

**INTERNATIONAL COURT OF JUSTICE**

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

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

**WRITTEN STATEMENT  
BY THE KINGDOM OF NORWAY**

Oslo, 28 February 2025

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## I. Introduction

1. In its resolution 79/232 adopted on 19 December 2024, the United Nations General Assembly [the ‘**General Assembly**’] requested the International Court of Justice [the ‘**Court**’] to give, on a priority basis and with the utmost urgency, an advisory opinion concerning 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*.<sup>1</sup>
2. The terms of the General Assembly’s request [‘**the Request**’] are as follows:

*“Decides, in accordance with Article 96 of the Charter of the United Nations, to request the International Court of Justice, pursuant to Article 65 of the Statute of the Court, on a priority basis and with the utmost urgency, to render an advisory opinion on the following question, considering the rules and principles of international law, as regards in particular the Charter of the United Nations, international humanitarian law, international human rights law, privileges and immunities applicable under international law for international organizations and States, relevant resolutions of the Security Council, the General Assembly and the Human Rights Council, the advisory opinion of the Court of 9 July 2004, and the advisory opinion of the Court of 19 July 2024, in which the Court reaffirmed the duty of an occupying Power to administer occupied territory for the benefit of the local population and affirmed that Israel is not entitled to sovereignty over or to exercise sovereign powers in any part of the Occupied Palestinian Territory on account of its occupation [‘the Chapeau’]:*

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<sup>1</sup> United Nations, General Assembly, resolution 79/232 (A/RES/79/232), **Dossier No. 3**. This and ensuing references to Dossier Number are to Materials compiled by the United Nations Secretariat pursuant to Article 65, paragraph 2, of the Statute of the Court (General Assembly’s request for an advisory opinion of the International Court of Justice pursuant to its resolution 79/232).

*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? [‘the Question’ ]”*

3. In its Order of 23 December 2024, the Court decided that the United Nations and its Member States, as well as the observer State of Palestine, were likely to be able to furnish information on the Question submitted to the Court for an advisory opinion and invited them to present written statements on the matter within 28 February 2025.<sup>2</sup> Pursuant to the Court’s order, Norway submits this Written Statement for the Court’s consideration.

4. Before giving an outline of the structure of this Written Statement, Norway makes the following preliminary observations relevant to the Question:

4.1. **First**, the Request concerns an urgent matter. The urgency is related to the increasing gravity and magnitude of humanitarian and other basic needs of the civilian population in the Occupied Palestinian Territory and of impediments to the realization of the right of the Palestinian people to self-determination. These developments may also impact regional stability and the security of all States in the Middle East. Norway is grateful to the Court for its decision to treat the Request with urgency and on a priority basis, in line with the proposition of the General Assembly for such treatment.

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<sup>2</sup> The International Court of Justice, Order of 23 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*.

4.2. **Secondly**, the Court has in July 2024 emphasized legal consequences for Israel arising from the latter's presence in the Occupied Palestinian Territory, but also legal consequences for other States and for the United Nations (*Legal Consequences Arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem, Advisory Opinion*, 19 July 2024, [**July 2024 Advisory Opinion**] pp. 74-77, paras. 273-283). However, since the *July 2024 Advisory Opinion* additional legal questions have arisen upon which the guidance of the Court is now sought.

4.3. **Thirdly**, as has been noted by the Court in the *Wall Advisory Opinion*<sup>3</sup> and the *July 2024 Advisory Opinion*, the context and the legal framework applicable to the Occupied Palestinian Territory entail a particular and long-standing responsibility of the United Nations. In the *July 2024 Advisory Opinion* the Court referred in general terms to the questions concerning the situation for Palestine subsequent to the General Assembly's adoption of a partition plan in 1947, as the "*Palestinian question*", and noted that this issue is "*a matter of particular interest and concern to the United Nations*", as reflected *inter alia* in the almost annual adoption of resolutions relating to the issue by the General Assembly.<sup>4</sup> In the *Wall Advisory Opinion*, the Court stated:

*"The responsibility of the United Nations in this matter also has its origin in the Mandate and the Partition Resolution concerning Palestine (...). 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" (General Assembly resolution 571107 of 3 December 2002). 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*

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<sup>3</sup> *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, I.C.J. Reports 2004 p.136* [**Wall Advisory Opinion**].

<sup>4</sup> *Legal Consequences Arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem, Advisory Opinion, International Court of Justice, 19 July 2024* [**July 2024 Advisory Opinion**] p. 17 (para. 35).

*specifically established to assist in the realization of the inalienable rights of the Palestinian people.”<sup>5</sup>*

4.4. **Fourthly**, as regards this former mandated territory for which the international community has a continuing responsibility, international assistance and support have since 1948 relied on a composite of several assisting actors. The international presence includes competent international organizations, States and relevant non-governmental organizations and entities. In this context, the United Nations has played and continues to play a central role. It provides necessary relief, support and basic services to the civilian population. It also serves as a facilitator, organizer and catalyst for contributions by other international actors. The provision of large-scale assistance to, and protection of, refugees, based on a coordinated multi-stakeholder approach, was evident already in the analysis and appeal made in September 1948 by the United Nations Mediator on Palestine to respond to a situation characterized by “*desperate urgency*”.<sup>6</sup> Later international efforts include assistance to and protection of displaced persons, relief for the civilian population, in particular help to the poorest and most vulnerable people, provision of food and water, emergency medical supplies and more. It also includes basic healthcare and schooling, financial and technical support for Palestinian infrastructure, essential energy, water and urban development, and other support to the exercise of the right of the Palestinian people to self-determination.

4.5. **Fifthly**, the implementation of these activities, including large-scale logistical supply chains and local distribution, relies on close cross-sectorial collaboration between humanitarian and development partners and ultimately on the presence of UN agencies, based upon their ability to operate on the ground and during armed conflict. The Secretary-General of the United Nations, various UN agencies and other assisting actors have underlined that the United Nations Relief and Works Agency for Palestine Refugees in the Near East [‘UNRWA’] constitutes a backbone for their activities. It is a major source of employment both in the Occupied Palestinian Territory and in the broader region. The Agency’s activities rely upon significant numbers of local employees to ensure key

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<sup>5</sup> *Wall Advisory Opinion*, p. 136, pp. 158-159, para. 49.

<sup>6</sup> *Progress Report of the United Nations Mediator on Palestine*, United Nations General Assembly, Official Records: Third Session, Supplement No. 11 (A/648), Paris, 1948 [‘**Progress Report**’], p. 52.

logistical, medical, educational and other functions. In the Occupied Palestinian Territory, these activities rely in turn on facilitation and protection by Israel as an occupying Power and as a member of the United Nations.

4.6. **Sixthly**, neither the United Nations, other international organizations nor third States have autonomous means of ensuring their own security system for presence and activities in the Occupied Palestinian Territory or when transiting through Israel. Their safety and security depend on the protections given by the occupying Power, local authorities or de facto armed groups.

4.7. **Seventhly**, Norway condemns in the strongest terms the heinous attack on Israel by Hamas and other armed groups from Gaza on 7 October 2023. The United Nations has conducted fact-finding as to allegations of any participation by members of its staff in the events surrounding this attack, taken measures accordingly and solicited any further relevant information from the Israeli side without corroborative response. On this basis, the General Assembly has renewed its confidence in UNRWA and underlined its indispensability.<sup>7</sup> Furthermore, unilateral attempts by Israel to limit the presence and activities of United Nations agencies did not originate in the heinous attack on 7 October 2023.<sup>8</sup>

4.8. **Lastly**, based on domestic legislation adopted by the Knesset on 28 October 2024, Israel has initiated additional measures that impede Israeli cooperation, facilitation and protection of the presence and activities of UNRWA in the Occupied Palestinian Territory, thereby in effect blocking key efforts of the international community to provide support and assistance as described. Such measures give rise to legal questions as regards Israel's duties to abstain from taking certain action directed at the international presence in and in relation to the Occupied Palestinian Territory. Also, legal questions arise as to Israel's positive duties to facilitate and protect such presence and activities, whether of the United Nations, other competent international organizations or third States. The provision of urgently needed supplies essential to the survival of the Palestinian civilian population such

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<sup>7</sup> A/RES/ES-10/25, **Dossier No. N219**.

<sup>8</sup> See, for example, Israeli PM calls for dismantling of U.N. Palestinian refugee agency, Reuters, 11 June 2017, <https://www.reuters.com/article/world/israeli-pm-calls-for-dismantling-of-un-palestinian-refugee-agency-idUSKBN1920KQ/>, accessed 26 February 2025.

as basic services and humanitarian and development assistance for the benefit of the Palestinian civilian population and in support of the Palestinian people's right to self-determination, depend largely on facilitation and protection by Israel of the presence and activities of the said third parties.

5. Following this introduction, this Written Statement sets out Norway's position as regards:

5.1. The essential background to the Request (**Section II**).

5.2. The basis for considering that the Court has necessary jurisdiction to render its opinion on the aspects covered by the Question, and why the Court should not decline to give its opinion on the Question (**Section III**).

5.3. The scope and meaning of the Question posed by the General Assembly (**Section IV**).

5.4. Israel's obligations in relation to the presence and activities of the United Nations, other international organizations and third States in the Occupied Palestinian Territory (**Section V**).

5.5. Israel's obligations in relation to the presence and activities of the United Nations, other international organizations and third States in relation to the Occupied Palestinian Territory (**Section VI**).

5.6. Norway's submissions to the Court (**Section VII**).

*(For ease of reference, a French translation is provided in parallel. To ensure consistency in page and paragraph numbering there may, in certain sections, be differences in spacing between the paragraphs.)*

## II. Background to the Request

6. The present Section will present the opinion of Norway concerning the essential background to the Request. The aim is to place the latter in the broader context to which it relates and to present the perspective of Norway regarding the immediate background to the adoption of resolution 79/232.
7. By placing the Request before the Court the General Assembly, as explicitly referenced in its resolution 79/232, expressed deep concern about measures that impede assistance to the Palestinian people, including measures that affect the presence and activities of the United Nations, international organizations and third States in the Occupied Palestinian Territory. This concern is a function of the centrality of international presence in the Occupied Palestinian Territory for the delivery of life-saving humanitarian assistance, basic services, as well as longer term support to the realization of the Palestinian people's right to self-determination.
8. In furtherance of its responsibility for the former mandated territory, the United Nations initiated its activities in the area soon after its own inception. Since 1948, this presence has relied on a composite of assisting actors, with the United Nations as the gravitational point and coordinator of international engagement. International actors have provided relief and support at scale, as well as actively contributed to efforts to resolve the conflict, also during periods of armed conflict. The evolution of the conflict has resulted in this composite of assisting actors being embedded in the structures around, and the practical delivery of, life-saving assistance, basic services, and longer-term development support to the Palestinian civilian population.
9. In addition to support and assistance to the most vulnerable, the overarching aim of this international engagement is the realization of the right to self-determination for the peoples affected by the conflict, based on the vision of two States living in peace within secure and recognized boundaries. The United Nations has itself, as referenced earlier from the Court's own pronouncement in the *Wall Advisory Opinion*, recognized a particular and long-standing responsibility, originating in the Mandate and the Partition Resolution concerning Palestine. The General Assembly has lately formulated this responsibility as "*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 relevant resolutions”.*<sup>9</sup>

10. Assisting actors like the United Nations, other international organizations, as well as third States do not have autonomous means of ensuring their own security in the Occupied Palestinian Territory or when in necessary transit through Israel to or from the Occupied Palestinian Territory. Instead, they rely on the protection and facilitation given by the authorities on the ground. As a result of Israel's security regime in and in relation to the Occupied Palestinian Territory, any presence and activity by assisting actors rely fully on the protection and facilitation afforded by Israel, either in its role as occupying Power in the Occupied Palestinian Territory or as Government Authority in its own territory.
11. Over time, the presence and activity of the said actors have been challenged by measures which hinder and impair their operations. This includes refusing or impeding the free passage of critical supplies, measures restricting or stalling the freedom of movement or transit of persons, as well as measures outright hindering the presence of international actors as such. Such measures hinder the delivery of life-saving humanitarian assistance, as well as basic services like health and education. However, they also have effects beyond the relief and support operations as they, *inter alia*, target the ability of third States to maintain presence in the Occupied Palestinian Territory, thus challenging the maintenance of regular diplomatic and consular relations with the Palestinian Authority.
12. The Court has previously been called upon to consider different legal questions in relation to Palestine. Already in the *Reparations Advisory Opinion*,<sup>10</sup> the Court considered institutional and reparatory questions within the context of the Palestinian question. In the *Wall Advisory Opinion*, the Court considered the legality of the construction of a wall in the Occupied Palestinian Territory. Then, in the *July 2024 Advisory Opinion*, the Court considered the legality of a range of Israeli policies and practices. Lastly, the Court has provided a series of provisional orders under Article 41 of the Statute of the International

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<sup>9</sup> United Nations, General Assembly, A/RES/79/81, **Dossier No. N24**.

<sup>10</sup> *Reparation for injuries suffered in the service of the United Nations, Advisory Opinion, I.C.J. Reports 1949, p. 174* [*‘Reparations Advisory Opinion’*].

Court of Justice [**the Statute**] addressed to Israel, which thereby constitute obligations on Israel under international law, in *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip* (South Africa v. Israel).

13. The Court has in its previous opinions, notably in the *July 2024 Advisory Opinion*, held that Israel may exercise jurisdiction within the Occupied Palestinian Territory solely in its role as occupying Power. Such actions must be in accordance with the applicable legal framework, notably international humanitarian law. In the *July 2024 Advisory Opinion*, the Court observed that the occupying Power “*bears a duty to administer the territory for the benefit of the local population*”.<sup>11</sup> Furthermore, any such exercise of jurisdiction must not infringe on other applicable rights. Of particular importance is the obligation to respect and facilitate the exercise of the right to self-determination of the Palestinian people.
14. Prior to and after the adoption of the abovementioned domestic legislation in the Knesset in October 2024, the United Nations Secretary-General, in a series of letters, raised the consequences of its implementation with the Prime Minister of Israel, and provided information to, and asked for guidance by, the General Assembly and the Security Council.<sup>12</sup>
15. On 4 October 2024, prior to the adoption of the legislation, the Secretary-General wrote a letter to the Prime Minister of Israel regarding the draft legislation that was before the Knesset, and which, if adopted and implemented, could prevent UNRWA from continuing its essential work in the Occupied Palestinian Territory, including East Jerusalem.<sup>13</sup>
16. Upon the approval by the Knesset of the draft legislation 28 October 2024, the Secretary-General brought the two laws to the attention of the General Assembly. In his letter to the General Assembly, he expressed deep concern regarding the adoption of the draft legislation and asked the General Assembly for guidance and support.<sup>14</sup> Simultaneously, as per the letter to the General Assembly, the Secretary-General wrote a second letter to

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<sup>11</sup> *July 2024 Advisory Opinion*, p. 33 (paras. 105-106).

<sup>12</sup> The draft legislation in question consists of two proposed Acts entitled the Law for the Cessation of UNRWA Activities (2024) and the Law for the Cessation of UNRWA Activities in the State of Israel (2024), respectively.

<sup>13</sup> Letter dated 4 October 2024 from the Secretary-General addressed to the Prime Minister of Israel, **Dossier No. N300**.

<sup>14</sup> Letter dated 28 October 2024 from the Secretary-General addressed to the President of the General Assembly (A/79/558), **Dossier No. N65**.

the Prime Minister of Israel, warning about the devastating consequences of implementation of the two laws and recalling relevant obligations of Israel under international law.<sup>15</sup> In both letters the Secretary-General referred to UNRWA as “*the principal means by which essential assistance is supplied to Palestine refugees in the Occupied Palestinian Territory*” and that “[t]here is currently no realistic alternative to UNRWA which could adequately provide the services and assistance required, whether it be other United Nations entities, other international organizations, or any other entity”.<sup>16</sup> The Secretary-General further noted that “*it can readily be appreciated that a situation may exist in which a difference has arisen between the United Nations and the State of Israel regarding, among other things, the interpretation or application of the Convention on the Privileges and Immunities of the United Nations, to which Israel is a party.*”<sup>17</sup>

17. Following the adoption of the two Acts by the Knesset, Israel’s Ministry of Foreign Affairs notified the President of the General Assembly 3. November 2024 of Israel’s decision to withdraw “*its request issued to UNRWA*”, thereby referring to the exchange of letters between Israel and UNRWA dated 14 June 1967.<sup>18</sup> The Secretary-General responded in a letter to Israel’s Minister of Foreign Affairs dated 19 November 2024, again referring to the devastating consequences of any further implementation of the two laws and urging Israel to reconsider its current measures.<sup>19</sup>

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<sup>15</sup> Letter dated 28 October 2024 from the Secretary-General addressed to the Prime Minister of Israel, **Dossier No. N301**.

