel’s continued presence in the Occupied Palestinian Territory is illegal, the Court considers that such presence constitutes a wrongful act entailing its international responsibility. It is a wrongful act of a continuing character which has been brought about by Israel’s violations, through its policies and practices, of the prohibition on the acquisition of territory by force and the right to self-determination of the Palestinian people. *Consequently*, Israel has an obligation to bring an end to its presence in the Occupied Palestinian Territory as rapidly as possible. As the Court affirmed in its *Wall* Advisory Opinion, the obligation of a State responsible for an internationally wrongful act to put an end to that act is well established in general international law, and the Court has on a number of occasions confirmed the existence of that obligation.”⁶¹²

7.9. Not only the Court but also other United Nations bodies have drawn the legal consequences of Israel’s violations of international law. For example, the General Assembly:

“[s]trongly deplore[d] the continued and total disregard and breaches by the Government of Israel of its obligations under the Charter of the United Nations, international law and the relevant United Nations resolutions, and stresses that such breaches seriously threaten regional and international peace and security; [and]

⁶¹¹ *Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965, Advisory Opinion, I.C.J. Reports 2019*, pp. 138-139, paras. 177 and 178.

⁶¹² 2024 Advisory Opinion, para. 267 (emphasis added).

[r]ecognize[d] that Israel must be held to account for any violations of international law in the Occupied Palestinian Territory, including any violations of international humanitarian law and international human rights law, and that it must bear the legal consequences of all its internationally wrongful acts, including by making reparation for the injury, including any damage, caused by such acts”⁶¹³.

7.10. The State of Palestine submits that the Court should confirm this position as being fully well established in law.

7.11. The “ceasefire agreement” concluded on 15 January 2025 does not absolve Israel of its breaches of its legal obligations or relieve it of the legal consequences thereof.

7.12. The agreement does not resolve all the issues arising from the General Assembly’s request for an advisory opinion from the Court. Notwithstanding the uncertainty concerning the faithful implementation of that agreement, it cannot be understood as the definitive and full realisation by Israel of its obligation to cease its international wrongful acts⁶¹⁴.

7.13. In sum, its breaches of its legal obligations, detailed in the prior chapters, are continuing and in some instances are patently intensifying. Therefore Israel must cease all such violations and guarantee their non-repetition.

7.14. Under Article 29 of the ARSIWA, “[t]he legal consequences of an internationally wrongful act ... do not affect the continued duty of the responsible State to perform the obligation breached”. As made clear in the commentary:

“[a]s a result of the internationally wrongful act, a new set of legal relations is established between the responsible State and the State or States to whom the international obligation is owed. But this does not mean that the pre-existing legal relation established by the primary obligation disappears.”⁶¹⁵

7.15. Accordingly, a “break” in the violation of norms of international law cannot be equivalent to the obligation to “to cease” the same international wrongful acts. As provided in the commentary to the ARSIWA:

⁶¹³ General Assembly, Resolution ES-10/24, 18 September 2024, paras. 8-9 (<https://docs.un.org/en/A/RES/ES-10/24>).

⁶¹⁴ See above, para. 1.25.

⁶¹⁵ Articles on State Responsibility, p. 88, para. (2) of the commentary to Art. 29.

“The function of cessation is to *put an end* to a violation of international law and to safeguard the continuing validity and effectiveness of the underlying primary rule. The responsible State’s obligation of cessation thus protects both the interests of the injured State or States and the interests of the international community as a whole in the preservation of, and reliance on, the rule of law.”⁶¹⁶

The ceasefire therefore cannot be understood as the complete cessation by Israel of its internationally wrongful acts in the Gaza Strip. *A fortiori*, it has no impact on the breaches of Israel’s obligations concerning basic services and humanitarian and development assistance in the rest of the Occupied Palestinian Territory which is being deprived of the unhindered assistance of UNWRA, and other international entities, including third States, at the time when it is particularly needed in light of the increasingly violent assaults on Palestinian civilians carried out by Israeli occupying forces and Israeli settlers against the Palestinian civilian population.

7.16. It should also be emphasised that the cessation of an internationally wrongful act cannot erase the violations of other international norms. In this case even if the restoration of certain forms of humanitarian assistance in the Gaza Strip would be averred and lasting, this would in no way exonerate Israel from its responsibility for previous violations, which must be recognized in order to prevent their recurrence as far as possible, or those that continue to be committed, in particular violations of the right of the Palestinian people to self-determination, of fundamental human rights and systematic and ongoing breaches of international humanitarian law. All the more so as the implementation of the 15 January 2025 ceasefire agreement continues to be accompanied by new and serious violations of Israel’s obligations under international law. Israeli officials have persisted in their plans – under the guise of humanitarian considerations – to forcibly displace the Palestinians in the Gaza Strip out of their land, using the pretext that the Gaza Strip is “uninhabitable” due to the vast destruction caused by the Israeli military aggression. This would amount to ethnic cleansing as defined by the United Nations Commission on Human Rights in its resolution 1992/S-1/1: “deportations and forcible mass removal or expulsion of persons from their homes in flagrant violation of their

⁶¹⁶ *Ibid.*, p. 89, para. (5) of the commentary to Art. 30 (emphasis added).

human rights, and which is aimed at the dislocation or destruction of national, ethnic, racial or religious groups”⁶¹⁷.

2. Israel’s Obligation to Give Assurances and Guarantees of Non-Repetition

7.17. As provided by Article 30 of the ARSIWA, “[t]he State responsible for the internationally wrongful act is under an obligation ... to offer appropriate assurances and guarantees of non-repetition, if circumstances so require”. Various cases decided by the Court⁶¹⁸ make it clear that such circumstances are relatively uncommon. However, Israel’s prolonged occupation, settlement and annexation of the Occupied Palestinian Territory, and the illegality of its presence there – which it has given no indication of ending, despite the Court’s determination that it must be ended as rapidly as possible – establish a special situation in the Occupied Palestinian Territory that patently justifies an obligation upon Israel not only to cease its unlawful activities but, also, to provide assurances and guarantees of non-repetition.

7.18. As made clear by the ILC commentary, “[a]ssurances and guarantees are concerned with the restoration of confidence in a continuing relationship ... Such demands are not always expressed in terms of assurances or guarantees, but they share the characteristics of being future-looking and concerned with other potential breaches.”⁶¹⁹ As regard to the future relation between two States, the Court affirmed that “[a]s a general rule, there is no reason to suppose that a State whose act or conduct has been declared wrongful by the Court will repeat that act or conduct in the future, since its good faith must be presumed”⁶²⁰. Having noted this, there are three particular reasons why Israel is required to offer assurances and guarantees of non-repetition of its breaches of obligations which involve the provision of emergency and

⁶¹⁷ United Nations Commission on Human Rights, Resolution 1992/S-1/1, The situation of human rights in the territory of the former Yugoslavia, 14 August 1992, preamble, in Report of the Commission on Human Rights on the First Special Session, 13-14 August 1992, E/1992/22/Add.1/Rev.1, p. 2.

⁶¹⁸ *Avena and Other Mexican Nationals (Mexico v. United States of America)*, Judgment, I.C.J. Reports 2004, pp. 68-69, para. 149; *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda)*, Judgment, I.C.J. Reports 2005, p. 256, para. 257.

⁶¹⁹ Articles on State Responsibility, pp. 89-90, para. (9) of the commentary to Art. 30.

⁶²⁰ *Dispute regarding Navigational and Related Rights (Costa Rica v. Nicaragua)*, Judgment, I.C.J. Reports 2009, p. 267, para. 150 (referring to *Factory at Chorzów, Merits*, Judgment No. 13, 1928, P.C.I.J., Series A, No. 17, p. 63; *Nuclear Tests (Australia v. France)*, Judgment, I.C.J. Reports 1974, p. 272, para. 60; *Nuclear Tests (New Zealand v. France)*, Judgment, I.C.J. Reports 1974, p. 477, para. 63; and *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America)*, Jurisdiction and Admissibility, Judgment, I.C.J. Reports 1984, p. 437, para. 101”).

development assistance for the benefit of the Palestinian civilian population and in support of the Palestinian people's right to self-determination.

7.19. First, as shown in the previous Chapters, Israel's breaches of its obligations under international law, notably the prohibition on acquisition of territory by force, the obligation to respect the right of the Palestinian people to self-determination, basic rules of international human rights and humanitarian law, and the prohibition of genocide and crimes against humanity, are of exceptional gravity and qualify as serious breaches of general international law (*jus cogens*). It is obviously of the utmost importance that these violations are not ceased and repeated.

7.20. Second, various international bodies, including the Court, have already reminded Israel of its obligations, including the prohibition on obstructing the movement of persons and goods in the sovereign territory of the State of Palestine. In its *Wall* Opinion, the Court stated that:

“the Court is of the opinion that the construction of the wall and its associated régime impede the liberty of movement of the inhabitants of the Occupied Palestinian Territory (with the exception of Israeli citizens and those assimilated thereto) ... They also impede the exercise by the persons concerned of the right to work, to health, to education and to an adequate standard of living as proclaimed in the International Covenant on Economic, Social and Cultural Rights and in the United Nations Convention on the Rights of the Child.”⁶²¹

7.21. The Court reaffirmed more broadly, in its 2024 Opinion, that Israel should put an end to its unlawful presence in the Palestinian territory, which is the root of the problem because it enables the obstacles put in place by Israel to prevent the supply of emergency and development assistance for the benefit of the Palestinian civilian population and in support of the Palestinian people's right to self-determination to the Palestinian people, “as rapidly as possible” and to cease “immediately” new settlement activities and to evacuate as well all settlers from the Occupied Palestinian Territory, both of which violate the right of the Palestinian people to self-determination and also directly impair the presence and activities of international entities endeavouring to provide assistance to the Palestinian people⁶²².

⁶²¹ *Wall* Opinion, pp. 191-192, para. 134.

⁶²² 2024 Advisory Opinion, paras. 285 (4) and (5).

7.22. Third, as noted above and evidenced by vast documentation submitted by the Secretary-General pursuant to Article 65 (2) of the Statute of the Court, strict compliance with its international commitments, including those made by treaty, is not characteristic of Israel's international behaviour. It is therefore necessary, as uncommon as assurances and guarantees of non-repetition may be, in view of the exceptional pattern of Israeli breaches, that such guarantees be given. As recalled by the ILC regarding the form and content of these guarantees and assurances, "international practice is not uniform. The injured State usually demands either safeguards against the repetition of the wrongful act without any specification of the form they are to take or, when the wrongful act affects its nationals, assurances of better protection of persons and property."⁶²³

7.23. In the present case, such guarantees could take the form of a commitment to end the occupation in line with determinations made by this Court and the General Assembly, and to fully respect the State of Palestine's sovereignty in conformity with the two-State solution defined by the Court as indispensable to "the realization of the right of the Palestinian people to self-determination, including its right to an independent and sovereign State, living side by side in peace with the State of Israel within secure and recognized borders for both States, as envisaged in resolutions of the Security Council and General Assembly"⁶²⁴. This commitment should also include clear recognition of Palestinian sovereignty over decisions concerning, and control over the flow of humanitarian aid across its borders, as well as an undertaking not to extend or renew the Gaza Strip blockade.

7.24. In *LaGrand*, the Court stated that "the commitment expressed by the United States to ensure implementation of the specific measures adopted in performance of its obligations under Article 36, paragraph 1 (b) [of the Convention on Diplomatic Relations], must be regarded as meeting Germany's request for a general assurance of non-repetition"⁶²⁵. Similarly, Israel's undertakings not to again deprive the Palestinian people of access to emergency and development assistance for the benefit of the Palestinian civilian population and in support of the Palestinian people's right to self-determination including that provided to the Palestinian

⁶²³ Articles on State Responsibility, p. 90, para. (12) of the commentary to Art. 30 (footnotes omitted).

⁶²⁴ 2024 Advisory Opinion, para. 283.

⁶²⁵ *LaGrand (Germany v. United States of America)*, Judgment, *I.C.J. Reports 2001*, p. 513, para. 124.

people by third parties, in application of the Advisory Opinion to be given by the Court, could serve as well as an assurance and guarantee of non-repetition.

7.25. A guarantee of this kind is all the more necessary as it must be noted that various Israeli high-ranking politicians have stated the exact opposite, namely that they are planning to resume the assault against the Gaza Strip and deprive the Palestinian people of access to the humanitarian aid they need to survive, and continue to commit such violations vis-à-vis the Occupied Palestinian Territory as a whole⁶²⁶.

B. ISRAEL IS UNDER AN OBLIGATION TO MAKE FULL REPARATION

7.26. Apart from the obligation to cease, the obligation to make full reparation for the damage caused is one of the core legal consequences of an internationally wrongful act. As provided for by Article 31 of the ARSIWA:

“1. The responsible State is under an obligation to make full reparation for the injury caused by the internationally wrongful act.

2. Injury includes any damage, whether material or moral, caused by the internationally wrongful act of a State.”

7.27. This principle was recognized in the famous *dictum* of the Permanent Court in the *Factory at Chorzów* case: “It is a principle of international law that the breach of an engagement involves an obligation to make reparation in an adequate form. *Reparation therefore is the indispensable complement of a failure to apply a convention.*”⁶²⁷ In the same case, the Permanent Court added that:

“[t]he essential principle contained in the actual notion of an illegal act – a principle which seems to be established by international practice and in particular by the decisions of arbitral tribunals – is that reparation must, as far as possible, wipe out all

⁶²⁶ Israel has been escalating its assault in the West Bank, including East Jerusalem. Statements by Israeli officials reflect Israeli actions on the ground where it is conducting these assaults against cities and refugee camps in the West Bank, including East Jerusalem. For example, it has been stated by Mr Bezalel Smotrich, Israeli Minister of Finance that “Al Funduk, Nablus and Jenin need to look like [Gaza’s] Jabalia”. See “Smotrich: Nablus, Jenin need to resemble Gaza’s Jabalia after deadly West Bank terror attack”, *The Times of Israel*, 6 January 2025 (https://www.timesofisrael.com/liveblog_entry/smotrich-nablus-jenin-need-to-resemble-gazas-jabalia-after-deadly-west-bank-terror-attack/). The same Minister affirmed that “[y]ou will be surprised by the power, sharpness, and lethality of the operation to occupy Gaza when we decide that the time has come to renew it”. See “Smotrich claims credit for decision to delay release of Palestinian prisoners”, *The Times of Israel*, 24 February 2025 (<https://www.timesofisrael.com/smotrich-claims-credit-for-decision-to-delay-release-of-palestinian-prisoners/>).

⁶²⁷ *Factory at Chorzów, Jurisdiction, Judgment, 1927, P.C.I.J., Series A, No. 9*, p. 21 (emphasis added). See also *LaGrand (Germany v. United States of America), Judgment, I.C.J. Reports 2001*, p. 485, para. 48.

the consequences of the illegal act and reestablish the situation which would, in all probability, have existed if that act had not been committed”⁶²⁸.