<sup>16</sup> Ibid., Letter dated 28 October 2024 from the Secretary-General addressed to the President of the General Assembly (A/79/558), **Dossier No. N65**.

<sup>17</sup> Ibid.

<sup>18</sup> Letter dated 3 November 2024 from the Director General of the Ministry of Foreign Affairs of Israel addressed to the President of the General Assembly, **Dossier No. N302**. The reference is to 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, **Dossier No. N283**.

<sup>19</sup> Letter dated 19 November 2024 from the Secretary-General addressed to the Minister for Foreign Affairs of Israel, **Dossier No. N304**.

18. On 9 December 2024, the Secretary-General again brought the situation to the attention of the General Assembly, and now also in an identical letter to the Security Council, in which he recalled relevant obligations of Israel under international law and expressed appreciation for support from the General Assembly and the Security Council, while also noting appreciation for any further support.<sup>20</sup>
19. On 18 December 2024, the Israeli Permanent Representative to the United Nations responded for the first time to the latter and earlier correspondence, in identical letters addressed to the President of the General Assembly and the Security Council.<sup>21</sup>
20. Further letters were exchanged between representatives of the United Nations and Israel after the adoption of resolution 79/232.<sup>22</sup>
21. There is overwhelming evidence to show the centrality of the United Nations, and through it UNRWA, as a supplier of relief and support, as well as a catalyst and facilitator of other assisting actors. As noted by the Secretary-General in repeated statements, UNRWA constitutes the principal means by which essential assistance is supplied to Palestine refugees in the Occupied Palestinian Territory. UNRWA has consistently been referred to as the “the backbone of our humanitarian response” by United Nations leaders.<sup>23</sup> Both statements have received broad support from other humanitarian and development organizations present in the Occupied Palestinian Territory,<sup>24</sup> including endorsement by the Principals of the Inter-Agency Standing Committee.<sup>25</sup>

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<sup>20</sup> Identical letters dated 9 December 2024 from the Secretary-General addressed to the President of the General Assembly and the President of the Security Council (A/79/684-S/2024/892), **Dossier No. N66**.

<sup>21</sup> Identical letters dated 18 December 2024 from the Permanent Representative of Israel to the United Nations addressed to the President of the General Assembly and the President of the Security Council (A/79/710-S/2024/940), **Dossier No. N67**.

<sup>22</sup> Identical letters dated 8 January 2025 from the Secretary-General addressed to the President of the General Assembly and the President of the Security Council (A/79/716-S/2025/18), **Dossier No. N68**. Letter from the Permanent Representative of Israel to the Secretary-General of the United Nations dated 24 January 2025, **Dossier No. N307**. Letter dated 27 January 2025 from the Secretary-General addressed to the Permanent Representative of Israel to the United Nations, **Dossier No. N308**.

<sup>23</sup> Remarks of the Secretary-General to the Security Council - on the Middle East, 20 January 2025, S/PV.9841, **Dossier No. N243**.

<sup>24</sup> Statement by Secretary-General of the Norwegian Refugee Council Mr. Jan Egeland to the Security Council, 28 January 2025, UN Doc. S/PV.9852.

<sup>25</sup> Statement by Principals of the Inter-Agency Standing Committee, Stop the assault on Palestinians in Gaza and on those trying to help them, 1 November 2025 <https://interagencystandingcommittee.org/inter-agency-standing-committee/statement-principals-inter-agency-standing-committee-stop-assault-palestinians-gaza-and-those-trying> accessed 25 February 2025.

22. The two Acts adopted by the Knesset on 28 October 2024, the Law to Cease UNRWA Operations and the Law to Cease UNRWA Operations in the Territory of the State of Israel, are referenced in full in the identical letters dated 9 December 2024 from the Secretary-General addressed to the President of the General Assembly and the President of the Security Council.<sup>26</sup> The laws establish a prohibition in Israeli domestic legislation of (i) UNRWA operations in the sovereign territory of Israel, which in accordance with Israeli domestic legislation includes East Jerusalem, and (ii) contact between UNRWA representatives and Israeli government representatives. In tandem the prohibitions impair UNRWA operations throughout the Occupied Palestinian Territory, including East Jerusalem, as facilitation by Israel naturally requires contact between Israeli representatives and UNRWA staff.
23. Such measures give rise to legal questions as regards Israel's duties to abstain from taking certain action but also concerning its positive duties to facilitate and protect the presence and activities of the United Nations, other international organizations and third States in and in relation to the Occupied Palestinian Territory, including respect for applicable immunities rules. Though the previous opinions and orders of the Court provide crucial guidance and an overall legal framework applicable to any presence and activity in the Occupied Palestinian Territory, the Court has not considered the application of this framework to international actors in and in relation to the Occupied Palestinian Territory.
24. In light of the Court's earlier pronouncements, Norway considered that clarification by the Court of these legal questions is needed to ensure the continued ability of the international community to provide relief and support in the short term and continue the longer-term efforts toward comprehensive and lasting peace and stability in the region. Norway, therefore, together with a cross regional group of 13 other countries, initiated, and eventually tabled, resolution 79/232. The fundamental objective of the initiative was to ensure the continued and unhindered provision both of life-saving humanitarian assistance and development support to the Palestinian civilian population. As stated by the representative of Norway in tabling the draft resolution before the General Assembly:

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<sup>26</sup> A/79/684-S/2024/892, Dossier No. N66.

*“States may take different positions as to what has caused this dystopian nightmare. What we cannot afford to disagree on, however, is the humanitarian imperative to provide aid and assistance to those in desperate need.”*<sup>27</sup>

25. Because of the urgent need for clarifications from the Court, the General Assembly, in its Request to the Court in paragraph 10 of resolution 79/232, asked for the Advisory Opinion to be rendered *“on a priority basis and with the utmost urgency”*. Norway is deeply grateful to the Court for its swift response to the Request, and for its decision to activate the accelerated procedure outlined in Article 103 of the Rules of Court.

### **III. The jurisdiction of the Court and the propriety of response**

26. The present section contains the observations of Norway concerning the jurisdiction of the Court to give an advisory opinion on the Question posed to it in resolution 79/232, and the propriety of such response. Subsection A explains the basis for Norway’s view that the Court has the necessary jurisdiction to answer the Request, while subsection B explains the basis for Norway’s position that there is no reason in this instance for the Court to use its discretionary competence to abstain from answering the Request.

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<sup>27</sup> General Assembly, verbatim record, 79th session, 54th plenary meeting, 19 December 2024, Consideration of draft resolution (A/79/L.28/Rev.1), **Dossier No. 1**.

#### A. The jurisdiction of the Court

27. It is provided by Article 65, paragraph 1, of the Statute that “[i]t]he Court may give an advisory opinion on any legal question at the request of whatever body may be authorized by or in accordance with the Charter of the United Nations to make such a request”.
28. The competence of the requesting authority is not in issue in this instance, given that the Request has been put forward by the General Assembly. Pursuant to Article 96, paragraph 1, of the Charter of the United Nations<sup>28</sup> [‘the Charter’], “[i]t]he General Assembly[...] may request the International Court of Justice to give an advisory opinion on any legal question”.
29. The Court must still satisfy itself, in accordance with the requirement in Article 96, paragraph 1, of the Charter and Article 65 of its Statute, that the question on which it is requested to give its opinion is a “legal question”.
30. Norway respectfully submits that the Request fulfills the said requirement in the Charter and the Statute and therefore that the Court has jurisdiction to render the requested opinion. The Question referred to the Court concerns the obligations of Israel, as an occupying power and a member of the United Nations. As is clear from the context and from the Chapeau of the question, the term *obligations* refer to obligations under international law. It is also clear that the Question refers to *existing* obligations under international law, as is reflected in the phrase “[w]hat are the obligations of Israel...”. The Court is, in other words, not requested to engage in an essentially political exercise of inventing legal obligations that do not already exist. The Court is simply asked to offer its opinion on the existing legal obligations under international law concerning the specific issues identified in the resolution. To this end, the Court must identify the existing rules of international law, interpret them, and apply them to the factual situation identified in the Question, thus offering a reply to the Question based on international law and the generally accepted legal methodology for the interpretation and application of international law.

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<sup>28</sup> United Nations Conference on International Organisation, vol. 15 p. 335; amendments by General Assembly Resolution: United Nations, *Treaty Series*, vol. 557 p. 143, vol. 638 p. 308 and vol. 892 p. 119.

31. In other words, the Question is concerned with the existence and scope of legal obligations, which the Court is capable of answering by reference to rules of international law that it is set to apply in accordance with its Statute. In line with the Court's practice, the Question referred to it should therefore be considered a legal question on which it is within the competence of the Court to render an advisory opinion.<sup>29</sup>
32. This is not to say that there is not at the same time a political dimension and a political context to the Question posed. All legal questions arise in some form of political context, which may be more or less acute or more or less dominating as a concern for the formulation of the particular question. However, that there is a political context to a legal question, and that this political context has affected the decision to pose the Question and the timing of such decision, does not imply that the Question put forward is not a legal question which the Court will be capable of answering based on international law and the generally accepted methodology of international law. In its practice, the Court has on a number of occasions remarked that political context and political aspects do not in and of themselves deprive the nature of a question of its character as a legal question.

#### **B. The propriety of response**

33. The Court is not obliged to give an advisory opinion even if a request for such opinion has been placed before it in accordance with the criteria established by the Statute and the Charter. Article 65, paragraph 1, of the Statute provides that “[t]he Court may give an advisory opinion on any legal question at the request of whatever body may be authorized by or in accordance with the Charter of the United Nations to make such a request”. As the Court has repeatedly emphasized, the provisions governing its advisory functions “should be interpreted to mean that the Court has a discretionary power to decline to give an advisory opinion even if the conditions of jurisdiction are met” (*Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion*, I.C.J. Reports 2004, p. 156, para. 44; *Accordance with International Law of the Unilateral*

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<sup>29</sup> See e.g. *Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion*, I.C.J. Reports 1996, p. 226 (p. 233, para. 13).

*Declaration of Independence in Respect of Kosovo, Advisory Opinion*, I.C.J. Reports 2010, pp. 415-416, para. 29).

34. In its practice, the Court has held that there is a high threshold for it to refuse to give an advisory opinion when requested to do so. The Court has, with reference to its functions as the principal judicial organ of the United Nations, held that its answer to a request for an advisory opinion “*represents its participation in the activities of the Organization, and, in principle, should not be refused*” (*Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965, Advisory Opinion*, I.C.J. Reports 2019, p. 113, para. 65). Moreover, “*(i)n accordance with its jurisprudence, only compelling reasons may lead the Court to refuse to give its opinion in response to a request falling within its jurisdiction*” (*Legal Consequences Arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem, Advisory Opinion*, p. 16, para. 31, cfr. *Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965, Advisory Opinion*, I.C.J. Reports 2019, p. 113, para. 65). The Court has never refused to give an advisory opinion when requested to do so in accordance with the criteria established for its advisory functions.
35. The issues raised by the present Request form part of the situation previously referred to by the Court as the “*Palestinian question*”. For similar reasons as those analysed in the *July 2024 Advisory Opinion* (p.17, para. 35), Norway holds the view that the Court should not, in its exercise of jurisdiction, decline to give the opinion requested out of a concern of circumventing the principle of consent to judicial settlement, i.e. that the Request relates to a dispute between two parties, one of which has not consented to the jurisdiction of the Court.
36. The Question posed to the Court in this case is not a matter that may be isolated as a bilateral dispute, and an opinion by the Court on the Question referred to it would not, in the circumstances relevant to this case, have the effect of circumventing the principle of consent to judicial settlement. Similar to what the Court observed in the *Wall Advisory Opinion*, the Question placed before the Court in this instance relates to an issue which is of particularly acute concern to the United Nations, and one which is located in a much

broader frame of reference than a bilateral dispute.<sup>30</sup> The question concerning international presence in the Occupied Palestinian Territory is an acute concern for the United Nations because of the particular engagement of the Organization in the work towards a resolution for the Palestinian question and for providing the necessary relief and support for the Palestinian people in anticipation of that people being able to sustain itself on a fully independent basis. The Question is located in a much broader frame of reference than a bilateral dispute because it concerns the conditions for the presence and activity of actors of the international community in the Occupied Palestinian Territory, and the furtherance of the international presence in that area that goes back to the origins of the conflict and which has as its ultimate end the resolution of that conflict through the realization of self-determination for the two peoples concerned. This is not a bilateral issue, but a common concern for the international community.

37. It is the view of Norway that the Court's opinion on the Question raised in the present Request would further assist the General Assembly in the performance of its functions. While the requested opinion concerns a question of similar nature as the one considered by the Court in the *July 2024 Advisory Opinion* of 19 July 2024, it nevertheless concerns legal aspects and legal obligations that the Court has not previously been requested to consider. The *July 2024 Advisory Opinion* has, through its legal guidance, clearly assisted the General Assembly in the performance of its functions. Norway is confident that the Court's advisory opinion on the Question raised in this context, will give critical guidance for the General Assembly and the international community more broadly with regards to the applicable international law relating to international presence and activities in the Occupied Palestinian Territory.
38. For reasons already expressed by the Court in the *July 2024 Advisory Opinion* (p. 18-19, paras. 38-40) and in the *Wall Advisory Opinion* (p. 28, paras. 53-54), Norway considers that the question of whether the Court's opinion would have an adverse effect on a negotiation process between Israel and Palestine, that incidentally has been stalled for many years, is a matter of conjecture that cannot be regarded as a compelling reason to decline to respond to the present Request by the General Assembly. It is not clear what influence

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<sup>30</sup> *Wall Advisory Opinion*, p. 159 (para. 50).

the Court's opinion would have on the political process, and States would be expected to hold different views on this. Regardless of this, the General Assembly has chosen, by a large majority vote, to ask the Court for an opinion on a legal matter which it considers to be urgent and important for the continued engagement with the Palestinian question. Building on the Court's prior statement that its answer to a request for an advisory opinion "represents its participation in the activities of the Organization, and, in principle, should not be refused",<sup>31</sup> any possible but unclear political impact of an examination of the relevant principles and rules of international law should not be taken as a compelling reason for the Court to decline to exercise its jurisdiction.

39. Similarly, and for reasons already expressed by the Court in the *July 2024 Advisory Opinion* (p. 19-20, paras. 41-43), Norway considers that whether an advisory opinion on the Question posed would be detrimental to the work of the Security Council is a matter of conjecture on which the Court should not speculate, and which does not provide any compelling reason for the Court to decline to exercise its jurisdiction upon request by the General Assembly. It should in that regard also be noted that members of the Security Council have themselves expressed "grave concern" about recent developments that have contributed to giving rise to the need for the present Request for further legal guidance by the Court.<sup>32</sup>
40. Norway is deeply grateful for the swift response by the Court to the Request by the General Assembly. It is ultimately for the Court to decide whether it has been provided with sufficient information to enable it to give an advisory opinion on the basis of the present Request. Norway is on its part persuaded that the current proceedings will contribute an overview of extensive information available to this end.

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<sup>31</sup> *Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965, Advisory Opinion, I.C.J. Reports 2019*, p. 95 (p. 113, para. 65).

<sup>32</sup> Statement to the Press of the Members of the Security Council on the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA), 30 October 2024, SC/15874, **Dossier No. N239**.

#### IV. Scope and meaning of the Question put to the Court

41. This present Section will set out observations of Norway concerning the Question put to the Court in resolution 79/232.
42. Since the establishment of the United Nations, this is the fourth time that the General Assembly has put forward a request to the Court for an advisory opinion relating to the Palestinian question. In the *Reparations Advisory Opinion*, the Court considered institutional and reparatory questions within the context of the Palestinian question. In the *Wall Advisory Opinion*, the Court examined the legal consequences of the construction of a wall in the Occupied Palestinian Territory. In the *July 2024 Advisory Opinion*, the Court considered the legal consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem. Although the Request now placed before the Court relates to the same situational context, it concerns legal aspects that the Court has not previously addressed, including matters of such urgency to justify asking the Court to consider the Request on a priority basis.
43. Norway, as one of the main proponents of resolution 79/232, actively participated in efforts to formulate the Question put forward to the Court. A key concern was to ensure that the latter was not formulated in any biased manner. Furthermore, due consideration was given to ensuring a focused question which does not go beyond the legal questions emerging as a result of the developments described in Section II above.
44. The Request asks for the Court's opinion concerning 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. This is a question concerning the specific obligations of Israel in relation to the presence and activities of *external* actors in and in relation to the Occupied Palestinian Territory. In this sense, the Request is different from previous requests focused on the obligations of Israel in relation to (i) the construction of a wall and (ii) the policies and practices of Israel in the occupied territories. As has been clarified in section II, the presence and activities of such external actors in and in relation to the Occupied Palestinian Territory have a considerable

pedigree, going back to the implementation of the United Nations Partition Plan for Palestine. The legal obligations of Israel, as an occupying Power and a member of the United Nations, have, however, been made particularly acute by recent events which in various ways have the effect of impairing and restricting such presence.

45. The reference in the Question to the role of Israel “*as an occupying Power and member of the United Nations*” builds on the Chapeau, which provides an indication to the Court as to the applicable principles and rules of international law. Although it is ultimately for the Court to decide which principles and rules to apply, the Chapeau and the Question should, in the opinion of Norway, suggest an examination of Israel’s obligations based on a range of applicable instruments and legal frameworks, in order to provide the necessary assistance to the General Assembly and the international community more broadly by clarifying applicable law to guide future action.
46. The Question refers to the presence and activities of “*the United Nations, including its agencies and bodies, other international organizations and third States*”. This formulation focuses the scope of the Question to the presence and activities of such actors that enjoy legal personality under international law. The reference to “*other international organizations*” should, in the opinion of Norway, be understood as referring to organizations that enjoy legal personality under international law, in conformity with the definition of international organizations in Article 2, litra (a), of the 2011 ILC Draft Articles on the Responsibility of International Organizations.<sup>33</sup>

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<sup>33</sup> Yearbook of the International Law Commission, 2011, vol. II, Part Two, Draft articles on the responsibility of international organizations, 2011. Article 2, litra (a) reads as follows: “For the purposes of the present draft articles, (a) “international organization” means an organization established by a treaty or other instrument governed by international law and possessing its own international legal personality. International organizations may include as members, in addition to States, other entities;”.

47. The Question further refers to the presence and activities of the relevant subjects “*in and in relation to the Occupied Palestinian Territory*”. This phrase reflects the fact that the Question covers two distinct factual contexts which raise different, although closely related, legal questions. The difference relates both to the available sources of law and the application of the rules and principles in play. Due to the important factual and legal distinction between the situation in and in relation to the Occupied Palestinian Territory, Norway will, as outlined above, set out its position as regards these two distinct contexts in separate Sections.
48. The Question concerns the presence and activities of certain external actors “*for the benefit of the Palestinian civilian population, and in support of the Palestinian people’s right to self-determination*”. The latter qualifiers exempt from the Request questions pertaining to other presence or activities not in pursuit of either of these objectives. This, importantly, alleviates the need for any far-reaching discussion of potential abuse of rights or protection of presence and activities in pursuit of malign purposes. Moreover, read in conjunction, the qualifiers signify inclusion not only of presence and activities directly benefitting the Palestinian civilian population, such as humanitarian assistance and relief operations. Also included in the Question are activities aimed at more long-term governance, economic or societal support and resilience, as well as support to institution-building to enable the realization of the right to self-determination. This is in accordance with the preceding clause explicitly referring to various categories of assistance, “*including to ensure and facilitate the unhindered provision of urgently needed supplies essential to the survival of the Palestinian civilian population*” and “*basic services and humanitarian and development assistance*”. The term “*including*” here signifies that the category of assistance explicitly referred has not been intended as an exhaustive identification of relevant activities.

**V. Israel's obligations in relation to the presence and activities of the United Nations, other international organizations and third States in the Occupied Palestinian Territory**

49. This Section will deal with the relevant obligations of Israel in the Occupied Palestinian Territory. In the next Section (VI) the analysis will extend to corresponding obligations “in relation to” the territory, including during transit to or from it.
50. In the precise context of the present case, particular regard must be had to the right of self-determination of the Palestinian people. The application of this fundamental right has been fully and repeatedly affirmed by the United Nations, including by the Court in the *July 2024 Advisory Opinion*. This right has also been recognized by Israel at successive stages of its own interaction both with the United Nations and with representatives of the Palestinian people. This right must also be considered in context with Israel's obligations as a member of the United Nations. There is thus a composite applicable legal framework that needs to be carefully analyzed when considering Israel's obligations with regard to the United Nations, other international organizations and third States pursuant to the present Request.
51. In the following, before moving to a consideration of this specific applicable legal framework, applicable rules of international humanitarian law will first be considered. These will highlight clear limits to Israel's right to exercise jurisdiction as an occupying Power in the Occupied Palestinian Territory, pending termination of the occupation.

**A. International Humanitarian Law**

52. As the Court noted in the *July 2024 Advisory Opinion*, “international humanitarian law is of particular relevance” when considering the legal framework applicable in the Occupied Palestinian Territory.<sup>34</sup> It stated in that regard that “Israel's powers and duties in the Occupied Palestinian Territory are governed by the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949 (hereinafter the “Fourth Geneva Convention”) and by customary international law”.<sup>35</sup>

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<sup>34</sup> *July 2024 Advisory Opinion*, p. 31 (para. 96).

<sup>35</sup> *Ibid.*

1. *Humanitarian relief schemes*

53. Article 59 of the 1949 Fourth Geneva Convention<sup>36</sup> sets out obligations of the occupying Power as regards collective relief schemes. Paragraph 1 of Article 59 states that:

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

The rule contained in this paragraph is applicable in the Occupied Palestinian Territory, as its population is in whole or in part inadequately supplied. It sets out the obligation of the occupying Power to “agree to relief schemes on behalf of the said population” and the obligation to “facilitate them by all the means at the disposal of” the occupying Power.

54. Article 59, paragraph 2, specifies the third parties in relation to which the occupying Power has these obligations. They comprise States and impartial humanitarian organizations such as the International Committee of the Red Cross:

*“Such schemes, which may be undertaken either by States or by impartial humanitarian organizations such as the International Committee of the Red Cross, shall consist, in particular, of the provision of consignments of foodstuffs, medical supplies and clothing. All Contracting Parties shall permit the free passage of these consignments and shall guarantee their protection.”*

55. The reference to “States” must also be understood to include competent intergovernmental organizations, as collective activities of States have given rise to action upon the international plane by entities with international legal personality.<sup>37</sup> This includes the United Nations, its specialized agencies and other competent international organizations.

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<sup>36</sup> Geneva Convention relative to the protection of civilian persons in time of war [‘Fourth Geneva Convention’], United Nations, *Treaty Series*, vol. 75 p. 287.

<sup>37</sup> *Reparations Advisory Opinion*, p. 178.

56. Further, Article 59 specifies that the obligations of the occupying Power include the duty to “*permit the free passage*” of these consignments and to “*guarantee their protection*”.
57. Such relief schemes shall consist “*in particular, of the provision of consignments of foodstuffs, medical supplies and clothing*”. As this wording indicates, this enumeration is not exhaustive. The range of objects indispensable to the survival of the civilian population mentioned in article 69 (1) of Additional Protocol I and the obligations of protection, including of humanitarian relief personnel as set forth in Article 71 (2) of the Protocol, are reflective of customary international law.<sup>38</sup>
58. Article 60 of the Fourth Geneva Convention underlines that relief consignments “*in no way relieve the occupying Power of any of its responsibilities under Articles 55, 56 and 59*”, (Article 55 concerns food and medical supplies for the population, while Article 56 regulates hygiene and public health). Furthermore, the provision also stipulate that the occupying Power shall “*in no way whatsoever divert relief consignments from the purpose for which they are intended, except in cases of urgent necessity, in the interests of the population of the occupied territory and with the consent of the Protecting Power*”.
59. The obligations incumbent on the occupying Power pursuant to Article 59 of the Fourth Geneva Convention include duties of result, namely, to allow rapid and unimpeded passage. They also include duties of care, namely, to facilitate and protect relief consignments. Controls exercised out of military necessity are not excluded, but they must be necessary, proportional and reasonable, without impeding the obligations of result nor avoiding the duties of care. In addition, Article 71 (3) of Additional Protocol I is reflective of customary international law.<sup>39</sup> It states that “*only in case of imperative military necessity may the activities of the relief personnel be limited, or their movements temporarily restricted*”. Such restrictions can thus only be limited and temporary and may not involve violations of the preceding rules. Article 59, paragraph 3, of the Fourth Geneva Convention, which

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<sup>38</sup> See Jean-Marie Henckaerts & Louise Doswald-Beck, *Customary International Humanitarian Law*, Vol. I: Rules (Cambridge University Press 2005) [‘ICRC Study’] pp.193-200 (Rule 55). On items indispensable for the survival of population, *ibid.* p. 193 (Rule 54). On customary international law norms concerning obligations to respect and protect humanitarian relief personnel, *ibid.* pp. 105-109 (Rule 31). On freedom of movement for authorised humanitarian relief personnel, *ibid.* pp. 200-202 (Rule 56).

<sup>39</sup> *Ibid.*, pp. 200-202.

relates to the exercise of certain controls of such free passage by States for goods directed to an occupied territory, will be discussed *infra* under Section VI.

60. Article 59 of the Fourth Geneva Convention establishes an obligation for the occupying Power to consent to relief schemes and facilitate them by all means at its disposal. This is clear from the use of the terms “*shall agree*”. The occupying Power is, consequently, not entitled under international law to refuse such schemes or to refuse to facilitate them. In line with what has been said above about the permissibility of necessary and proportionate controls, systems of permit to be issued by the occupying Power may, however, not be excluded as illegal. But any such necessary permits cannot, in any case, be withheld on arbitrary grounds.<sup>40</sup> Constraints to humanitarian access that may be in violation of these obligations may include, *inter alia*, bureaucratic measures that delay, stall, or interfere with humanitarian operations, misinformation and disinformation discrediting humanitarian actors, counter-terrorism measures that impede payments of fees, purchases of commodities or supplies of goods, intensity of hostilities and explosive ordnance that impede humanitarians’ movement, and attacks on humanitarian personnel and facilities.
61. As the population in the Occupied Palestinian Territory is inadequately supplied, Israel has clear legal obligations to issue necessary permissions for free passage and provide other cooperation applicable in this context, including guaranteeing protection of consignments. These obligations exist in relation to relief operations whereby States channel their relief directly or through competent international organizations or where relief is channeled through impartial humanitarian organizations.

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<sup>40</sup> See similarly *ibid.* pp. 196-197.

2. *Further limits to the regulatory authority of an occupying Power*

62. In the *July 2024 Advisory Opinion*, the Court observed that the 1907 Hague Regulations<sup>41</sup> have become part of customary international law, and that they are thus binding on Israel.<sup>42</sup> Article 43 of the 1907 Hague Regulations provides that:

*“The authority of the legitimate power having in fact passed into the hands of the occupant, the latter shall take all the measures in his power to restore and ensure, as far as possible, public order and safety, while respecting, unless absolutely prevented, the laws in force in the country.”*

63. Accordingly, in the *July 2024 Advisory Opinion*, the Court recalled that:

*“Under Article 64 of the Fourth Geneva Convention and the rule enshrined in Article 43 of the Hague Regulations, for example, the occupying Power is obliged to respect, in principle, the laws of the occupied territory in force. (...) These provisions emphasize that occupation is conceived of as a temporary state of affairs, during which the exercise by the occupying Power of authority over foreign territory is tolerated for the benefit of the local population.”*<sup>43</sup>

64. The Court added:

*“Under Article 43 of the Hague Regulations, the occupying Power must in principle respect the law in force in the occupied territory unless absolutely prevented from doing so. This rule is complemented by the second paragraph of Article 64 of the Fourth Geneva Convention, which exceptionally allows the occupying Power to “subject the population of the occupied territory to provisions which are essential to enable the Occupying Power to fulfil its obligations under the [Fourth Geneva] Convention, to*

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<sup>41</sup> Convention (IV) respecting the Laws and Customs of War on Land and its annex: Regulations concerning the Laws and Customs of War on Land [‘1907 Hague Regulations’], Consolidated Treaty Series, vol. 205 p. 277. French language authentic treaty version, a common English translation is available at <https://ihl-databases.icrc.org/assets/treaties/195-IHL-19-EN.pdf>, accessed 25 February 2025.

<sup>42</sup> *Wall Advisory Opinion*, p. 172 (para. 89); *July 2024 Advisory Opinion*, p. 31 (para. 96).

<sup>43</sup> *July 2024 Advisory Opinion*, p. 33 (para. 106).

*maintain the orderly government of the territory, and to ensure the security of the Occupying Power, of the members and property of the occupying forces or administration, and likewise of the establishments and lines of communication used by them". In principle, then, the law of occupation does not deprive the local population's civilian institutions in the occupied territory of the regulatory authority that they may have. Rather, it invests in the occupying Power a set of regulatory powers on an exceptional basis and on specific enumerated grounds."*<sup>44</sup>

65. A key rationale for, together with the inherent limits to, such regulatory powers invested, on an exceptional basis and on specific enumerated grounds, in the occupying Power is recalled and encapsulated in general terms by the Court as follows:

*"By virtue of its status as an occupying Power, a State assumes a set of powers and duties with respect to the territory over which it exercises effective control. In this context, the occupying Power bears a duty to administer the territory for the benefit of the local population."*<sup>45</sup>

66. On the grounds analyzed in the *July 2024 Advisory Opinion*, the Court considered that Israel has exercised its regulatory authority as an occupying Power in a manner that is inconsistent with the rule reflected in Article 43 of the Hague Regulations and Article 64 of the Fourth Geneva Convention.<sup>46</sup>
67. The present Question concerns the identification of the obligations of Israel in relation to the presence and activities of the United Nations, other international organizations and third States in the Occupied Palestinian Territory. Applying the rule reflected in Article 43 of the Hague Regulations and Article 64 of the Fourth Geneva Convention requires here a consideration also of the prior establishment, clearly predating the Six-Day War in 1967, of an international presence and activities in conformity with international law to support the urgent needs of the population in the territory. This includes any obligations of the occupying Power, in 1967 and thereafter, to make it possible for the international presence

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<sup>44</sup> *Ibid.*, p. 41 (para. 134).

<sup>45</sup> *Ibid.*, p. 33 (para. 105).

<sup>46</sup> *Ibid.*, p. 43 (para. 141).

to continue such activities, including through their facilitation, assistance and protection. Including in the analysis, a consideration of other rules of international law applicable to this territory is also in keeping with the requirements of systemic integration for the interpretation of treaties, as reflected in Article 31 (3) (c) of the Vienna Convention on the Law of Treaties.<sup>47</sup>

3. *The legal basis for the international presence and activities prior to 1967*

68. The international legal basis, presence and activities of the United Nations and of other assisting actors of the international community in the Gaza Strip, the West Bank and East Jerusalem predate Israel's military occupation of these territories in June 1967.
69. Article 80 of the Charter made it clear that the rights of the population in the mandate territories under the League of Nations, including Palestine, were not to be altered as a consequence of the establishment of the United Nations in 1945. In the *July 2024 Advisory Opinion*, the Court has summarized subsequent legal developments, including with regard to the right of the Palestinian people's right to self-determination, and the central role played by the United Nations with a view to achieving a two-State-solution.
70. Moreover, in addition to the synoptic timeline contained in the *July 2024 Advisory Opinion*,<sup>48</sup> the following background is provided about the early deployment by the international community of international operations of relief and support in the area.
71. During the spring and summer of 1948, large-scale displacement of Palestine refugees led to neighbouring Arab States requesting the assistance of the United Nations. The United Nations Mediator on Palestine, Count Folke Bernadotte, took early initiatives leading to a mobilization by the international community of interim relief measures, in the form of food and other essential supplies, pending action by the General Assembly.<sup>49</sup> In a progress report in September 1948, he stated that "*(s)o long as large numbers of refugees remain in*

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<sup>47</sup> Vienna Convention on the Law of Treaties, (United Nations, *Treaty Series*, vol. 1155 p. 331).