7.28. The obligation to make full reparation is distinct from the obligation to cease a wrongful act. Consequently, even if Israel were to fully and definitively cease its breaches of international law in relation to its obstruction of humanitarian assistance to the Gaza Strip and other parts of the Occupied Palestinian Territory, Israel would not be relieved of its secondary obligation to make full reparation for damage caused thereby. Confirming, in its 2024 Advisory Opinion, that cessation and reparation are two distinct consequences of internationally wrongful acts, the Court considered, *inter alia*, “that the State of Israel is under an obligation to bring to an end its unlawful presence in the Occupied Palestinian Territory as rapidly as possible [and] under an obligation to cease immediately all new settlement activities, and to evacuate all settlers from the Occupied Palestinian Territory”; it added “that the State of Israel has the obligation to make reparation for the damage caused to all the natural or legal persons concerned in the Occupied Palestinian Territory”⁶²⁹. The same applies concerning the consequences of Israel’s breaches of its obligations in the matters covered by the General Assembly’s request for the present Advisory Opinion.

7.29. As provided in Article 34 of the ARSIWA, “[f]ull reparation for the injury caused by the internationally wrongful act shall take the form of restitution, compensation and satisfaction, either singly or in combination, in accordance with the provisions of this chapter”. Taking into account the peremptory nature of the norms violated by Israel and regarding the broad scale of injuries it has caused and continues to cause, it is appropriate to briefly describe the various forms of reparation owed by Israel to the State of Palestine, as well as to third States and international organizations, namely: restitution (*restitutio in integrum*) (1), compensation (2), and satisfaction (3).

1. Israel’s Obligation to Make Restitution

7.30. As stated by Article 35 of the ARSIWA:

“A State responsible for an internationally wrongful act is under an obligation to make restitution, that is, to re-establish the situation which existed before the wrongful act was committed, provided and to the extent that restitution:

⁶²⁸ *Factory at Chorzów, Merits, Judgment, 1928, P.C.I.J., Series A, No. 17*, p. 47.

⁶²⁹ 2024 Advisory Opinion, paras. 285 (4), (5) and (6).

- (a) is not materially impossible;
- (b) does not involve a burden out of all proportion to the benefit deriving from restitution instead of compensation.”

7.31. As affirmed by the ILC:

“[B]ecause restitution most closely conforms to the general principle that the responsible State is bound to wipe out the legal and material consequences of its wrongful act by re-establishing the situation that would exist if that act had not been committed, it comes first among the forms of reparation.”⁶³⁰

7.32. Prioritisation of restitution was also affirmed by the Court. For example, and regarding specifically the Wall illegally built in Palestinian sovereign territory by Israel, the Court affirmed that:

“Israel is accordingly under an obligation to return the land, orchards, olive groves and other immovable property seized from any natural or legal person for purposes of construction of the wall in the Occupied Palestinian Territory. *In the event that such restitution should prove to be materially impossible*, Israel has an obligation to compensate the persons in question for the damage suffered.”⁶³¹

7.33. In the present case, restitution is equally important since “[r]estitution, as the first of the forms of reparation, is of particular importance where the obligation breached is of a continuing character, and even more so where it arises under a peremptory norm of general international law”⁶³². The words of the Court in its 2024 Advisory Opinion are a clear illustration of the very notion of continuing character:

“Israel’s continued presence in the Occupied Palestinian Territory is illegal, the Court considers that such presence constitutes a wrongful act entailing its international responsibility. It is a wrongful act of a continuing character which has been brought about by Israel’s violations, through its policies and practices, of the prohibition on the acquisition of territory by force and the right to self-determination of the Palestinian people.”⁶³³

⁶³⁰ Articles on State Responsibility, p. 96, para. (3) of the commentary to Art. 35.

⁶³¹ *Wall Opinion*, p. 198, para. 153 (emphasis added). See also *Pulp Mills on the River Uruguay (Argentina v. Uruguay)*, Judgment, *I.C.J. Reports 2010 (I)*, pp. 103-104, para. 273; *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda)*, *Reparations, Judgment*, *I.C.J. Reports 2022*, p. 50, para. 101.

⁶³² Articles on State Responsibility, p. 98, para. (6) of the commentary to Art. 35.

⁶³³ 2024 Advisory Opinion, para. 267.

7.34. The same applies to the restrictions imposed by Israel, which are still in force, limiting the entry of essential humanitarian goods and special assistance into both the Gaza Strip and the West Bank, including East Jerusalem⁶³⁴. The Palestinian people is entitled to restitution because of the many Israeli violations. This includes the right to return to their lands and homes from which they have been forcibly displaced, as reaffirmed in numerous United Nations resolutions and by this Court in its 2024 Advisory Opinion. It would also include the right of UNRWA to retake possession of the properties from which it has been evicted by Israel in East Jerusalem, including its Headquarters.

7.35. Moreover, as stated in Article 35 of the ARSIWA, it is only in a limited number of cases that other forms of reparation take precedence over restitution, e.g., only when the former is “materially impossible”. The ILC specified that:

“This would apply where property to be restored has been permanently lost or destroyed, or has deteriorated to such an extent as to be valueless. On the other hand, restitution *is not impossible merely on grounds of legal or practical difficulties, even though the responsible State may have to make special efforts to overcome these*. Under article 32 the wrongdoing State may not invoke the provisions of its internal law as justification for the failure to provide full reparation, and the mere fact of political or administrative obstacles to restitution does not amount to impossibility.”⁶³⁵

7.36. This is the case, for example, of the injury suffered by the State of Palestine as a result the death of, or harm to, its nationals due to the impossibility for them to access humanitarian aid blocked by Israel or the injuries suffered by United Nations and other international organizations as a result of the death of their personnel killed by the Israeli army, including, while in line of duty providing humanitarian aid to those in desperate need. This is also the case for the Palestinian people who has been forcibly removed from its properties, who must be permitted to return to its land, even when its properties have been destroyed. The fact of destruction can be no bar to restitution, particularly where the purpose of the destruction was precisely to attempt to prevent return.

7.37. The other legitimate reason for refusing restitution is the burden that reparation would place on the responsible State, compared with the benefit that would accrue to the

⁶³⁴ See above, para. 7.12.

⁶³⁵ Articles on State Responsibility, p. 98, para. (8) of the commentary to Art. 35 (emphasis added).

repaired State⁶³⁶. In such situation, preference is for the injured State “where the balancing process does not indicate a clear preference for compensation as compared with restitution”⁶³⁷. Moreover, “[t]he balance will invariably favour the injured State in any case where the failure to provide restitution would jeopardize its political independence or economic stability”⁶³⁸. This is clearly the case with Israel’s obstruction of the delivery of humanitarian assistance and destruction of humanitarian aid and facilities, as well as its obstruction of the provision of international developmental support, in the Occupied Palestinian Territory.

2. Israel’s Obligation to Compensate

7.38. To repair the damage caused to Palestine and to third States and organizations, and when restitution is impossible, Israel must pay compensation. This compensation “shall cover any financially assessable damage including loss of profits insofar as it is established”⁶³⁹. Since the State of Palestine is entitled to claim from Israel performance of the obligation of reparation “in the interest ... of the beneficiaries of the obligation breached” as established in Article 48 (2) (b) of the ARSIWA, the compensation must represent not only the damage caused to the State of Palestine itself but also to its nationals.

7.39. The obligation to compensate an injury by reason of international responsibility is enshrined in the Court’s case law. As affirmed in the *Gabčíkovo-Nagymaros* case, “[i]t is a well-established rule of international law that an injured State is entitled to obtain compensation from the State which has committed an internationally wrongful act for the damage caused by it”⁶⁴⁰.