<sup>48</sup> *July 2024 Advisory Opinion*, pp. 21-25 (paras. 51-71).

<sup>49</sup> For the large-scale needs and the initial relief initiated in May 1948, see United Nations, General Assembly, Third Session, Official Records, Supplement No. 11 A (A/689, A/689/Corr.1 and A/689/Add. 1) to Part III of Progress Report, A/648.

*distress, I believe that responsibility for their relief should be assumed by the United Nations in conjunction with neighbouring Arab States, the Provisional Government of Israel, the specialized agencies, and also the voluntary bodies or organizations of a humanitarian and non-political character*<sup>50</sup>. He concluded his report by emphasizing “*the desperate urgency*” of the situation.<sup>51</sup>

72. Subsequently, a relief programme was set up, first under the control of a United Nations Director of Disaster Relief assisted by the World Health Organization [‘WHO’] and other agencies associated with the United Nations.<sup>52</sup>
73. In response to requests by the Mediator on Palestine, the General Assembly adopted unanimously, on 19 November 1948, resolution 212 (III) instructing the Secretary-General to appoint a Director of UN Relief for Palestine Refugees [‘UNRPR’] and to advance funding to start relief operations as quickly as possible. On 11 December the same year, the Assembly adopted, also unanimously, resolution 194 (III), establishing a Conciliation Commission, among other things to “*facilitate the repatriation, resettlement and economic and social rehabilitation of the refugees and the payment of compensation*”.<sup>53</sup> UNRPR set up a comprehensive and temporary relief program with overall coordination of operational activities by United Nations agencies such as WHO and the Food and Agriculture Organization of the United Nations [‘FAO’], the ICRC and other agencies and institutions.<sup>54</sup>
74. On 8 December 1949, the General Assembly passed resolution 302 (IV), establishing the United Nations Relief and Works Agency for Palestine Refugees [‘UNRWA’] as its subsidiary organ.<sup>55</sup> Israel had earlier the same year become a member of the United Nations and voted in favour of the resolution.

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<sup>50</sup> Progress Report, p. 52.

<sup>51</sup> Ibid.

<sup>52</sup> Referenced in Yearbook of the United Nations 1948-49, p. 200.

<sup>53</sup> United Nations General Assembly, A/RES/194 (III). See, in particular op. 11 about repatriation.

<sup>54</sup> United Nations General Assembly, Assistance to Palestine refugees: report of the Secretary-General, A/1060.

<sup>55</sup> United Nations General Assembly, A/RES/302 (IV).

75. The agency was thus established in the context of what has been referred to as the exodus related to the war of 1948 and became the pivotal intergovernmental agency for relief and assistance to Palestine refugees. UNRWA was established by resolution of the General Assembly and not a treaty, “*probably because the urgency of the situation did not allow the use of the slow treaty making procedure*”.<sup>56</sup> Such an assessment is borne out by the facts. The scale and gravity of needs have since been repeatedly and thoroughly documented in reports successively considered and endorsed by the General Assembly.<sup>57</sup>
76. By the summer of 1951, the Director and the Advisory Commission of UNRWA concluded that the refugee question remained formidable and recommended a three-year programme instead of a yearly programme. The programme recommended by UNRWA was endorsed by the General Assembly in January 1952 with resolution 513 (VI). The Assembly expressed its appreciation to the assistance afforded to UNRWA notably by the specialized agencies and urged them to “*render all services possible to strengthen the programme of refugee relief and reintegration*” to cooperate with the Secretary-General and UNRWA in ensuring that “*the total assistance of the United Nations to Palestine refugees is rendered with the maximum of co-ordination and efficiency*”. It also expressed its appreciation to the numerous charitable and humanitarian organizations whose programmes afforded valuable supplementary assistance.<sup>58</sup>

#### 4. *Obligations to respect such continued presence and activities*

77. The six-day war in the Middle East lasted 5-10 June 1967. Israel occupied Gaza, the West Bank and East Jerusalem. The war led to additional waves of displaced persons and refugees.<sup>59</sup> On 19 December 1967, the General Assembly expressed its thanks to UNRWA for its “*continued faithful efforts to provide essential services for the Palestine refugees,*

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<sup>56</sup> Henry Schermers & Niels M Blokker, *International Institutional Law* (Martinus Nijhoff/Brill Publishers 2018) 46, § 40.

<sup>57</sup> Reference is made to the Dossier made available by the United Nations Secretariat.

<sup>58</sup> United Nations General Assembly, A/RES/513 (VI) op. paras. 13 and 14.

<sup>59</sup> Documentation of the large-scale consequences in this regard is provided notably by the successive yearly reports of the Secretary-General on “Persons Displaced as a Result of the June 1967 and Subsequent Hostilities”, reproduced in the materials compiled by the United Nations pursuant to Article 65, paragraph 2, of the Statute in the context of the present Request, see **Dossier No. 1079-1127**. For the resolutions on the same topic by the General Assembly, see notably **Dossier No. 1055-1078**.

and to the specialized agencies and private organizations for their valuable work in assisting the refugees” and directed UNRWA to continue its efforts.<sup>60</sup> The same day, “concerned by the continued human suffering as a result of the recent hostilities in the Middle East”, the General Assembly endorsed the efforts of UNRWA to “provide humanitarian assistance, as far as practicable, on an emergency basis and as a temporary measure, to other persons in the area who are at present displaced and in serious need of immediate assistance as a result of the recent hostilities”.<sup>61</sup>

78. Only four days after the ceasefire and on the basis of meetings over two days, on 14 June 1967, a provisional agreement concerning assistance to Palestine refugees was concluded by an exchange of letters between Ambassador Michael Comay of the Ministry of Foreign Affairs of Israel and Commissioner-General of UNRWA, Lawrence Michelmore.<sup>62</sup> In this exchange, Michelmore’s letter made it clear that “UNRWA’s agreement is subject to any relevant instructions or resolutions emanating from the United Nations.”<sup>63</sup> Moreover, it stated that “(n)aturally, this co-operation implies no commitment or position by UNRWA with regard to the status of any of the areas in question or of any instrument relating to them, but is concerned solely with the continuation of its humanitarian task”<sup>64</sup>.

79. On this basis, the letters confirmed agreement that UNRWA would “continue” its assistance to the Palestine refugees, with “the full co-operation” of the Israel authorities, in the West Bank and Gaza Strip areas. The 1967 Exchange of Letters did not establish nor constitute the basis for UNRWA presence or activities. On the contrary, it reflected and built on it. It is an operational agreement and a practical arrangement, reflecting the urgency of needs. It implements and operationalizes important duties of the occupying Power to respect, unless absolutely prevented, the pre-existing legal situation in the territory and to

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<sup>60</sup> United Nations General Assembly, A/RES/2341 (XXII) A op. paras. 2 and 3.

<sup>61</sup> United Nations General Assembly, A/RES/2341 (XXII) B, op. para. 2.

<sup>62</sup> *Exchange of Letters Between Israel and UNRWA, 14 June 1967, Jerusalem, United Nations, Treaty Series vol. 620, p. 183, Dossier No. N283.*

<sup>63</sup> *Ibid.*

<sup>64</sup> *Ibid.*

administer the latter for the benefit of the local population, in accordance with Article 64 of the Fourth Geneva Convention and the rule enshrined in Article 43 of the Hague Regulations.

80. According to the letter of the UNRWA Commissioner-General, the agreement highlights “facilities (...) essential if the Agency is to operate effectively”. This is done by referring to the following commitments including of facilitation by Israel, which also refer to pre-existing arrangements:

*“For its part, the Israel Government will facilitate the task of UNRWA to the best of its ability, subject only to regulations or arrangements which may be necessitated by considerations of military security. On this understanding, we are prepared to agree in principle:*

*(a) To ensure the protection and security of the personnel, installations and property of UNRWA;*

*(b) To permit the free movement of UNRWA vehicles into, within and out of Israel and the areas in question;*

*(c) To permit the international staff of the Agency to move in, out and within Israel and the areas in question; they will be provided with identity documents and any other passes which might be required;*

*(d) To permit the local staff of the Agency to move within the areas in question under arrangements made or to be made with the military authorities;*

*(e) To provide radio, telecommunications and landing facilities;*

*(f) Pending a further supplementary agreement, to maintain the previously existing financial arrangements with the governmental authorities then responsible for the areas in question, concerning:*

*(a) (i) Exemptions from customs duties, taxes and charges on importation of supplies, goods and equipment;*

*(ii) provision free of charge of warehousing, labour for offloading and handling, and transport by rail or road in the areas under our control;*

*(iii) such other costs to the Agency as were previously met by the governmental authorities concerned.*

*(b) To recognize that the Convention on the Privileges and Immunities of the United Nations of 13 February 1946, to which Israel is a party, shall*

*govern the relations between the Government and UNRWA in all that concerns UNRWA's functions.*<sup>65</sup>

81. The above enumeration reflects an operationalization of important concrete obligations of the occupying Power in relation to the presence and activities of the United Nations in the Occupied Palestinian Territory.
82. Since the Israeli occupation began in July 1967, the presence and activities of the United Nations, specialized agencies and other assisting actors have ensured a continued and vital support to Palestine refugees, including persons displaced in previous armed conflict. Central to the efforts of the United Nations is UNRWA with its large-scale enabling role for logistics and distribution of relief and assistance, in addition to provision of basic local services ranging from primary healthcare to schools for a large population. In addition, this composite international system of relief and support proved indispensable in implementing Article 59 of the Fourth Geneva Convention and other applicable principles and rules under international humanitarian law for collective relief schemes to the civilian population in the Occupied Palestinian Territory.
83. Pursuant to the initial mandate set out by the General Assembly in 1949, UNRWA was established “to carry out (...) direct relief and works programmes” for Palestine refugees.<sup>66</sup> This was done against a backdrop of “conditions of starvation and distress” among the latter.<sup>67</sup> The General Assembly instructed the Secretary-General to transfer to UNRWA the assets and liabilities of the UNRPR,<sup>68</sup> and it called upon “the Governments concerned to accord to [UNRWA] the privileges, immunities, exemptions and facilities which have been granted to the [UNRPR], together with all other privileges, immunities, exemptions and facilities necessary for the fulfilment of its functions.”<sup>69</sup>

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<sup>65</sup> *Ibid.*

<sup>66</sup> United Nations General Assembly, A/RES/302 (IV), op. para. 7.

<sup>67</sup> *Ibid.* op. paras. 1 and 5.

<sup>68</sup> *Ibid.* op. para. 12.

<sup>69</sup> *Ibid.* op. para. 17.

84. Since its inception, UNRWA has functioned without serious interruptions, in spite of armed conflicts, periodically limited funding and significant, additional demands for assistance and protection of Palestine refugees. The Agency's mandate, practical institutional arrangements and specific operational characteristics play a pivotal role in facing the daunting scale of needs of assistance and protection. These have since the Agency's establishment required large-scale employment of local employees and comprehensive synergies with other United Nations agencies and beyond.
85. The Agency's mandate has evolved over more than seven decades, in light of a prolonged serious need of protection and assistance, further armed conflicts, and additional tasks related to acute societal needs related notably to large-scale primary healthcare and education. This has led to an added focus on "*socio-economic living conditions*".<sup>70</sup>
86. The mandate of UNRWA has been repeatedly renewed by the General Assembly, on the basis of annual reports by the Agency's Commissioner-General, as documented in the series of documents compiled by the United Nations pursuant to Article 65, paragraph 2, of the Statute in the context of the present Request.<sup>71</sup> The most recent renewal of mandate was decided in December 2022 by the General Assembly in resolution 77/123. It prolonged the mandate to 30 June 2026.<sup>72</sup>

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<sup>70</sup> United Nations General Assembly, A/RES/77/123, **Dossier No. N60**, preamb. para. 11.

<sup>71</sup> The Annual Reports of the UNRWA Commissioner-General since 15 September 1967 are included in **Dossier No. 999-1054** and **N31-N33**. Resolutions on UNRWA adopted by the General Assembly since 1967 are included in **Dossier No. 943-998** and **N30**.

<sup>72</sup> United Nations General Assembly, A/RES/77/123, **Dossier No. N60**, op. para. 6.

87. The mandates have thus regularly both been adopted and adapted to evolving needs in the relevant resolutions of the General Assembly. The latter has repeatedly affirmed the essential and vital role played by UNRWA, as illustrated by the acknowledgment in the latest renewal of the mandate:

*“Acknowledging 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, micro finance, protection and emergency assistance,”*<sup>73</sup>

88. At the same time, the General Assembly indicated the importance both of humanitarian and socioeconomic concerns, including urgent reconstruction efforts:

*“Expressing grave concern in particular at the grave humanitarian situation and socioeconomic conditions of the Palestine refugees in the Gaza Strip, and underlining the importance of emergency and humanitarian assistance and urgent reconstruction efforts,”*<sup>74</sup>

89. The General Assembly further affirmed:

*“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”*<sup>75</sup>

90. Norway recalls that the United Nations has “a permanent responsibility towards the question of Palestine until the question is resolved in all its aspects in a satisfactory manner

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<sup>73</sup> *Ibid.*, preamb. para. 6.

<sup>74</sup> *Ibid.*, preamb. para. 12.

<sup>75</sup> *Ibid.*, op. para.3.

*in accordance with international legitimacy*".<sup>76</sup> Accordingly, and as stated by the Court in the *Wall Advisory Opinion*:

*"The responsibility of the United Nations in this matter also has its origin in the Mandate and the Partition Resolution concerning Palestine. (...) 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."*<sup>77</sup>

91. This is reflected in the mandate of UNRWA, also when the General Assembly makes a reference to the process related to the Palestinian people's right to self-determination, including interim self-government:

*"Noting the signing of the Declaration of Principles on Interim Self-Government Arrangements on 13 September 1993 by the Government of Israel and the Palestine Liberation Organization and the subsequent implementation agreements"*<sup>78</sup>

92. On the basis of mandates given by the General Assembly, UNRWA has over decades provided essential societal services to registered Palestine refugees in the West Bank and Gaza, in addition to Jordan, Lebanon and Syria. Around 40% of UNRWA's budget is spent in Gaza. In addition to relief and social services in the region, the Agency has for example been providing basic health services in 143 primary health facilities and running around 718 schools in the region, in addition to vocational training centres.<sup>79</sup>
93. It follows from the above developments that the occupying Power therefore has a long-established and continuing obligation to respect the described international presence and

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<sup>76</sup> United Nations General Assembly, A/RES/57/107, 3 December 2002, **Dossier No. 417**, preamb. para. 4.

<sup>77</sup> *Wall Advisory Opinion*, p. 159 (para. 49).

<sup>78</sup> United Nations General Assembly, A/RES/77/123, **Dossier No. N60**, preamb. para. 13.

<sup>79</sup> For a more detailed and updated review, see UNRWA Annual Operational Report 2023, United Nations 2024, [unrwa.org/sites/default/files/content/resources/aor\\_2023-english-final.pdf](https://www.unrwa.org/sites/default/files/content/resources/aor_2023-english-final.pdf), accessed 26 February 2025.

activities (and obligations under other applicable principles and rules of international law, which will be further considered under the next headings).

94. After allegations had been made against UNRWA, the Secretary-General of the United Nations decided in consultation with the Agency's Commissioner-General, on 5 February 2024, to appoint an Independent Review Group. On 20 April 2024, the latter produced its final report on its review of mechanisms and procedures to ensure adherence by the Agency with the humanitarian principle of neutrality.<sup>80</sup> After consideration of this report, the General Assembly expressed on 5 December 2024 its full support for UNRWA's mandate.<sup>81</sup>
95. At the same time, the General Assembly deplored the legislation adopted by the Israeli Knesset on 28 October 2024. It called on the Israeli Government to abide by its international obligations, respect the privileges and immunities of the Agency and uphold 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.
96. In its advisory opinion on the Interpretation of the Agreement of 25 March 1951 between the WHO and Egypt, the Court considered "*the mutual obligations*" to cooperate of an international organization and of the host State for its Regional Office.<sup>82</sup> The situation considered by the Court in 1980 differed fundamentally from the situation in the Occupied Palestinian Territory, as Israel is not the host State with territorial sovereignty while it, moreover, is subject to a number of international legal obligations described in the *July 2024 Advisory Opinion*. A further analysis will be provided in the present Written Statement when considering Israel's obligations in relation to the United Nations and other third parties, as a consequence of the legal framework applicable to the Occupied Palestinian Territory.

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<sup>80</sup> Independent Review Group on the UN Relief and Works Agency for Palestine Refugees in the Near East (UNRWA), *Final Report for the United Nations Secretary-General-Independent Review of Mechanisms and Procedures to Ensure Adherence by UNRWA to the Humanitarian Principle of Neutrality*. The report is commonly referred to as the 'Colonna Report', **Dossier No. N297**.

<sup>81</sup> United Nations General Assembly, A/RES/ES-10/25, **Dossier No. N219**, op. para. 1.

<sup>82</sup> *Interpretation of the Agreement of 25 March 1951 between The WHO and Egypt*, Advisory Opinion, I.C.J. Reports 1980, p. 73 at p. 95-96 paras. 49 and 51.

97. Nevertheless, also in the concrete situation analyzed by the Court in Advisory opinion of 1980 here referred to, the Court identified particular obligations of cooperation. The applicable legal principles and rules placed (i) a duty upon both parties to “*consult together in good faith*”, (ii) in the event of a final decision on transfer of a Regional Office “*to consult together and to negotiate regarding the various arrangements needed to effect the transfer ... in an orderly manner and with a minimum of prejudice to the work of the Organization*” and the interests of the host State, and (iii) a duty upon the party which wishes to effect the transfer to give a “*reasonable period of notice ... taking due account of all the practical arrangements needed to effect an orderly and equitable transfer*” of the office to a new site. In this context, the Court paid particular attention to the fact that “*much care and cooperation*” were “*needed if the risk of serious disruption to the health work*” of the office were to be avoided.<sup>83</sup>
98. As the UNRWA Commissioner-General stated in the June 1967 exchange of letters, the latter’s facilities were considered “*essential if the Agency [were] to operate effectively*”. Israel’s duties of cooperation and of acting in good faith therefore require an extreme care, proportionate to the need to avoid disrupting essential life-saving assistance and support, basic large-scale provision of healthcare and education by UNRWA. The unilateral declaration by Israel of termination of the exchange of letters is thus incompatible with the duties of cooperation just described.
99. Moreover, Israel’s obligations with regard to the presence and activities of UNRWA, further analyzed in this Written Statement, do not draw their original strength or legal basis from this exchange of letters.
100. The practice of the United Nations has shown that the juridical status and privileges and immunities of subsidiary bodies of the United Nations follow, with respect to UN member States, from the Convention on the privileges and immunities of the United Nations, whether or not States have entered into a particular agreement stipulating that this Convention applies.

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<sup>83</sup> *Ibid.* p. 93-94 para. 44.

101. This is notably reflected in an updated summary of practice of the United Nations, the specialized agencies and the International Atomic Energy Agency, provided in 1985 by the Secretariat of the United Nations in response to a request by the International Law Commission.<sup>84</sup> As an illustration, the summary refers to a memorandum dated 24 March 1969 by the United Nations Office of Legal Affairs with regard to the United Nations Development Programme (UNDP):

*“Similarly, UNDP is entitled to the privileges and immunities of the United Nations by virtue of its status as a subsidiary body of the Organization, and this entitlement, therefore, subsists with respect to all Governments, whether or not they have entered into a basic agreement with UNDP stipulating that the Convention on the Privileges and Immunities of the United Nations shall apply to UNDP.”<sup>85</sup>*

102. Accordingly, the legal framework applicable to UNRWA, including its entitlement to privileges and immunities, has been reaffirmed by the Secretary-General in a series of letters to Israel in response to the action considered and then taken by the Israeli Knesset, included in the compilation of documents made available by the Secretariat. Particular reference may be made in this context to the note verbale dated 8 January 2025 from the Office of Legal Affairs of the Secretariat of the United Nations addressed to the Ministry of Foreign Affairs of Israel.<sup>86</sup>

##### 5. Conclusions

103. On this basis, Norway draws the following conclusions. For Israel to legislate or enact a repeal of UNRWA’s role, or set up obstacles to its effective operation, in the Occupied Palestinian Territory constitutes a violation of its obligations under international humanitarian law as an occupying Power. Under the law of occupation, Israel has, in the case in point, no legal basis to legislate or enact a repeal of the role of the United Nations in this regard or set up obstacles to its effective operation. It therefore has an obligation to

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<sup>84</sup> *Yearbook of the International Law Commission*, 1985, Volume II, Part I/Add.1, Documents of the thirty-seventh session -Addendum, Relations between States and International Organizations (Second Part of the Topic), “*The practice of the United Nations, the specialized agencies and the International Atomic Energy Agency concerning their status, privileges and immunities*”, Supplementary study prepared by the Secretariat, UN Doc. A/CN.4/L.383 and Add.1-3, p. 152.

<sup>85</sup> *Ibid.*

<sup>86</sup> Dossier No. N306.

abstain from taking such action. Furthermore, Israel has both duties of care and of result as regards facilitation, assistance and protection concerning the presence and activities of third parties acting in conformity with international law, as further described below.

## **B. The Palestinian people's right to self-determination**

104. The Request makes specific reference to international support to the Palestinian people's right to self-determination. As already indicated, a particular legal framework under international law applies to the Occupied Palestinian Territory as regards the exercise of this right.
105. The right to self-determination of peoples is today established as part of the corpus of customary international law. It is also reflected in numerous treaty texts. Article 1, paragraph 2, of the Charter sets out, as part of the purposes and principles of the United Nations, "*[t]o develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples*". Common Article 1 of the International Covenant on Civil and Political Rights<sup>87</sup> and the International Covenant on Economic, Social and Cultural Rights<sup>88</sup> provides that "*[a]ll peoples have the right of self-determination*". The provision further stipulate that this right to self-determination implies: (1) a right to "*freely determine their political status and freely pursue their economic, social and cultural development*"; (2) a right to "*freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law*"; (3) that a people under no circumstances may be "*deprived of its own means of subsistence*"; and (4) that States parties to the Covenants "*shall promote the realization of the right of self-determination, and shall respect that right, in conformity with the provisions of the Charter of the United Nations*".

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<sup>87</sup> United Nations, *Treaty Series*, vol. 999 p.171.

<sup>88</sup> United Nations, *Treaty Series*, vol. 993, p. 3.

106. In the *July 2024 Advisory Opinion*, the Court considered that Israel, as the occupying Power, has the obligation not to impede the Palestinian people from exercising its right to self-determination, including its right to an independent and sovereign State, over the entirety of the Occupied Palestinian Territory.<sup>89</sup> The preservation of the latter's territorial integrity is an essential element in the exercise and realization of the Palestinian people's right to self-determination.<sup>90</sup>
107. Secondly, the Court also found that, by virtue of the right to self-determination, a people is protected against acts aimed at dispersing the population and undermining its integrity as a people, including strict restrictions on movement and a variety of measures that risk altering the demographic composition of the territory. In the Court's view, identified policies and practices of Israel undermine the integrity of the Palestinian people in the Occupied Palestinian Territory, thereby significantly impeding the exercise of its right to self-determination.<sup>91</sup>
108. A third element of the right to self-determination is the right to exercise permanent sovereignty over natural resources. The Court found that Israel has been exploiting the natural resources in the Occupied Palestinian Territory for its own benefit and for the benefit of settlements, in breach of its obligation to respect the Palestinian people's permanent sovereignty over natural resources. In depriving the Palestinian people of its enjoyment of the natural resources in the Occupied Palestinian Territory for decades, the Court found that Israel has impeded the exercise of the Palestinian people's right to self-determination.<sup>92</sup>
109. Fourth, 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. This right is reflected in resolutions 1514 (XV) and 2625 (XXV),<sup>93</sup> and it is, as stated above, enshrined in common Article 1 to the Covenants. The Court discussed the impact of Israel's policies and practices on selected aspects of the economic, social and cultural life of

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<sup>89</sup> *July 2024 Advisory Opinion*, pp. 65-68 (paras. 230-243, in particular paras. 237-238).

<sup>90</sup> *Ibid.* Para. 238.

<sup>91</sup> *Ibid.* Para. 239.

<sup>92</sup> *Ibid.* para. 240.

<sup>93</sup> United Nations General Assembly, A/RES/1514 (XV) and A/RES/2625 (XXV).

Palestinians, in particular by virtue of the impairment of their human rights. It stated, *inter alia*, that “[t]he dependence of the West Bank, East Jerusalem, and especially of the Gaza Strip, on Israel for the provision of basic goods and services impair the enjoyment of fundamental human rights, in particular the right to self-determination (“Economic and social repercussions of the Israeli occupation on the living conditions of the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem, and of the Arab population in the occupied Syrian Golan”, UN doc. A/78/127-E/2023/95 (30 June 2023))”.<sup>94</sup>

110. All four key elements identified by the Court are relevant to the consideration of Israel’s obligations in relation to the presence and activities of the United Nations, other international organizations and third States in the Occupied Palestinian Territory.
111. It follows that Israel has no legal basis for impeding the establishment and conduct of foreign relations successively by the Palestine Liberation Organization as the recognized representative of the Palestinian people,<sup>95</sup> the representative authorities of the Palestinian Authority or of the State of Palestine. Such foreign relations may include communication with and representation to international organizations or third States, as well as conclusion of agreements and other forms of regular international relations.
112. As observed by the Court in the *July 2024 Advisory Opinion*, the right to self-determination here includes the right of the Palestinian people to an independent and sovereign State over the entirety of the Occupied Palestinian Territory. Accordingly, the Palestinian people have a right to establish and conduct foreign relations with international actors, including the United Nations, other international organizations and third States.

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<sup>94</sup> *July 2024 Advisory Opinion*, p. 67 (para. 241).

<sup>95</sup> See “Declaration of Principles on Interim Self-Government Arrangements”, signed at Washington DC, on 13 September 1993, annexed to UN doc. A/48/486 and S/26560; and Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip”, signed at Washington DC, on 28 September 1995, annexed to UN doc. A/51/889 and S/1997/357. See *July 2024 Advisory Opinion* p. 32 (para. 102).

113. The conduct of foreign relations constitutes a key element to promote peace and security and promote the welfare of the people concerned, let alone a successful institution and State building process and integration into the international community. It is noteworthy, also in this regard, that the attributes normally attached to statehood in international law are generally perceived to include not only a population, a territory and a government, but also the capacity to enter into relations with the international community on an independent basis.
114. Where international relations are established, or sought to be established, in accordance with the free will of the recognised representatives of the Palestinian people, intentional impairment of such relations would, in the view of Norway, constitute a policy and practice that obstruct the right of the Palestinian people freely to determine its political status and to pursue its economic, social and cultural development. The same applies to intentional impairment of the possibility for diplomatic representatives to be present in the Occupied Palestinian Territory for the purpose of establishing and maintaining such relations.
115. Furthermore, it is noted in this regard that 146 of the 193 member States of the United Nations have recognized the State of Palestine as an independent State and subject of international law. What is said here concerning the conduct of foreign relations is, however, valid regardless of whether recognition of statehood or formal diplomatic relations have been established. The right to communicate and carry out foreign relations should be considered to form an integral part of the right of the Palestinian people freely to determine its political status and to pursue its economic, social and cultural development.
116. There is ample evidence of agreements having been concluded in this regard also with international organizations. As regards the United Nations, reference by way of illustration is here made notably to the Exchange of Letters concluded in 1994 between UNRWA and the Chairman of the Palestine Liberation Organization for the purpose of facilitating UNRWA to continue to provide assistance to the Palestinian population in the Gaza Strip and the Jericho Area and in the remainder of the West Bank.<sup>96</sup> Moreover, reference is made

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<sup>96</sup> Exchange of Letters between the Commissioner-General of the United Nations Relief and Works Agency in the Near East (UNRWA) and the Chairman of the Palestine Liberation Organization for the purpose of facilitating UNRWA to continue to provide assistance to the Palestinian population in the Gaza Strip and the Jericho Area and in the remainder of the West Bank, 24 June 1994, Dossier No. N286.

to the Agreement of 1996 between UNRWA and the Palestinian Authority regarding the Location of UNRWA Headquarters in the West Bank and Gaza Strip Area.<sup>97</sup> The latter instrument refers to the Agency being “a subsidiary organ of the United Nations whose status, privileges and immunities are governed by the Charter of the United Nations and the Convention on the Privileges and Immunities of the United Nations, adopted by the General Assembly on 13 February 1946”,<sup>98</sup> and sets out detailed provisions notably about the status of UNRWA headquarters and applicable privileges and immunities for staff, property and assets, including also detailed rules pertaining to communication and travel.

117. Similarly, reference is made to successive memoranda of understanding and other instruments concluded by respectively the Food and Agriculture Organization of the United Nations (FAO), the International Labour Organization (ILO) and United Nations Educational, Scientific and Cultural Organization (UNESCO) with the Palestinian Authority or, prior to the latter’s establishment, with the Palestine Liberation Organization.<sup>99</sup>
118. As also exemplified by the above instruments of cooperation, the particularly acute relevance of development assistance, and not merely of humanitarian relief, should be noted in the particular context of the Occupied Palestinian Territory. Closely related to the right to self-determination is the right to receive support from the international community to exercise this right, as set out by the competent organs of the United Nations.
119. A case in point is the contribution made in this regard by other international organizations than the United Nations and its specialized agencies. A notable example here is development assistance provided by the World Bank, whose contributions illustrate the importance of coordination with the United Nations and the *de facto* dependence on facilitation by Israel as an occupying Power of a number of operations essential to humanitarian, economic, social and political development. At the same time, repercussions of Israeli-imposed restrictions and other practices frustrate the latter development.

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<sup>97</sup> Agreement between the United Nations Relief and Works Agency for Palestine Refugees in the Near East and the Palestinian Authority regarding the Location of UNRWA Headquarters in the West Bank and Gaza Strip Area, 5 July 1996, **Dossier No. N287**.

<sup>98</sup> *Ibid.*, preambular para. 3.

<sup>99</sup> See references and texts included in **Dossier No. N288-N293**.

120. The development assistance of the World Bank in the Occupied Palestinian Territory is based on close collaboration with and implementation through UN agencies. As regards Gaza, the most recent priority is given to the humanitarian emergency in Gaza:

*“Against the backdrop of the humanitarian emergency in Gaza and in line with our mission, the World Bank is working in close collaboration with development partners to support urgent relief efforts for the affected people of Gaza. In the immediate term, we are mobilizing resources through project restructurings and World Bank managed trust funds that deliver help to the poorest and most vulnerable people. The funds mobilized are being used to provide lifesaving interventions, including emergency medical supplies, food and water. These activities are being implemented through UN Agencies, including UNICEF, WHO and WFP, based upon their ability to operate on the ground during an active conflict.”<sup>100</sup>*

The latter Agencies have on their side underlined their reliance on UNRWA as a backbone of their own local activities.<sup>101</sup>

121. Already prior to the attack by Hamas against Israel on 7 October 2023, and before the COVID-19 outbreak in 2020, the World Bank had described the socio-economic situation in the Occupied Palestinian Territory as difficult. Difficulties were exacerbated by Israeli restrictions on trade, movement and access.<sup>102</sup>

*“The Palestinian economy was stagnant and the socio-economic situation already difficult prior to the breakout of COVID-19. This is attributed to*

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<sup>100</sup> The World Bank In West Bank and Gaza, <https://www.worldbank.org/en/country/westbankandgaza>, accessed 25 February 2025.