7.40. Even in the case of violations for which Israel can make restitution, compensation may be necessary to make *full* reparation for the damage caused by Israel. In the *Factory at Chorzów* case, the Permanent Court affirmed that:

“Restitution in kind, or, if this is not possible, payment of a sum corresponding to the value which a restitution in kind would bear; the award, if need be, of damages for loss sustained which would not be covered by restitution in kind or payment in place of it –

⁶³⁶ See *Pulp Mills on the River Uruguay (Argentina v. Uruguay)*, Judgment, I.C.J. Reports 2010 (I), pp. 103-104, para. 273; *Certain Activities Carried Out by Nicaragua in the Border Area (Costa Rica v. Nicaragua)*, Compensation, Judgment, I.C.J. Reports 2018, p. 26, para. 31.

⁶³⁷ Articles on State Responsibility, p. 98, para. (11) of the commentary to Art. 35.

⁶³⁸ *Ibid.*

⁶³⁹ Articles on State Responsibility, p. 98, Art. 36 (2).

⁶⁴⁰ *Gabčíkovo-Nagymaros Project (Hungary/Slovakia)*, Judgment, I.C.J. Reports 1997, p. 81, para. 152.

such are the principles which should serve to determine the amount of compensation due for an act contrary to international law.”⁶⁴¹

7.41. With regard more specifically to reparation for damage resulting from internationally wrongful acts attributable to Israel in the Occupied Palestinian Territory and falling within the scope of the question referred to the Court by the General Assembly, Israel must compensate:

- (a) the physical damage and deaths caused by Israeli obstruction of humanitarian aid and destruction of humanitarian aid and facilities throughout the Occupied Palestinian Territory; and
- (b) the agents and personnel of third States and international organizations who have suffered damage, injury or have been killed in relation with the humanitarian action they were carrying out in the Occupied Palestinian Territory.

The amount and modalities for such compensation are properly to be addressed by the General Assembly, subsequent to the issuance by the Court of its Advisory Opinion.

3. Israel's Obligation to Give Satisfaction

7.42. As stated in Article 37 of the ARSIWA:

“1. The State responsible for an internationally wrongful act is under an obligation to give satisfaction for the injury caused by that act insofar as it cannot be made good by restitution or compensation.

2. Satisfaction may consist in an acknowledgement of the breach, an expression of regret, a formal apology or another appropriate modality.

3. Satisfaction shall not be out of proportion to the injury and may not take a form humiliating to the responsible State.”

7.43. Satisfaction can take various forms, not all listed in Article 37 of the ARSIWA⁶⁴², including “a trust fund to manage compensation payments in the interests of the beneficiaries

⁶⁴¹ *Factory at Chorzów, Merits, Judgment, 1928, P.C.I.J., Series A, No. 17*, p. 47. See also *Wall Opinion*, p. 198, para. 152.

⁶⁴² *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda), Reparations, Judgment, I.C.J. Reports 2022*, p. 132, para. 389.

[and] disciplinary or penal action against the individuals whose conduct caused the internationally wrongful act”⁶⁴³. As stated by the Court in *Armed Activities on the Territory of the Congo*, “satisfaction can take an entirely different form depending on the circumstances of the case, and in so far as compensation does not wipe out all the consequences of an internationally wrongful act”⁶⁴⁴.

7.44. In the present situation, in view of the extreme seriousness and multiplicity of the breaches of peremptory norms of international law by Israel, purely symbolic forms of satisfaction like “an acknowledgement of the breach [by a court or tribunal], an expression of regret, a formal apology” as exemplified in Article 37 (2) of the ARSIWA would not suffice and the State of Palestine respectfully suggests that the Court should make a formal statement to this effect without necessarily having to pronounce on the modalities that such satisfaction might take.

II. Third States’ and International Organizations’ Obligations in Relation to Israel’s Internationally Wrongful Acts

7.45. According to Article 41 of the ARSIWA relating to the particular consequences of a serious breach of peremptory norm of international law:

“1. States shall cooperate to bring to an end through lawful means any serious breach within the meaning of article 40.

2. No State shall recognize as lawful a situation created by a serious breach within the meaning of article 40, nor render aid or assistance in maintaining that situation.”

3. This article is without prejudice to the other consequences referred to in this part and to such further consequences that a breach to which this chapter applies may entail under international law.”

7.46. As explained above⁶⁴⁵, by obstructing the delivery of emergency, humanitarian and developmental assistance to the Palestinian people, and also by its destruction of such assistance, Israel has breached a number of *erga omnes* and peremptory obligations under international law. Transposing what the Court stated in the *Barcelona Traction* case to the

⁶⁴³ Articles on State Responsibility, p. 106, para. (5) of the commentary to Art. 37. See also *Case concerning the differences between New Zealand and France arising from the Rainbow Warrior Affair*, RIAA, Vol. XIX, p. 224.

⁶⁴⁴ *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda)*, *Reparations, Judgment*, I.C.J. Reports 2022, p. 132, para. 387.

⁶⁴⁵ See above, para. 7.19.

present situation, it can be affirmed that “[b]y their very nature [the obligations breached by Israel] are the concern of all States. In view of the importance of the rights involved, all States can be held to have a legal interest in their protection; they are obligations *erga omnes*.”⁶⁴⁶ Israel’s breaches of these obligations having both a peremptory and *erga omnes* nature must then have legal consequences for other States.

7.47. The same is true for international organizations. Article 42 of the ILC Articles on the Responsibility of international organizations is drafted similarly⁶⁴⁷.

7.48. As explained by the ILC in its Commentary, “[t]his article sets out that, should an international organization commit a serious breach of an obligation under a peremptory norm of general international law, States and international organizations have duties corresponding to those applying to States according to Article 41 on the responsibility of States for internationally wrongful acts”⁶⁴⁸. Consequently, there is no reason to distinguish the legal consequences of Israel’s internationally wrongful acts *vis-à-vis* States on the one hand and international organizations on the other hand, subject to the specific characteristics of the functions performed by each organization.

7.49. This Section will focus on the legal consequences, for States and international organizations together, of Israel’s obstruction of the provision of emergency, humanitarian and developmental assistance to the Palestinian civilian population, in particular that States and international organizations: should not recognize the illegal situations resulting from Israel’s breaches of its legal obligations (A), should not assist Israel in carrying out these breaches (B) and should cooperate with a view to putting them to an end (C).

⁶⁴⁶ *Barcelona Traction, Light and Power Company, Limited (New Application: 1962) (Belgium v. Spain), Second Phase, Judgment, I.C.J. Reports 1970*, p. 32, para. 33. See also *Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965, Advisory Opinion, I.C.J. Reports 2019*, p. 139, para. 180; 2024 Advisory Opinion, para. 274.

⁶⁴⁷ Articles on International Organizations Responsibility, Art. 42.

⁶⁴⁸ *Ibid.*, p. 83, para. (1) of the commentary to Art. 42.

A. THIRD STATES AND INTERNATIONAL ORGANIZATIONS ARE UNDER AN OBLIGATION OF NON-RECOGNITION

7.50. The obligation not to recognize the illegal situation resulting from breaches of peremptory norms of international law is well established⁶⁴⁹. In the *Namibia* Advisory Opinion, the Court considered that:

“[M]ember States [of the United Nations] are under obligation to abstain from entering into treaty relations with South Africa in all cases in which the Government of South Africa purports to act on behalf of or concerning Namibia. With respect to existing bilateral treaties, member States must abstain from invoking or applying those treaties or provisions of treaties concluded by South Africa on behalf of or concerning Namibia which involve active intergovernmental co-operation.

.....

[T]he termination of the Mandate and the declaration of the illegality of South Africa’s presence in Namibia are opposable to all States in the sense of barring *erga omnes* the legality of a situation which is maintained in violation of international law: in particular, no State which enters into relations with South Africa concerning Namibia may expect the United Nations or its Members to recognize the validity or effects of such relationship, or of the consequences thereof.”⁶⁵⁰

7.51. In the *Wall* Advisory Opinion, the Court stated that

“Given the character and the importance of the rights and obligations involved, the Court is of the view that all States are under an obligation not to recognize the illegal situation resulting from the construction of the wall in the Occupied Palestinian Territory, including in and around East Jerusalem.”⁶⁵¹

7.52. In its 2024 Advisory Opinion, the Court found that other States and international organizations were obliged not to recognize as legal Israel’s presence in the Occupied Palestinian Territory, or its annexation or settlement of parts of the Occupied Palestinian Territory:

“the duty of distinguishing dealings with Israel between its own territory and the Occupied Palestinian Territory encompasses, *inter alia*, the obligation to abstain from treaty relations with Israel in all cases in which it purports to act on behalf of the Occupied Palestinian Territory or a part thereof on matters concerning the Occupied Palestinian Territory or a part of its territory; to abstain from entering into economic or

⁶⁴⁹ Articles on State Responsibility, pp. 114-115, paras. (6), (11) and (12) of the commentary to Art. 41.

⁶⁵⁰ *Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970), Advisory Opinion, I.C.J. Reports 1971*, pp. 55 and 56, paras. 122 and 126.

⁶⁵¹ *Wall* Opinion, p. 200, para. 159.

trade dealings with Israel concerning the Occupied Palestinian Territory or parts thereof which may entrench its unlawful presence in the territory; to abstain, in the establishment and maintenance of diplomatic missions in Israel, from any recognition of its illegal presence in the Occupied Palestinian Territory; and to take steps to prevent trade or investment relations that assist in the maintenance of the illegal situation created by Israel in the Occupied Palestinian Territory”⁶⁵².

This obligation was affirmed by General Assembly in its resolution adopting modalities giving effect to the Court’s Advisory Opinion. The resolution:

“*Call[ed] upon* all States to comply with their obligations under international law, *inter alia*, as reflected in the advisory opinion, including their obligation:

.....

(b) Not to recognize as legal the situation arising from the unlawful presence of Israel in the Occupied Palestinian Territory;

.....

(d) Not to recognize any changes in the physical character or demographic composition, institutional structure or status of the territory occupied by Israel on 5 June 1967, including East Jerusalem, except as agreed by the parties through negotiations, as affirmed by the Security Council in its resolution 2334 (2016), and the obligation in this regard, in relation to, *inter alia*, their diplomatic, political, legal, military, economic, commercial and financial dealings with Israel, to distinguish between Israel and the Palestinian territory occupied since 1967, including by:

.....

(iii) Abstaining, in the establishment and maintenance of diplomatic missions in Israel, from any recognition of its illegal presence in the Occupied Palestinian Territory, including by refraining from the establishment of diplomatic missions in Jerusalem, pursuant to Security Council resolution 478 (1980) of 20 August 1980”⁶⁵³.

Mutatis mutandis, third States are under an obligation not to recognize as lawful Israel’s unlawful prevention, hinderance or interference with the provision of humanitarian supplies, goods or services, or humanitarian or developmental assistance to the civilian population of the Occupied Palestinian Territory. Nor should third States and international organizations recognize as legal any forced displacement of the Palestinian population from their land on spurious humanitarian grounds.

⁶⁵² 2024 Advisory Opinion, para. 278.

⁶⁵³ General Assembly, Resolution ES-10/24, 18 September 2024, para. 4.

7.53. The obligation not to recognize an illegal situation resulting from breaches of peremptory norms of international law is also a well-established consequence for international organizations. Various bodies of the United Nations including the General Assembly⁶⁵⁴ and the Security Council⁶⁵⁵ have adopted resolutions in which they opposed the recognition of situations involving serious breaches of international law.

7.54. This obligation was acknowledged by the Court in the *Namibia* Advisory Opinion stating that

“[i]n the view of the Court, the termination of the Mandate and the declaration of the illegality of South Africa’s presence in Namibia are opposable to all States in the sense of barring *erga omnes* the legality of a situation which is maintained in violation of international law: in particular, no State which enters into relations with South Africa concerning Namibia may expect the United Nations or its Members to recognize the validity or effects of such relationship, or of the consequences thereof.”⁶⁵⁶

7.55. The Court noted the applicability of the obligation of non-recognition for international organizations in its 2024 Advisory Opinion:

“[t]he duty of non-recognition specified above also applies to international organizations, including the United Nations, in view of the serious breaches of obligations *erga omnes* under international law In view of the character and importance of the obligations *erga omnes* involved in the illegal presence of Israel in the Occupied Palestinian Territory, the obligation not to recognize as legal the situation arising from the unlawful presence of Israel in the Occupied Palestinian Territory and the obligation to distinguish in their dealings with Israel between the territory of Israel and the Occupied Palestinian Territory apply also to the United Nations.”⁶⁵⁷

B. THIRD STATES AND INTERNATIONAL ORGANIZATIONS ARE UNDER AN OBLIGATION NOT TO CONTRIBUTE TO ISRAEL’S VIOLATIONS

7.56. As provided by Article 42 of the ARSIWA, another legal consequence resulting from Israeli serious breaches of international law is the obligation for all States not to contribute to the breaches. This obligation was invoked by United Nations bodies on various occasions.

⁶⁵⁴ See, e.g., Security Council, Resolution 276 (1970), 30 January 1970.

⁶⁵⁵ See, for example, above, para. 7.52. See also, e.g., General Assembly, Resolution 77/25, 30 November 2022, para. 13; Resolution 75/97, 10 December 2020; Resolution 77/187, 14 December 2022.

⁶⁵⁶ *Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970)*, Advisory Opinion, I.C.J. Reports 1971, p. 56, para. 126.

⁶⁵⁷ 2024 Advisory Opinion, para. 280.

7.57. For example, in its resolution 465 (1980), the Security Council “*call[ed]* upon all States not to provide Israel with any assistance to be used specifically in connection with settlements in the occupied territories”⁶⁵⁸. The General Assembly also:

“*Call[ed]* upon all States, consistent with their obligations under the Charter and relevant Security Council resolutions, *inter alia*:

.....

(c) Not to render aid or assistance to illegal settlement activities, including not to provide Israel with any assistance to be used specifically in connection with settlements in the occupied territories, in line with Security Council resolution 465 (1980) of 1 March 1980.”⁶⁵⁹

7.58. The Court referred to this obligation in the *Wall* Advisory Opinion affirming that States “are also under an obligation not to render aid or assistance in maintaining the situation created by such construction”⁶⁶⁰, and, in its 2024 Advisory Opinion, that “[States] are also under an obligation not to render aid or assistance in maintaining the situation created by Israel’s illegal presence in the Occupied Palestinian Territory”⁶⁶¹.

7.59. The same obligation not to contribute to serious violations of international law also applies to international organizations. For example, the General Assembly:

“*Call[ed]* upon all States, international organizations and specialized agencies not to ... assist in any manner in any measures undertaken by the occupying Power to exploit the resources of the occupied territories or to effect any changes in the demographic composition or geographic character or institutional structure of those territories”⁶⁶².