<sup>101</sup> UNICEF statement on Israeli legislation on UNRWA, <https://www.unicef.org/press-releases/unicef-statement-israeli-legislation-unrwa>, accessed 26 February 2025, WHO Director-General's remarks at Meeting of the United Nations Security Council on the situation of the health system in Gaza – 6 November 2024, <https://www.who.int/director-general/speeches/detail/who-director-general-s-remarks-at-meeting-of-the-united-nations-security-council-on-the-situation-of-the-health-system-in-gaza--6-november-2024>, accessed 26 February 2025.

<sup>102</sup> Palestinian Territories' Economic Update — April 2022, <https://www.worldbank.org/en/country/westbankandgaza/publication/economic-update-april-2022>, accessed 25 February 2025.

*restrictions by Israel (on trade, movement and access), recurrent hostilities, internal divide, and falling aid in flows.”*

122. According to the World Bank, the situation has worsened dramatically.<sup>103</sup> In this situation the role of synergies between the World Bank and other development partners, including Governments of third States is highlighted.<sup>104</sup>

*“The World Bank is collaborating with development partners to maintain or increase donor funding for greater impact, through close coordination across sectors and by enabling donors to channel their resources through secure trust funds.”*

123. Resilience support for the local economy requires such multi-stakeholder action. Examples include resilience support related to the pandemic and to development of digital foundations of the Palestinian economy.<sup>105</sup> Yet another is financial and technical support of Palestinian infrastructure, focusing on energy, water, and urban development, as well as

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<sup>103</sup> The World Bank In West Bank and Gaza, Context, last updated 11 May 2023, <https://www.worldbank.org/en/country/westbankandgaza/overview>, accessed 25 February 2025. Impacts of the Conflict in the Middle East on the Palestinian Economy, World Bank Economic Monitoring Report, May 2024, [Palestinian-Econ-Upd-May2024-FINAL-ENGLISH-Only.pdf](#), accessed 25 February 2025. West Bank and Gaza - Country Assistance Strategy for the Period FY22-25, World Bank Group <https://documents1.worldbank.org/curated/en/627701619710823261/pdf/West-Bank-and-Gaza-Country-Assistance-Strategy-for-the-Period-FY22-25.pdf>, accessed 25 February 2025.

<sup>104</sup> The World Bank In West Bank and Gaza, Overview, Partners, <https://www.worldbank.org/en/country/westbankandgaza/overview#4>, accessed 25 February 2025.

<sup>105</sup> The Palestinian Umbrella for Resilience Support to the Economy Multi-Donor Trust Fund, or PURSE MDTF, was launched in June 2021 and provides donors a consolidated channel to fund a broad scope of activities aligned with the current Assistance Strategy and the PA's National Development Plan 2021-2023. Since its inception, PURSE has received contributions from Norway, France, Switzerland, and the European Commission. The PURSE MDTF has co-financed four recipient-executed operations and supported eight Bank-executed advisory services and analytics (ASA), resulting in several positive outcomes. One such outcome was [BB1] the successful emergency cash transfer to over 40,000 households affected by the pandemic through the PURSE-financed social protection project. Additionally, the eleventh development policy grant, which was leveraged by PURSE, facilitated the passing of updated legislation and the issuance of over 400,000 e-wallets, thereby supporting the digital foundations of the Palestinian economy, see [https://www.worldbank.org/en/programs/purse\\_multi\\_donor\\_trust\\_fund](https://www.worldbank.org/en/programs/purse_multi_donor_trust_fund), accessed 25 February 2025.

solid waste management.<sup>106</sup> Further examples include support to public financial management and procurement.<sup>107</sup>

124. The above consideration of the Palestinian people's right to self-determination entails obligations for Israel in the Occupied Palestinian Territory both in its capacity as an occupying Power and as a member State of the United Nations, to permit, facilitate and protect development assistance by said third parties and foreign relations by representatives of the Palestinian people with the international organizations and third States. In a sense, it could be advanced that the concrete obligations of Israel following from the said right of self-determination dovetail into Israel's obligations as occupying Power under international humanitarian law. Furthermore, this is supported by further obligations that will be described in the following.

### C. Other Human Rights and related Obligations

125. As reaffirmed by the Court in the *July 2024 Advisory Opinion*, the right to self-determination is a fundamental human right.<sup>108</sup> Moreover, Israel has other obligations under applicable human rights instruments and international refugee law in relation to the presence and activities of the United Nations, its specialized agencies, other competent international organizations, and of third States in the Occupied Palestinian Territory.

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<sup>106</sup> Palestinian Partnership for Infrastructure Trust Fund provides financial and technical support for the coverage, quality, and sustainability of Palestinian infrastructure, focusing on energy, water, and urban development. In the last three years, six development partners, including France, Italy, the Netherlands, Norway, Sweden, and the United Kingdom, have contributed \$111 million to PID MDTF. Additionally, Australia, Denmark, Finland, and Portugal are current members of the PID MDTF who have made contributions in the past. Since the PID's launch in 2012, the total pledged amount from ten development partners amounts to \$296 million. The PID MDTF has co-financed seventeen investment operations and supported twelve Bank-executed ASAs, leading to positive outcomes. Notably, the Gaza Solid Waste Management project co-financed by PID has significantly improved solid waste management services in Gaza, with approximately 96 percent of waste generated in the project area now being disposed of at the sanitary landfill constructed under the project. The project's success has benefited an estimated population of 948,000 people, see <https://www.worldbank.org/en/programs/palestinian-partnership-for-infrastructure-trust-fund>, accessed 25 February 2025.

<sup>107</sup> The Public Financial Management Improvement MDTF (PFMI MDTF) supported interventions and analytical work in public financial management and procurement. With a total contribution of \$4.2 million from Denmark and the EU, the PFMI MDTF has enhanced the expenditure controls, financial accountability and procurement management of the Palestinian Authority and selected municipalities, see

<https://www.worldbank.org/en/country/westbanker-gaza/overview#4>, accessed 25 February 2025.

<sup>108</sup> *July 2024 Advisory Opinion*, p. 65-66 (para. 233).

126. As observed by the Court in the *Wall Advisory Opinion*, there is no situation of formal hierarchy to imply that the protection offered by human rights conventions cease because of the applicability of international humanitarian law:

*“More generally, the Court considers that the protection offered by human rights conventions does not cease in case of armed conflict, save through the effect of provisions for derogation of the kind to be found in Article 4 of the International Covenant on Civil and Political Rights. As regards the relationship between international humanitarian law and human rights law, there are thus three possible situations: some rights may be exclusively matters of international humanitarian law; others may be exclusively matters of human rights law; yet others may be matters of both these branches of international law. In order to answer the question put to it, the Court will have to take into consideration both these branches of international law, namely human rights law and, as *lex specialis*, international humanitarian law.”*<sup>109</sup>

127. The United Nations’ presence and activities are a contribution to the protection of fundamental values, principles and rules pertaining to human dignity, rights to life and healthcare. It should be noted, for instance, that UNRWA has explicitly been encouraged by the General Assembly to continue to make progress, in close cooperation with other relevant United Nations entities, in addressing the needs, rights and protection of children, women and persons with disabilities in its operations.<sup>110</sup> In so doing, the General Assembly specifically referred to the Convention on the Rights of the Child,<sup>111</sup> the Convention on the Elimination of All Forms of Discrimination against Women<sup>112</sup> and the Convention on the Rights of Persons with Disabilities.<sup>113</sup>

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<sup>109</sup> *Wall Advisory Opinion*, p. 178 (para. 106).

<sup>110</sup> United Nations General Assembly, A/RES/78/73, 11 December 2023, **Dossier NO. N30**, op. para. 34.

<sup>111</sup> United Nations, *Treaty Series*, vol. 1577, No. 27531.

<sup>112</sup> *Ibid.*, vol. 1249, No. 20378.

<sup>113</sup> *Ibid.* Vol. 2515, No. 44910.

128. Instruments of international criminal law also give rise to obligations of prevention of certain international crimes, in order notably to uphold fundamental principles and rules of human rights and international humanitarian law.

129. Notably, the Convention on the Prevention and Punishment of the Crime of Genocide has relevant obligations to prevent genocide.<sup>114</sup> In view of the worsening conditions of life faced by Palestinians in Gaza, in particular the spread of famine and starvation, the Court has already, in the context of a contentious case, identified a particular obligation for Israel to:

*“take all necessary and effective measures to ensure, without delay, in full-cooperation with the United Nations, the unhindered provision at scale of all concerned of urgently needed basic services and humanitarian assistance, including food, water, electricity, fuel, shelter, clothing, hygiene and sanitary 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”*<sup>115</sup>

This has a concrete bearing on the obligations of Israel with regard to the presence and activities of the United Nations and other third parties’ relief and assistance.

130. As regards the concrete operationalization of humanitarian assistance from third parties, resolution 46/182 and subsequent resolutions of the General Assembly have generally confirmed the key role of the United Nations in this regard, also highlighting the importance of synergies between various actors engaged in operational organizations to access people in crisis-affected areas and provide them with emergency assistance.<sup>116</sup>

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<sup>114</sup> *Ibid.*, vol. 78 p. 277.

<sup>115</sup> *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip, (South Africa v. Israel), Order, International Court of Justice, 28 March 2024*, para 51 (2) (a) at p. 13.

<sup>116</sup> United Nations General Assembly, A/RES/46/182 and subsequent resolutions under agenda item “Strengthening of the coordination of emergency humanitarian assistance of the United Nations”.

131. The genesis and still critical large-scale provision by the United Nations and other third parties of coordinated assistance to the population in the Occupied Palestinian Territory is directly related to the assistance and protection of Palestine refugees, and therefore to UNRWA. The particular importance of such assistance and protection also under international refugee law merits therefore to be strongly underlined, together with its overall societal impact in the Occupied Palestinian Territory. Israel has obligations of cooperation with UNRWA.
132. The General Assembly's decision to establish the Agency in 1949 built on and reflected momentous developments in the evolution of international rules for the protection of refugees and in the creation of related international institutions.
133. The first internationally organized common action taken by States to assist refugees in situations of large-scale displacement may be found in the decisions taken by the Council of the League of Nations in 1921 in response to the plight of Russian refugees.<sup>117</sup> They included the appointment the same year of a High Commissioner for Refugees, an office that was discontinued in 1930.<sup>118</sup> Innovative practical arrangements were devised, including the issuance of certificates of identity and travel documents.<sup>119</sup> In 1933, an international refugee convention was adopted in Geneva, in parallel with other important international legal developments, which were cut short by the Second World War.<sup>120</sup>

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<sup>117</sup> Atle Grahl-Madsen, *The Status of Refugees in International Law* (A.W. Sijthof 1966, 1984) Vol. I, p. 12-13.

<sup>118</sup> The Norwegian explorer, scientist and statesman Fridtjof Nansen was to serve as the first High Commissioner from 1921 until his death in 1930, when that position was discontinued.

<sup>119</sup> This included the so-called "Nansen passport" for stateless persons, which in many cases proved lifesaving. See, for example, *An Arrangement with regard to the Issue of Certificates of Identity to Russian Refugees*, (League of Nations, Treaty Series, vol. 13 p. 237 5 July 1922). The arrangement was eventually acceded to by 53 States and led to the "Nansen Passport" coming into being.

<sup>120</sup> Convention relating to the International Status of Refugees, Geneva, 28 October 1933 (League of Nations Treaty Series vol.159 p- 199).

134. In the wake of Hitler becoming Chancellor of Germany, additional legal instruments were adopted to assist persons fleeing from persecution.<sup>121</sup> During the Second World War, in 1943, the Allied Powers agreed to establish a United Nations Relief and Rehabilitation Administration (UNRRA) to protect millions of displaced persons in the liberated and Allied-occupied territories during and immediately after the war.<sup>122</sup>
135. The General Assembly of the United Nations decided on 3 December 1949 to establish a United Nations Office of High Commissioner for Refugees (UNHCR), and it adopted on 14 December 1950 a Statute of this Office.<sup>123</sup> On 28 July 1951, the Convention relating to the Status of Refugees («the Refugee Convention») was adopted.<sup>124</sup> However, the Convention recognizes the system of protection and assistance already established by UNRWA in its article 1 D, by providing that the Convention does not apply to persons that receive the protection and assistance from organs or entities of the United Nations other than the UNHCR.<sup>125</sup>
136. Over seven decades of UNRWA operations have amply demonstrated the magnitude of the demands and needs in terms of human resources, administrative and logistical support to establish and run relief and other support activities.<sup>126</sup> The indispensability of such a large-scale apparatus as UNRWA has also been illustrated by various UN agencies and others' reliance on UNRWA and on the importance of coordination, synergies and

<sup>121</sup> Guy S. Goodwin-Gill & Jane McAdam, *The Refugee in International Law* (4th ed. Oxford University Press 2021) pp.16-19 and 481-487.

<sup>122</sup> Late judge Thomas Buergenthal, who served on the International Court of Justice 2000-2010, was one of the youngest holocaust victims to survive the concentration camps of Auschwitz and Sachsenhausen. His own account of survival and received assistance is gripping and bears a strong testimony to the fundamental importance of human rights and refugee law. Thomas Buergenthal, *A lucky child: A Memoir of Surviving Auschwitz as a Young Boy* (Little, Brown & Co., New York 2009). Reviewed by Lori F. Damrosch, 'Book Reviews: A Lucky Child: A Memoir of Surviving Auschwitz as a Young Boy: By Thomas Buergenthal' (2010) 104 (2) *American Journal of International Law* 307. Available at [https://scholarship.law.columbia.edu/faculty\\_scholarship/4099](https://scholarship.law.columbia.edu/faculty_scholarship/4099), accessed 25 February 2025.

As a ten-year-old, he received food rations from Fridtjof Nansen's own son, Odd Nansen, who had himself been arrested in 1942 and taken to Sachsenhausen. Odd Nansen, *From Day to Day, One Man's Diary of Survival in Nazi Concentration Camps*, (Norwegian edition 1947, first English edition 1949), new edition edited by Timothy J. Boyce with preface by Thomas Buergenthal, (Vanderbilt University Press 2016).

<sup>123</sup> United Nations General Assembly, A/RES/319/(IV) and A/RES/428 (V) respectively.

<sup>124</sup> Convention relating to the Status of Refugees, 28 July 1951 (United Nations, *Treaty Series*, vol. 189 p. 137).

<sup>125</sup> See the analysis of the relationship between UNRWA and the 1951 Refugee Convention in Guy S. Goodwin-Gill & Jane McAdam, *The Refugee in International Law* (4th ed. Oxford University Press 2021) 180-192.

<sup>126</sup> Reference is made to reports to the General Assembly regarding assessment of needs and the response of UNRWA, including the annual reports of UNRWA's Commissioner-General to the United Nations General Assembly in Dossier Sub-Section II (A) (9) b NO. 999 – 1054 and N31 – N32.

interdependence. All of these are, however, largely dependent on facilitation and protection by the occupying Power.

137. The above obligations must also be considered within the framework of the obligations of a member State of the United Nations under the Charter.

#### **D. Obligations of Israel as a Member State of the United Nations under the Charter**

##### *1. The admission of Israel as a member State and assurances of cooperation given*

138. The Declaration of Independence of the State of Israel of 14 May 1948 is the key constitutive document for the establishment of the State of Israel. It is based on “*the strength of*” resolution 181 (II) of 1947 of the United Nations General Assembly, concerning “*the Plan of Partition with Economic Union*”.<sup>127</sup>
139. It is rare to find similar constitutional documents that are explicitly based on a specific United Nations resolution, as was done here. Significant to the present Request, the Declaration of Independence added that the State of Israel was “*prepared to cooperate with the agencies and representatives of the United Nations in implementing the resolution*”.<sup>128</sup>
140. Furthermore, the resolution was considered in the Declaration to constitute an “*irrevocable*” recognition by the United Nations of the right to establish a State. This ought to imply that the same applies to the Palestinian side.
141. An international legal framework has since been built under the auspices of the United Nations with a view to achieving a two-State solution. And a point of departure here are “*the commitments*” made at the time the State of Israel was established – and their subsequent legal relevance.

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<sup>127</sup> Declaration of Independence, Provisional Government of Israel, Official Gazette: Number 1; Tel Aviv, 5 Iyar 5708 (14 May 1948), p. 1, English translation available <https://main.knesset.gov.il/en/about/pages/declaration.aspx>, accessed 25 February 2025.

<sup>128</sup> *Ibid.*

142. On 15 May 1948, the Foreign Minister of the Provisional Government of Israel, Mr Moshe Sharett,<sup>129</sup> transmitted the contents of the Declaration of Independence to the Secretary-General of the United Nations, Mr Trygve Lie.<sup>130</sup>
143. On the day independence was declared, Arab neighbouring States attacked Israel. On 16 November that year, the Security Council demanded in resolution 62 the establishment of an armistice “*in all sectors of Palestine*”. The armistice demarcation lines later established, and since referred to as “*the Green Line*”, were without prejudice to future territorial settlements or boundary lines.
144. On 29 November that same year, Foreign Minister Sharett sent a formal application for membership to the United Nations to the Secretary-General. The letter stated that independence had been proclaimed “*in pursuance of*” resolution 181 of the General Assembly. It added that Israel “*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*”.<sup>131</sup>
145. The subsequent decision-making process concerning United Nations membership in accordance with Article 4 of the Charter is significant.
146. Pursuant to Article 22 of the Covenant for the League of Nations and the adoption of a class A mandate, Palestine had been provisionally recognized in 1922 as “*an independent nation*”, subject to the rendering of administrative advice and assistance by a mandate until such time as it was able to stand alone. By virtue of Article 80 of the Charter, rights of self-determination were not altered in 1945, they were continued. The announced notice of termination of the Palestine mandate by the United Kingdom in 1947 provided the background for the adoption of resolution 181 already referred to.

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<sup>129</sup> At the time known as and referred to as Foreign Secretary Moshe Shertok.

<sup>130</sup> Cablegram dated 15 May 1948 addressed to the Secretary-General by Foreign Secretary of the Provisional Government of Israel, United Nations Security Council, UN Doc. S/747.

<sup>131</sup> Letter dated 29 November 1948 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, United Nations Security Council, UN Doc. S/1093.

147. Norway voted in favour of that resolution. The two-State solution formed the context of the vote on admission of Israel to United Nations membership. On 4 March 1949, as a Member of the Security Council, Norway voted in favour of such admission, stating, in its explanation of vote, that it was “*confident that Israel will cooperate fully and loyally with all decisions by organs of the United Nations*”. Subsequently, on 11 May that same year, Norway also voted in favour of resolution 273 on admission to the General Assembly.
148. This decisive resolution referred to resolution 181 of 1947, but also to “the declarations and explanations made by the representatives of the Government of Israel before the Ad Hoc Political Committee in respect to the implementation of the said resolutions”.<sup>132</sup>
149. Indeed, from 5 to 9 May 1949, Israel’s representative in that Committee, Mr Abba Eban, had fielded questions from Member States.<sup>133</sup> His assurances became an integral part of assessments made by the relevant United Nations organs as regards membership.
150. For instance, on 5 May 1949, Mr Eban recalled that resolution 181 recommended that “*when either State envisaged by that Resolution had made its independence effective*”, sympathetic consideration should be given to membership to the United Nations.<sup>134</sup> He added that “[*t*]he time had come for the United Nations, if it wished Israel to bear the heavy burden of Charter obligations, to confer upon Israel the protection and status of the Charter”.<sup>135</sup>
151. After the decisive vote in the General Assembly, Foreign Minister Sharett stated that the aftermath of the war had “*changed some elements*” in the pattern envisaged in the 1947 resolution, and that “*modifications*” were therefore called for. However, these do not vacate the continued relevance of the framework.<sup>136</sup> The Foreign Minister noted that “*Israel’s organic connection with the United Nations had combined with its own compelling interest*

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<sup>132</sup> United Nations General Assembly, A/RES/273 (III), 11 May 1949, preamble.

<sup>133</sup> United Nations General Assembly, A/AC.24/SR., 45-48, 50 and 51.

<sup>134</sup> United Nations General Assembly, Ad hoc Political Committee, Item 54, Application of Israel for admission to membership in the United Nations (A/818) (continued), Forty-fifth meeting, 5 May 1949, A/AC.24/SR.45, p. 227.

<sup>135</sup> *Ibid.*, p. 247.

<sup>136</sup> United Nations General Assembly, Two hundred and seventh plenary meeting, held at Flushing Meadow, New York, on Wednesday, 11 May 1949: [3rd session], UN Doc. A/PV.207 p. 332.

*in dictating its course of action in international affairs – a course of undivided loyalty to the Charter of the United Nations and of consecration of the cause of peace”.*

152. Such assurances were instrumental in securing a majority of votes in the relevant organs of the United Nations. Assurances given by a foreign minister may under certain circumstances give rise to legal consequences as unilateral acts.<sup>137</sup>
153. After exercise of the right of self-determination had led to the establishment of the States of Jordan and Israel, the legal framework, just described, continues to be applicable today.
154. For the sake of good order, it should be noted that nothing in the later peace process, including instruments often collectively referred to as the “*Oslo Accords*“, impairs this assessment. These instruments are based on an explicit recognition of the “legitimate rights of the Palestinian people and their just requirements”<sup>138</sup>.
155. It is the view of Norway that a permanent settlement based on Security Council resolutions 242 and 338 must build on a confirmation of the role of international law and of the international legal framework that we have attempted to briefly describe here.
156. Norway’s observations do not imply any lack of legitimacy of the establishment or of the rights of the State of Israel. On the contrary, they build on it. However, they also recall the clear obligations, of a legal and not merely of a political nature, incumbent on Israel. These rights and obligations correlate. They require fully contributing to the realization of a viable State of Palestine. The permanent and irreversible nature of measures described under the prolonged occupation, with illegal settlements and conduct in relation to the Gaza Strip, run counter to the Charter, and also to the very commitments made by Israel.

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<sup>137</sup> *Legal Status of Eastern Greenland, Judgment, 1933, P.C.I.J., Series A/B, No. 53, p. 71; Nuclear Tests (Australia v. France), Judgment, I.C.J. Reports 1974, p. 253, pp. 267-268 (paras. 43-46); International Law Commission, “Guiding Principles Applicable to Unilateral Declarations of States Capable of Creating Legal Obligations”, Yearbook of the International Law Commission, 2006, Vol. II (Part Two).*

<sup>138</sup> Art. III (3) (cf. Preamble) of “Declaration of Principles on Interim Self-Government Arrangements”, signed at Washington DC, on 13 September 1993, annexed to UN doc. A/48/486 and S/26560, p. 5. See further “Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip”, signed at Washington DC, on 28 September 1995, annexed to UN doc. A/51/889 and S/1997/357.

2. *Obligations of Member States to assist the Organization in action taken by it in accordance with the Charter*

157. Pursuant to Article 25 of the Charter, member States “agree to accept and carry out the decisions of the Security Council in accordance with the present Charter.” This has clear implications as to the limits of extension of Israeli laws, and confirms duties of abstention from certain action, including legislation, that would impede the presence and activities as discussed.
158. Norway takes the view that such obligations follow for example from Security Council resolution 465 of 1980, which determined that:

*“all measures taken by Israel to change the physical character, demographic composition, institutional structure or status of the Palestinian and other Arab territories occupied since 1967, including Jerusalem, or any part thereof have no legal validity”*<sup>139</sup>

159. The same applies notably to Security Council resolution 478 of 1980, which determined that:

*“all legislative and administrative measures and actions taken by Israel, the occupying Power, which have altered or purport to alter the character and status of the Holy City of Jerusalem, and in particular the recent “basic law” on Jerusalem, are null and void and must be rescinded forthwith”*<sup>140</sup>

160. More generally, Article 2 (5) of the Charter states that:

*“The Organization and its Members, in pursuit of the Purposes stated in Article 1, shall act in accordance with the following Principles: (...) 5. All Members shall give the United Nations every assistance in any action it takes in accordance with the present Charter, and shall refrain from giving assistance to any state against which the United Nations is taking preventive or enforcement action.”*

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<sup>139</sup> United Nations Security Council, S/RES/465(1980), op. para. 5.

<sup>140</sup> United Nations Security Council, S/RES/478(1980), op. para. 3.

161. This provision is contained in Chapter I (*Purposes and Principles*) of the Charter. It therefore applies in principle to the whole Organization and its members, and not solely to certain activities mandated by the Security Council in accordance with Chapters VI or VII.
162. One of the very first times the principles contained in Article 2 (5) of the Charter were invoked concerned indeed the “*Palestine Question*”, thus demonstrating duties of assistance by Member States in the wake of action taken by the General Assembly and the Security Council of the United Nations.<sup>141</sup> In the wake of the partition resolution 181 of 1947 and the outbreak of hostilities, the Security Council thus adopted a series of resolutions appealing notably to “*all Governments and peoples, particularly in and around Palestine*” to take “*all possible action*” to prevent or reduce disorders or hostilities occurring in Palestine,<sup>142</sup> and “*facilitate by all means in their power the task of the United Nations mediator appointed pursuant to General Assembly resolution 186 (S-2)*”.<sup>143</sup> In resolution 50 of 29 May 1948, it called upon “*all concerned to give the greatest possible assistance to the United Nations mediator*” and to “*take all possible steps to assist in the implementation of*” the said resolution.<sup>144</sup> It is the considered view of Norway that this reflects the early particular activation of duties of assistance by the members of the United Nations to resolve the “*Palestine question*”.
163. Moreover, notably action taken by the Security Council as those taken in the above-mentioned resolutions 465 and 478 fall within the meaning of the term “*action*” in Article 2 (5). Any other interpretation would render this provision meaningless. It would limit the scope of obligations pursuant to the Charter to those contained in Article 25 and make Article 2 (5) redundant. Norway takes, therefore, in this concrete context the view that Israel has obligations not only to abstain from taking such measures as referred to in resolutions 465 and 478, but also to give the United Nations every assistance pursuant to the principle referred to in Article 2 (5) to relevant action taken by it in this context.

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<sup>141</sup> Ahmed Mahiou, ‘L’article 2 (5)’ in Jean-Pierre Cot, Mathias Forteau & Alain Pellet (eds), *La Charte des Nations Unies, Commentaire article par article* (3rd edn. Paris : Economica 2005) Vol. I, p. 475-482.

<sup>142</sup> United Nations Security Council S/RES/42(1948), see moreover resolutions S/RES/43, 44, 46, 48, 49, 50, 53, 54, 56, 57, 59, 60, 62 and 66 the same year of 1948. Resolutions on the “Palestine question” represented more than half the total number of resolutions adopted by the Security Council in the course of that year.

<sup>143</sup> United Nations Security Council, S/RES/49(1948), op. para. 4.

<sup>144</sup> United Nations Security Council S/RES/50(1948), op. para. 8 and 12.

164. The Chapeau of Article 2 of the Charter refers to a qualifier, namely the “*pursuit of the Purposes stated in Article 1*” of the Charter. It is worth recalling that among such purposes are:

*“To develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take appropriate measures to strengthen universal peace”<sup>145</sup>*

and

*“To achieve 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 fundamental freedoms for all without distinction as to race, sex, language, or religion”<sup>146</sup>*

Norway submits that the described presence and activities in the Occupied Palestinian Territory of the United Nations are clearly within the scope of these key purposes of the United Nations.

165. Furthermore, it may be noted that the limitations described in Article 2 (7) of the Charter concerning intervention by the United Nations in matters which are essentially within the domestic jurisdiction of any State cannot be invoked by Israel with regard to the presence and activities of the United Nations in the Occupied Palestinian Territory. This point should not need any further substantiation, as it suffices here to refer to a number of findings made by the Court in the *July 2024 Advisory Opinion*. There is no need to consider whether obligations of assistance pursuant to Article 2 (5) of the Charter must be read in conjunction with or tempered by its Article 2 (6).<sup>147</sup>

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<sup>145</sup> Article 1 (2) of the Charter.

<sup>146</sup> Article 1 (3) of the Charter.

<sup>147</sup> It may be added that, similarly, rules of the Charter pertaining to non-self-governing territories are not applicable here, in light of the separate treatment of the Palestinian question by the United Nations.

166. Under the circumstances, the inapplicability of Article 2 (7) of the Charter as regards Israel in the Occupied Palestinian Territory may, moreover, raise the question as to whether operations undertaken by UNRWA with a mandate of the General Assembly to cover essential needs of the population there as described, would not also qualify as such “*action*” that would trigger a duty of assistance in conformity with Article 2 (5) of the Charter. Independently of the latter provision concerning the principle of assistance, there are nevertheless obligations pursuant to the rules set out in the Charter that will be considered in the following.
167. In the context of the present Request, considering the nature of the legal framework applicable, Norway also considers that, pursuant to Article 103 of the Charter, obligations of Israel under the Charter, as described, prevail over obligations under any other international agreement, in the event of a conflict.

3. *The United Nations enjoys international legal personality*

168. The Charter does not expressly state that the Organization possesses international legal personality on the international plane.<sup>148</sup> Soon after the Organization’s establishment the Court confirmed this legal personality in the *Reparations Advisory Opinion*:

*“Throughout its history, the development of international law has been influenced by the requirements of international life, and the progressive increase in the collective activities of States has already given rise to instances of action upon the international plane by certain entities which are not States. This development culminated in the establishment in June 1945 of an international organization whose purposes and principles are specified in the Charter of the United Nations. But to achieve these ends the attribution of international personality is indispensable.”*<sup>149</sup>

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<sup>148</sup> Pierre-Marie Dupuy, ‘Article 104’ in Cot & Pellet (ed.), *La Charte des Nations Unies – Commentaire article par article*, (Economica-Bruylant 1985) 1381-1386 at 1385.

<sup>149</sup> *Reparations Advisory Opinion*, p. 174, p. 178.

169. Among the various indicia of the implicit will of Member States to confer upon the Organization the means to act in the international legal order, the Court mentioned:

*"The Charter has not been content to make the Organization created by it merely a centre "for harmonizing the actions of nations in the attainment of these common ends" (Article 1, para. 3). It has equipped that centre with organs, and has given it special tasks. It has defined the position of the Members in relation to the Organization by requiring them to give it every assistance in any action undertaken by it (Article 2, para. 5), and to accept and carry out the decisions of the Security Council; by authorizing the General Assembly to make recommendations to the Members; by giving the Organization legal capacity and privileges and immunities in the territory of each of its Members; (...). Practice – in particular the conclusion of conventions to which the Organization is a party – has confirmed this character of the Organization, which occupies a position in certain respects in detachment from its Members, and which is under a duty to remind them, if need may be, of certain obligations. (...) It must be acknowledged that its Members, by entrusting certain functions to it, with the attendant duties and responsibilities, have clothed it with the competence required to enable those functions to be effectively discharged."*<sup>150</sup>

170. In its statement, the Court thus made explicit reference to the legal capacity and privileges and immunities "in the territory of each of its Members".<sup>151</sup> This is regulated in Articles 104 and 105 of the Charter, which refer to obligations incumbent on member States as regards legal personality in their domestic legal order.

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<sup>150</sup> *Ibid.* p. 178-179.

<sup>151</sup> *Ibid.* p. 179.

4. *The duty to respect the legal personality of the UN in the domestic legal order*

171. Israel's legal obligations are the object of the present Request to the Court. They include legal obligations to respect the international legal personality of the United Nations on the international level, but not least also duties to ensure compliance with such obligations in its own domestic legal order, in conformity with the Charter and other applicable international legal rules.

172. Concrete rules on respect for the international status of the United Nations in the domestic law of Member States were inserted in the Charter partly to overcome administrative difficulties that had arisen in the League of Nations due to the absence of such rules in the Covenant.<sup>152</sup>

173. Accordingly, Article 104 of the Charter states that:

*"The Organization shall enjoy in the territory of each of its Members such legal capacity as may be necessary for the exercise of its functions and the fulfilment of its purposes."*

174. According to Goodrich and Hambro in a standard commentary on the Charter:<sup>153</sup>

*"It is enough to state that this Article imposes upon Members the duty of attributing a certain measure of legal personality to the Organization, enough to permit it to exercise its functions and fulfill its purposes. (...) The Members are required, (...), to do what is necessary even though changes in their constitutions may be involved."*

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<sup>152</sup> Goodrich & Hambro, *Charter of the United Nations – Commentary and Documents* (World Peace Foundation Boston 1946) 281; Andreas R. Ziegler, 'Article 104' in Bruno Simma et al (eds), *The Charter of the United Nations: A Commentary*, Vol. II, (3<sup>rd</sup> edn. Oxford University Press 2012) 2138-2157, 2140.