7.60. This obligation not to contribute or cooperate with Israel’s obstruction of the delivery of humanitarian aid to the Palestinian civilian population includes, in particular, the obligation not to provide Israel with the military, security and/or technological means, or diplomatic support, that enable it to engage in such illegal conduct, including in line with resolution ES-10/24. This includes the provision or transfer of arms, munitions and related equipment to Israel, the occupying Power, in all cases where there are reasonable grounds to

⁶⁵⁸ Security Council, Resolution 465 (1980), 1 March 1980, para. 7.

⁶⁵⁹ General Assembly, Resolution 79/81, 3 December 2024, para. 16 (c).

⁶⁶⁰ *Wall* Opinion, p. 200, para. 159. See also *Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970)*, Advisory Opinion, *I.C.J. Reports 1971*, p. 58, para. 133 (2).

⁶⁶¹ 2024 Advisory Opinion, para. 279.

⁶⁶² General Assembly, Resolution 3005 (XXVII), 15 December 1972 (emphasis added).

suspect that they may be used in the Occupied Palestinian Territory, in the context of this Advisory Opinion request, those used to impose a blockade on the Gaza Strip, to destroy or requisition humanitarian assistance, as well as to debilitate efforts to assist the Palestinian people.

C. THIRD STATES AND INTERNATIONAL ORGANIZATIONS ARE UNDER AN OBLIGATION TO COOPERATE TO PUT AN END TO ISRAEL'S VIOLATIONS OF ITS OBLIGATIONS

7.61. Third States and international organizations also have an obligation to cooperate with a view to putting an end to Israel's violation of its obligations. As noted in the ILC commentary, Article 40 of the ARSIWA does not:

“prescribe what measures States should take in order to bring to an end serious breaches in the sense of article 40. Such cooperation must be through lawful means, the choice of which will depend on the circumstances of the given situation. It is, however, made clear that the obligation to cooperate applies to States whether or not they are individually affected by the serious breach. What is called for in the face of serious breaches is a joint and coordinated effort by all States to counteract the effects of these breaches.”⁶⁶³

7.62. The first step is to recognize the illegality of the situation. This was affirmed by the Court in the *Namibia* Advisory Opinion: “States Members of the United Nations are under obligation to recognize the illegality of South Africa's presence in Namibia and the invalidity of its acts on behalf of or concerning Namibia”⁶⁶⁴. The Court specified that “[a]s to the general consequences resulting from the illegal presence of South Africa in Namibia, all States should bear in mind that the injured entity is a people which must look to the international community for assistance in its progress towards the goals for which the sacred trust was instituted”⁶⁶⁵.

7.63. Regarding specifically the principle of self-determination, all States and international organizations have an obligation to cooperate “[t]o develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace”⁶⁶⁶. In the *Wall*

⁶⁶³ Articles on State Responsibility, p. 114, para. (3) of the commentary to Art. 40.

⁶⁶⁴ *Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970), Advisory Opinion, I.C.J. Reports 1971, p. 56, para. 127.*

⁶⁶⁵ *Ibid.*, p. 58, para. 133 (2).

⁶⁶⁶ Charter of the United Nations, Art. 1 (2). See also common Art. 1 of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights.

Advisory Opinion, the Court operationalised this principle, affirming that “[i]t is also for all States, while respecting the United Nations Charter and international law, to see to it that any impediment, resulting from the construction of the wall, to the exercise by the Palestinian people of its right to self-determination is brought to an end.”⁶⁶⁷ Likewise, the Court explained in its 2024 Advisory Opinion that

“[i]t is for all States, while respecting the Charter of the United Nations and international law, to ensure that any impediment resulting from the illegal presence of Israel in the Occupied Palestinian Territory to the exercise of the Palestinian people of its right to self-determination is brought to an end.”⁶⁶⁸

7.64. The same obligation was also made clear by the General Assembly when it urged “*all States* and the specialized agencies and organizations of the United Nations system to continue to support and assist the Palestinian people in the early realization of their right to self-determination”⁶⁶⁹.

7.65. All States and international organizations must therefore cooperate to bring to an end the impediments put in place by Israel to the exercise of the right of the Palestinian people to self-determination by its prevention, hinderance and interference with the provision of humanitarian supplies, goods, services and assistance to the Palestinian civilian population. They also need to uphold their obligations under the Fourth Geneva Convention, including to respect and ensure respect for the Convention, as well as uphold their obligations in relation to other conventions, including the Genocide Convention, and to respect the Court’s determinations.

7.66. Moreover, Article 146 (2) of the Fourth Geneva Convention provides that

“Each High Contracting Party shall be under the obligation to search for persons alleged to have committed, or to have ordered to be committed, such grave breaches, and shall bring such persons, regardless of their nationality, before its own courts. It may also, if it prefers, and in accordance with the provisions of its own legislation, hand such persons over for trial to another High Contracting Party concerned, provided such High Contracting Party has made out a *prima facie* case.”

⁶⁶⁷ *Wall* Opinion, p. 200, para. 159.

⁶⁶⁸ 2024 Advisory Opinion, para. 279. See also *Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965*, Advisory Opinion, I.C.J. Reports 2019, p. 139, para. 182.

⁶⁶⁹ General Assembly, Resolution 78/192, 19 December 2023, para. 2 (emphasis added).

This obligation is of particular significance. The Conference of High Contracting Parties of the Fourth Geneva Convention held on 5 December 2001 “reaffirm[ed] the obligations of the High Contracting Parties under articles 146, 147 and 148 of the Fourth Geneva Convention with regard to penal sanctions, grave breaches and responsibilities of the High Contracting Parties”⁶⁷⁰. This obligation, also recalled in Article 89 of the Rome Statute, is directly applicable to Yoav Gallant, former Israeli Defence Minister, and Benjamin Netanyahu, Prime Minister of Israel, both subjects of an ICC arrest warrant for being, *inter alia*, “[a]llegedly responsible for the war crimes of starvation as a method of warfare and of intentionally directing an attack against the civilian population”, as well as the crimes against humanity of murder, persecution, and other inhumane acts, “from at least 8 October 2023 until 20 May 2024”⁶⁷¹. The charge against these senior Israeli officials are based precisely on the obstacles placed by Israel to the entry of humanitarian aid and medical assistance in the Gaza Strip.

7.67. In fulfilment of their obligation to cooperate to put an end to Israel’s unlawful conduct, States and international organizations must cooperate with the International Criminal Court in carrying out these arrest warrants.

7.68. Finally, in view of the seriousness of Israel’s breaches of its obligations under the United Nations Charter, its persistent refusal to comply with the legal obligations identified in United Nations resolutions and in the decisions and opinions of this Court, once more exemplified by the obstacles it places to prevent the humanitarian assistance from international organizations and third States to the Palestinian people, including the presence and activities the United Nations, other international organizations and third States in the OPT in support of the Palestinian people, the Security Council and the General Assembly should find “practical ways and means to secure the full implementation of [their] relevant resolutions” as they have repeatedly suggested⁶⁷², including by resorting to Chapter 7 of the Charter.

7.69. In addition, the Security Council and the General Assembly have ample reason to resort to Article 5 of the United Nations Charter.

⁶⁷⁰ Conference of High Contracting Parties to the Fourth Geneva Convention: Declaration, 5 December 2001, para. 4 (<https://www.un.org/unispal/document/auto-insert-199888/>).

⁶⁷¹ See ICC webpage dedicated to Yoav Gallant (<https://www.icc-cpi.int/defendant/gallant>) and Benjamin Netanyahu (<https://www.icc-cpi.int/defendant/netanyahu>).

⁶⁷² See, e.g., Security Council, Resolution 2334 (2016), 23 December 2016, para. 11; General Assembly, Resolution 79/81, 3 December 2024.

7.70. The United Nations should also consider applying Article 6 of the Charter which provides that

“A Member of the United Nations which has persistently violated the Principles contained in the present Charter may be expelled from the Organization by the General Assembly upon the recommendation of the Security Council.”

7.71. This provision was considered by the General Assembly when it “[d]eplor[ed] the failure of the Government of the Republic of South Africa to comply with the repeated requests and demands of the General Assembly and of the Security Council and its flouting of world public opinion by refusing to abandon its racial policies”⁶⁷³.

7.72. The General Assembly could replicate the measures it adopted at the time in response to these policies.

⁶⁷³ General Assembly, Resolution 1761 (XVII), 6 November 1962, para. 1. See also General Assembly, Resolution 2054 (XX), 15 December 1965.

SUBMISSIONS

1. For the reasons given in the present Written Statement, the State of Palestine makes the following submissions:

- (1) The Court has jurisdiction to deliver the Advisory Opinion requested by the General Assembly in its resolution 79/232 of 19 December 2024, and there are no grounds for declining to exercise such jurisdiction.
- (2) Israel is obligated, pursuant to peremptory norms of international law, international treaties and conventions to which it is a party, including the United Nations Charter, as well as general international law, not to prevent, hinder or otherwise interfere with the provision of humanitarian goods, supplies and/or services, or humanitarian or developmental assistance, to the Palestinian civilian population in the Occupied Palestinian Territory.
- (3) Israel is further obligated pursuant to those bodies of law and to binding Orders of this Court to take all necessary and effective measures to ensure, without delay, in full cooperation with the United Nations, the unhindered provision at scale by all concerned of urgently needed basic services and humanitarian assistance, including food, water, electricity, fuel, shelter, clothing, hygiene and sanitation requirements, as well as medical supplies and medical care to the Palestinian people throughout the Gaza Strip and the rest of the Occupied Palestinian Territory.
- (4) Israel is responsible for serious breaches of its obligations arising under international treaties and conventions to which it is a party and general international law, in relation to the presence and activities of the United Nations, including its agencies and bodies, other international organizations and third States, in and in relation to the Occupied Palestinian Territory, including to ensure and facilitate the unhindered provision of urgently needed supplies essential to the survival of the Palestinian civilian population as well as of basic services and humanitarian and development assistance, for the benefit of the Palestinian civilian population, and in support of the Palestinian people's right to self-determination.

2. The State of Palestine further submits as follows:

- (1) Israel's prevention, hinderance and interference with the provision of humanitarian goods, supplies and/or services, and humanitarian and developmental assistance – by the United Nations, other international organizations or third States – for the benefit of the civilian population of the Occupied Palestinian Territory violates the sovereignty of the Palestinian people and of the State of Palestine, and the Palestinian people's inalienable right to self-determination. Therefore:
 - (a) Israel's presence in the Occupied Palestinian Territory being illegal, it is obligated to bring its presence to an end as rapidly as possible, and no later than 19 September 2025.
 - (b) Israel not being sovereign over the Occupied Palestinian Territory, or any part thereof, is obligated not to exercise any sovereign powers in or in relation to that Territory.
 - (c) Israel is obligated to enable and not to impede the realization and exercise by the Palestinian people of its inalienable right of self-determination, including its right to an independent State over the entirety of the Occupied Palestinian Territory.
 - (d) Israel is obligated to respect the right of the Palestinian people to self-determination, including its right to an independent and sovereign State over the entirety of the Occupied Palestinian Territory, and not to impede it. This obligation is directly connected to the ability of third parties to discharge their obligations to promote or otherwise support the realization of the right of the Palestinian people to self-determination, and obligates Israel not to impede their actions in this regard.
 - (e) All States and the United Nations have an obligation *erga omnes* to support and assist the Palestinian people in the early realization of the right to self-determination, including through humanitarian and developmental assistance.

- (2) Until its illegal presence in the Occupied Palestinian Territory is brought to an end, Israel, as an occupying Power, remains bound by international humanitarian law in and in relation to the Occupied Palestinian Territory. Consequently:
- (a) Israel, by its prevention, hinderance and interference with the provision to the Palestinian civilian population of food, medical supplies, clothing, bedding, means of shelter and other supplies essential to the survival of the population, has breached and is continuing to breach its obligations under Article 55 of the Fourth Geneva Convention and Article 69 (1) of Additional Protocol I to ensure the provision of such supplies “to the fullest extent of the means available to it”.
 - (b) Israel, by violating its obligations to ensure and maintain “the medical and hospital establishments and services, public health and hygiene in the occupied territory”, to adopt and apply “the prophylactic and preventive measures necessary to combat the spread of contagious diseases and epidemics”, to allow “[m]edical personnel of all categories ... to carry out their duties”, and to cooperate with national authorities “[t]o the fullest extent of the means available to it”, has breached and continues to breach its obligations under Article 56 of the Fourth Geneva Convention and Article 69 (1) of Additional Protocol I.
 - (c) Israel, by violating its obligations to “agree to relief schemes on behalf of the [Palestinian civilian] population, and [to] facilitate them by all the means at its disposal”, including “the provision of consignments of foodstuffs, medical supplies and clothing” from third parties, including the United Nations, its agencies and bodies, other international organizations and third States, has breached and continues to breach its obligations under Article 59 of the Fourth Geneva Convention.
 - (d) Israel, by violating its obligations to “facilitate the rapid distribution” of the essential supplies and services described in Articles 55, 56 and 59 of the Fourth Geneva Convention, including by taking “all necessary steps to facilitate their despatch and distribution (cutting out red tape, making transport available, granting permits allowing freedom of movement, facilities of all kinds for the staff of the distributing and supervising bodies, etc.)”, has breached and continues to breach Article 61 of the Convention.

- (e) Israel has also violated and is continuing to violate, by its prevention, hinderance and interference with the provision of essential humanitarian supplies to the Palestinian civilian population, its obligations under Articles 18, 20 and 33 of the Fourth Geneva Convention by its attacks on civilian hospitals in the Occupied Palestinian Territory which are “organized to give care to the wounded and sick, the infirm and maternity cases”, and which “may in no circumstances be the object of attack”, by failing to respect and protect “[p]ersons regularly and solely engaged in the operation and administration of civilian hospitals, including the personnel engaged in the search for, removal and transporting of and caring for wounded and sick civilians, the infirm and maternity cases”, many of whom are held arbitrarily in Israeli detention, and by imposing a “collective punishment” on the Palestinian civilian population by denying it, collectively, of urgently-needed medical supplies, services and care.
- (3) Until its illegal presence in the Occupied Palestinian Territory is brought to an end, Israel, as an occupying Power, and in any event pursuant to fundamental principles of customary international law as reflected in various international human rights treaties and conventions to which it is a party, and pursuant to those treaties and conventions themselves, remains bound by international human rights law in and in relation to the Occupied Palestinian Territory and/or to the Palestinian people under its occupation. Consequently:
- (a) Israel, by its prevention, hinderance and interference with the provision to the Palestinian civilian population of essential humanitarian goods, supplies and services, and humanitarian and developmental assistance from the United Nations, other international organizations and third States, has breached and continues to breach its obligations under the following international human rights treaties and conventions: the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention against Torture and other Cruel, Inhuman, or Degrading Treatment or Punishment, the Convention on the Rights of the Child, and the Convention on the Rights of Persons with Disabilities and the Convention on the Prevention and Punishment of the Crime of Genocide.

- (b) Israel is in breach of its obligation to permit access and regular visits by representatives of the International Committee of the Red Cross and the Commission of Inquiry on the Occupied Palestinian Territory to Palestinians detained in Israeli prisons, including those deported unlawfully from the Occupied Palestinian Territory and those who are or were United Nations staff and healthcare professionals, to ensure their unimpeded access to adequate food, water, healthcare and other basic provisions and services; and Israel is required immediately to permit such access and regular visits.
- (4) As a Member of the United Nations, Israel is obligated to uphold its obligations towards the Organization, its agencies, bodies, property, premises and personnel. Consequently, by its prevention, hinderance and/or interference with the provision to the Palestinian civilian population of essential humanitarian goods, supplies and services, and humanitarian and developmental assistance from the United Nations, other international organizations and third States, and/or its failure to respect or protect United Nations personnel, property and premises:
- (a) Israel has breached and is continuing to breach the undertakings it made when it became a Member of the United Nations, and its obligations under the United Nations Charter, including its obligations under Article 1(3) to “achieve international cooperation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion”, and under Article 2(4) to “refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations”.
- (b) Israel has breached and is continuing to breach its obligations under the relevant Security Council resolutions, including resolutions 2712 (2023), 2720 (2023), 2728 (2024) and 2735 (2024) and the relevant General Assembly resolutions.

- (c) Israel has breached and is continuing to breach its obligation under Article 94 of the United Nations Charter, as well as under the Statute of the Court, “to comply with the decision of the International Court of Justice in any case to which it is a party”.
- (d) Israel has breached its obligations toward the United Nations, its agencies and bodies, to cooperate with the United Nations in good faith, under Articles 2 (2) and 2 (5), and Articles 55 and 56 of the United Nations Charter.
- (e) Israel, has breached its obligations under Article 105 of the United Nations Charter, the Convention on the Privileges and Immunities of the United Nations of 1946, the Convention on the Prevention and Punishment of Crimes against Internationally Protected Personnel, including Diplomatic Agents of 1973, and applicable principles and rules of general international law as reflected, *inter alia*, in the Convention on the Safety of United Nations and Associated Personnel of 1994, by its failure to protect and respect United Nations premises and personnel in Israel and the Occupied Palestinian Territory, including those premises and personnel involved in the provision to the Palestinian civilian population of essential humanitarian goods, supplies and services, and humanitarian and developmental assistance, by declaring the United Nations Secretary-General *persona non grata*, and by hindering, impeding or preventing the access of United Nations officials to the Occupied Palestinian Territory.
- (f) Israel has breached its obligations under Articles 2 (2), 2 (5), 56, 100 (2) and 105 of the United Nations Charter, and the aforementioned treaties and conventions and applicable principles and rules of general international law as reflected, *inter alia*, in the Convention on the Safety of United Nations and Associated Personnel of 1994, to cooperate in good faith with UNRWA, as a subsidiary organ of the United Nations, in the fulfilment of the Agency’s mandate, including by taking actions to discredit, disparage, defund and destroy UNRWA, and to prevent it from carrying out its vital mission in regard to the provision of essential humanitarian goods and services and humanitarian and developmental assistance to the Palestinian civilian population in the Occupied Palestinian Territory, including by armed attacks on UNRWA facilities and personnel, the killing and wounding, detaining and torturing of UNRWA staff and other Palestinian civilians, the destruction of UNRWA premises and property,

the enactment of legislation expelling UNRWA from the Occupied Palestinian Territory and preventing Israeli officials from communicating with Agency representatives, and the refusal and/or revocation of visas and other necessary documents for UNRWA officials.

- (g) Israel is obligated immediately to rescind or repeal its anti-UNRWA legislation, permit the Agency to return to its premises and resume its activities in support of the Palestinian civilian population in the Occupied Palestinian Territory, and to cooperate with the Agency in good faith to assist it in the fulfilment of its mandate, including through the unhindered access by the Agency, its staff, its vehicles and its humanitarian goods, to and from the Occupied Palestinian Territory.

3. The State of Palestine further submits that:

- (1) Israel is under an obligation immediately to cease each and all of its internationally wrongful acts in relation to the prevention, hinderance and interference with the provision to the Palestinian civilian population of urgently-needed humanitarian goods, supplies and services, and humanitarian and developmental assistance from the United Nations, other international organizations and third States, and to offer appropriate assurances and guarantees of non-repetition to the injured parties, including the Palestinian civilian population, the State of Palestine, the United Nations and its agencies and bodies, including UNRWA, other international organizations and affected third States.
- (2) Israel is under an obligation to make restitution for all its internationally wrongful acts of prevention, hinderance and interference with the provision to the Palestinian civilian population of essential humanitarian goods, supplies and services, and humanitarian and developmental assistance from the United Nations, other international organizations and third States. Such restitution must be made to all injured parties, including the Palestinian civilian population, the State of Palestine, the United Nations and its agencies and bodies, including UNRWA, other international organizations and affected third States. Where full restitution is not possible, the State of Israel is obligated to compensate the injured parties for the injuries it has caused them.

- (3) Israel is under an obligation to give satisfaction to all injured parties, including Palestinian civilians, the State of Palestine, the United Nations and its agencies and bodies, including UNRWA, other international organizations and affected third States, for all of its internationally wrongful acts in relation to the prevention, hinderance and interference with the provision to the Palestinian civilian population of essential humanitarian goods, supplies and services, and humanitarian and developmental assistance from the United Nations, other international organizations and third States.

4. The State of Palestine further submits that:

- (1) Under the Court's Advisory Opinion of 19 July 2024, implemented by General Assembly resolution ES-10/24 of 18 September 2024, third States and international organizations, including the United Nations and its agencies and bodies are under an obligation not to recognize as legal the situation arising from the unlawful presence of Israel in the Occupied Palestinian Territory. The obligation to distinguish in their dealings with Israel between the territory of Israel and the Occupied Palestinian Territory apply also to the United Nations. They are under an obligation to cooperate to bring to an end any impediment to the realization of the right of the Palestinian people to self-determination, including Israel's unlawful presence in the Occupied Palestinian Territory, which must be brought to an end as rapidly as possible. In regard to Israel's unlawful prevention, hinderance and interference with the provision to the Palestinian civilian population of essential humanitarian goods, supplies and services, and humanitarian and developmental assistance, third States and international organizations, including the United Nations and its agencies and bodies, are under an obligation not to recognize as lawful and not to render aid or assistance to Israel's unlawful practices; and they are under an obligation to cooperate to bring those unlawful practices to an end as rapidly as possible.
- (2) Third States and international organizations, including the United Nations and its agencies and bodies, are under a further obligation to cooperate to put an end to Isreal's efforts to delay or deny the exercise by the Palestinian people of its right of self-determination, including its right to its own sovereign State over the entirety of the Occupied Palestinian Territory.

- (3) Third States parties to the Fourth Geneva Convention are under an obligation pursuant to Common Article 1 “to respect and to ensure respect” for the Conventions “in all circumstances”, including those pertaining to the provision to Palestinians in the Occupied Palestinian Territory of essential humanitarian goods, supplies and services. Under Article 146, such States are obligated to hold accountable and bring before their own courts persons who have committed grave breaches of the Convention, wherever they have been committed, including those breaches identified in Article 147. Third States that are parties to the Genocide Convention are required, pursuant to its Article 1, to employ all means reasonably available to them to prevent, so far as possible, acts of genocide by Israel, its officials and agents, including those committed in relation to the prevention, hinderance or interference with the provision of supplies essential to the survival of the Palestinian civilian population, as well as in relation to the transfer of arms to Israel that could be used to prevent, hinder or interfere with the provisions of such essential supplies to the Palestinian civilian population.

The Hague, 28 February 2025

H.E. Ambassador Ammar Hijazi

Permanent Representative of the State of Palestine
to International Organizations in the Kingdom of
the Netherlands