<sup>153</sup> Goodrich & Hambro, *op.cit.*, p. 281.

175. Moreover, closely related to the exercise of such functions are the necessary privileges and immunities of the Organization and of specialized agencies. Similar considerations apply for other competent international organizations.

5. *Privileges and immunities necessary for the fulfilment of its purposes*

176. Article 105 of the Charter states that:

*“1. The Organization shall enjoy in the territory of each of its Members such privileges and immunities as are necessary for the fulfilment of its purposes.*

*2. Representatives of the Members of the United Nations and officials of the Organization shall similarly enjoy such privileges and immunities as are necessary for the independent exercise of their functions in connection with the Organization.*

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

177. It may be noted that, as opposed to corresponding provisions contained in the Covenant of the League of Nations, the Charter expressly specifies that such privileges and immunities are such as “*are necessary for the independent exercise of their functions in connection with the Organization*”<sup>154</sup>

178. Norway recalls the central importance notably of the 1946 Convention on the Privileges and Immunities of the United Nations<sup>155</sup> [**General Convention**] and the 1947 Convention on the Privileges and Immunities of the Specialized Agencies<sup>156</sup>. These conventions were adopted in application of Article 105 of the Charter and are binding on member States of the United Nations. Full respect for the legal status, immunities, privileges and inviolability referred to in these instruments is essential for the independent exercise of the functions within the organization concerned. This includes relevant obligations to protect its officials and other categories of personnel covered, and of facilities described. Similar obligations derive from instruments pertaining to other international organizations.

<sup>154</sup> Goodrich & Hambro, *op.cit.* at 283.

<sup>155</sup> United Nations, *Treaty Series*, vol. 1, p. 15.

<sup>156</sup> United Nations, *Treaty Series*, vol. 33, p. 261.

179. As applied to UNRWA, Norway notes that the Agency's mandate follows from resolutions adopted by the General Assembly. The Agency is a subsidiary organ of the General Assembly and reports to the Secretary-General. The United Nations is thus the relevant international organization. As highlighted by the Secretary-General in letters to Israel and information provided to the main organs of the United Nations, UNRWA enjoys detailed privileges and immunities.<sup>157</sup> While activities of the Agency have comprised a number of practical and complex arrangements and contracts concluded locally, there is no doubt that the ultimate source of UNRWA's capacity under domestic law lies in Article 104 of the Charter.<sup>158</sup> The General Convention is applicable. The status of the Commissioner-General of UNRWA is for instance similar to that of diplomats.<sup>159</sup>
180. As regards privileges of UNRWA there may be particular need to consider specific characteristics of the operation, as discussed by Schermers and Blokkers: "*... a general rule of international institutional law to the effect that national law should not be applied to international organizations if they could affect the proper functioning of the organization. (...) One may have to be particularly careful in invoking privileges when an international organization performs large scale operational activities.*"<sup>160</sup> As regards UNRWA the authors underline that the "*existence of a general rule of international law granting privileges to international organizations also means (...), that privileges must occasionally be accorded that have not been expressly mentioned in any agreement*".<sup>161</sup>

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<sup>157</sup> Dossier No. N65 – N68 and N300 – N308.

<sup>158</sup> See also Ziegler, *op.cit.* 2147-2148.

<sup>159</sup> Schermers & Blokker, *op.cit.*, p. 1221 § 1827.

<sup>160</sup> *Ibid.*, *op.cit.* p. 1075 § 1608.

<sup>161</sup> *Ibid.* *op.cit.* p. 1075 § 1608.

181. The Secretary-General has expressed concern as regards Israel's adherence to its obligations under the General Convention, including:<sup>162</sup>

*“the immunity of UN.RW.A from every form of legal process, the inviolability of UN.RW.A premises and archives, UN.RW.A's right to maintain its assets, the immunity of UN.RW.A personnel from legal processes, and the free movement of UN.RW.A personnel in the Occupied Palestinian Territory”*

182. Such immunities, inviolability and privileges of the United Nations and other competent international organizations are essential for the conduct of operations described in the Occupied Palestinian Territory. Norway considers that Israel has clear obligations in this regard.

6. *Safety of United Nations and associated personnel*

183. While Israel is not a party to the Convention on the Safety of United Nations and Associated Personnel, several provisions are in Norway's opinion reflective of obligations under customary international law.<sup>163</sup> According to its Article 1 (c) a "United Nations operation" means an operation established by the competent organ of the United Nations in accordance with the Charter of the United Nations and conducted under United Nations authority and control. Certain key duties of protection, including the obligation not to target its personnel, installations, units or vehicles in a humanitarian assistance mission, and to take precautionary measures in this regard, are mirrored in various rules of international humanitarian and criminal law.<sup>164</sup>

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<sup>162</sup> Letter dated 27 January 2025 from the Secretary-General addressed to the Permanent Representative of Israel to the United Nations, **Dossier No. N308**.

<sup>163</sup> Convention on the Safety of United Nations and Associated Personnel, New York, 9 December 1994, (United Nations, *Treaty Series*, vol. 2051, p. 363).

<sup>164</sup> See for example Article 8 (2) (b) (iv) of the Rome Statute for the International Criminal Court (United Nations, *Treaty Series*, vol. 2187 p. 3).

7. *Mutual obligations of co-operation and good faith resulting from membership of an international organization*

184. As the Court highlighted in the *1980 Advisory Opinion on the Interpretation of the Agreement of 25 March 1951 between the WHO and Egypt*, there are mutual obligations of co-operation and good faith resulting from a State's membership in an international organization as well as from relations between the organization and the host State.<sup>165</sup>
185. In the context of the present Request, it should be noted that Israel is notably not the host State for headquarters or premises of UNRWA in the Occupied Palestinian Territory. In any case, also in its role as an occupying Power, it retains duties of co-operation and good faith in its relations with United Nations Agencies. The Knesset legislation revoking immunities, and impeding the presence and activities of UNRWA, as described by the Secretary-General, and sharply criticized by the General Assembly, is not legally tenable. In addition, the approach followed by Israel did not satisfy requirements of consultation and precautionary measures to facilitate, if necessary, appropriate arrangements enabling a continuation of essential functions.

**E. Protection of persons in the event of disasters**

186. In 2016, the International Law Commission (ILC) adopted Draft Articles on the Protection of Persons in the Event of Disasters [**Draft Articles**].<sup>166</sup> This text contains elements both of progressive development and of codification of international law. It covers both “*natural and human-made disasters*”.<sup>167</sup> The definition of “*disaster*” is broad. It covers a calamitous event or series of events resulting in widespread loss of life, great human suffering and distress, mass displacement, or large-scale material or environmental damage, thereby seriously disrupting the functioning of society.<sup>168</sup> It thus encompasses mass displacement

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<sup>165</sup> *Interpretation of the Agreement of 25 March 1951 between the WHO and Egypt, Advisory Opinion, I.C.J. Reports 1980*, p. 73, (notably at p. 95-96 para 49).

<sup>166</sup> Yearbook of the International Law Commission, 2016, vol. II, Part Two, p. 25, Draft articles on the protection of persons in the event of disasters.

<sup>167</sup> *Ibid.* Second preambular paragraph.

<sup>168</sup> *Ibid.* Article 3 (a).

and other serious societal disruptions, notably in the context of armed conflict, as in the Gaza Strip.

187. At the same time, draft article 18 makes it clear that this text is “*without prejudice to other applicable rules of international law*” and that it does “*not apply to the extent that the response to a disaster is governed by the rules of international humanitarian law*”.
188. Requirements for example contained in Article 59 of the Fourth Geneva Convention trump Draft Article 13 and other provisions requiring consent of the affected State to offered external assistance, nor Draft Article 17 on termination. The definition of an “*affected State*” in Draft Article 3 (b) would otherwise have included a State in territory under whose control the disaster takes place and therefore an occupying Power. However, for the reasons stated this is without prejudice to the assessments notably made by the Court in the *July 2024 Advisory Opinion* as to the applicable rules limiting the scope of Israel’s regulatory authority as an occupying Power and more generally the applicable law identified by the Court. It is therefore the considered view of Norway that offers of relevant external assistance cannot be refused by Israel and that such external assistance to the Occupied Palestinian Territory cannot be terminated by Israel in the current context.
189. While several draft articles are therefore not applicable here, it is however the considered view of Norway that other provisions contained in the Draft Articles provide an updated and relevant codification of substantive requirements to “*facilitate the adequate and effective response to disasters, and reduction of the risk of disasters, so as to meet the essential needs of the persons concerned, with full respect for their rights*.”<sup>169</sup>

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<sup>169</sup> *Ibid.* Article 2 “Purpose”.

190. Firstly, various definitions provided in Draft Article 3 give a clear indication as to the breadth of relevant actors and the varied nature of means of assistance that may be necessary to effectively achieve the purpose of said protection. Examples include those of “*assisting States*“, “*assisting actors*“ (including competent intergovernmental organizations or relevant non-governmental organizations or entities), “*external assistance*“ (meaning relief personnel, equipment and goods, and services provided to an affected State by an assisting State or other assisting actor for disaster relief assistance), “*relief personnel*“, “*equipment and goods*“ (supplies, tools, machines, specially trained animals, foodstuffs, drinking water, medical supplies, means of shelter, clothing, bedding, vehicles, telecommunications equipment, and other objects for disaster relief assistance).

191. Moreover, it is clear, also from the commentary to the Draft Articles that these

*“are not limited, ratione loci, to activities in the area where the disaster occurs, but also cover those within assisting States and transit States. Nor is the transboundary nature of a disaster a necessary condition for the triggering of the application of the draft articles. Certainly, it is not uncommon for major disasters to have a transboundary effect, thereby increasing the need for international cooperation and coordination. Nonetheless, examples abound of major international relief assistance efforts being undertaken in response to disasters occurring solely within the territorial boundaries of a single State, or within a territory under its jurisdiction or control. In the event of a disaster, States have the duty to protect all persons present in their territory, or in territory under their jurisdiction or control, irrespective not only of nationality but also of legal status. While different considerations may arise, unless otherwise specified, the draft articles are not tailored with any specific disaster type or situation in mind, but are intended to be applied flexibly to meet the needs arising from all disasters, regardless of their transboundary effect.”*<sup>170</sup>

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<sup>170</sup> *Ibid.*, p. 27. (Paragraph 5 of the Commentary to Draft Article 1 on “Scope”).

192. Draft Article 7 (“Duty to cooperate”) makes it clear that “(i)n the application of the present draft articles, States shall, as appropriate, cooperate among themselves, with the United Nations, with the components of the Red Cross and Red Crescent Movement, and with other assisting actors”. Draft Article 8 (“Forms of cooperation in the response to disasters”) underlines that cooperation in the response to disasters “includes humanitarian assistance, coordination of international relief actions and communications, and making available relief personnel, equipment and goods, and scientific, medical and technical resources.” Draft Articles 10 and 11, respectively on the role and duties of the affected State, underlines duties to ensure protection, but also that

*“To the extent that a disaster manifestly exceeds its national response capacity, the affected State has the duty to seek assistance from, as appropriate, other States, the United Nations, and other potential assisting actors.”<sup>171</sup>*

193. It is the considered view of Norway that this draft article reflects a key obligation of Israel in the circumstances described due to its obligations as an occupying Power and as a member of the United Nations. Moreover, Draft Article 15 on “Facilitation of external assistance” contains a useful enumeration of measures and means that may be necessary for such facilitation:

*“1. The affected State shall take the necessary measures, within its national law, to facilitate the prompt and effective provision of external assistance, in particular regarding: (a) relief personnel, in fields such as privileges and immunities, visa and entry requirements, work permits, and freedom of movement; and (b) equipment and goods, in fields such as customs requirements and tariffs, taxation, transport, and the disposal thereof*

*2. The affected State shall ensure that its relevant legislation and regulations are readily accessible, to facilitate compliance with national law.”*

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<sup>171</sup> *Ibid.*, Article 11.

194. Similar considerations apply as regards Draft Article 16 on “*Protection of relief personnel, equipment and goods*”:

*“The affected State shall take the appropriate measures to ensure the protection of relief personnel and of equipment and goods present in its territory, or in territory under its jurisdiction or control, for the purpose of providing external assistance.”*

195. In sum, Norway considers that the Draft Articles contain relevant guidance as to the formulation of obligations of Israel as regards the breadth of categories of assisting actors necessary in the current situation in the Occupied Palestinian Territory. These are also applicable when formulating positive duties of action on the part of Israel pursuant to applicable international law.

#### **F. Third state representation, including respect for diplomatic and consular immunities**

196. As noted in Section B above, Israel has an obligation not to impede the conduct of foreign relations with the recognized representatives of the Palestinian people. This not only includes Palestinian representation to international organization and third states, but also the inverse, namely the representation of international organizations and third states to the Palestine Liberation Organization as the recognized representative of the Palestinian people, the representative authorities of the Palestinian Authority or of the State of Palestine.

197. The Vienna Convention on Diplomatic Relations<sup>172</sup> provides the legal framework for the establishment and maintenance of diplomatic relations, including permanent diplomatic missions. The Vienna Convention on Consular Relations<sup>173</sup> applies to the establishment and maintenance of consular posts. Establishment of diplomatic and consular relations takes place “*by mutual consent*”.<sup>174</sup> In the specific context of the Occupied Palestinian Territory, it is essential to note that Israel is not the receiving state and cannot exercise

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<sup>172</sup> United Nations, *Treaty Series*, vol. 500, p. 95.

<sup>173</sup> United Nations, *Treaty Series*, vol. 596, p. 261.

<sup>174</sup> Vienna Convention on Diplomatic Relations Art. 2 and Vienna Convention on Consular Relations Art. 2.

rights conferred to the receiving state in the said conventions. To the contrary, when such relations have been established, Israel must respect the existence of diplomatic and consular relations, in keeping with its limited regulatory authority as occupying Power outlined in Section A (2) and its obligations in respect of the right of the Palestinian people to self-determination outlined in Section B.

198. This includes respect for applicable immunities and privileges, including the freedom of movement and travel as reflected in Article 26 of the Vienna Convention on Diplomatic Relations and Article 34 of the Vienna Convention on Consular Relations.
199. As regards the possible derogatory nature of the obligations in these Conventions, the Court has considered that “[t]he rules of diplomatic law, in short, constitute a self-contained régime which, on the one hand, lays down the receiving State’s obligations regarding the facilities, privileges and immunities to be accorded to diplomatic missions and, on the other, foresees their possible abuse by members of the mission and specifies the means at the disposal of the receiving State to counter any such abuse” (*United States Diplomatic and Consular Staff in Tehran, Judgment, I. C. J. Reports 1980*, p. 41. para 86). Consequently, the Conventions cannot be supplemented by means or grounds, be it for reasons of national security or others, unless they are explicitly recognized in the Conventions.
200. As a result of the Israeli security regime in and around the Occupied Palestinian Territory, the establishment and maintenance of both temporary and permanent diplomatic and consular presence rely on practical facilitation from Israel. This presence is based on the consent by the representative authorities of the Palestinian Authority or of the State of Palestine in support of the Palestinian people, including the realization of their right to self-determination. It is the considered view of Norway, that Israel, in order to realize the conduct of foreign relations between the recognized representatives of the Palestinian people and third States, must actively facilitate the presence and activity of third states’ representation.

**VI. Obligations of Israel in relation to the presence and activities of the United Nations, other International Organizations and third States in relation to the Occupied Palestinian Territory**

201. The preceding analysis has focused on Israel's obligations in relation to the presence and activities of certain third parties in the Occupied Palestinian Territory. In this section, consideration will be given to such obligations in relation to this territory. This covers Israel's corresponding obligations outside the territorial scope of the Occupied Palestinian Territory, notably in its capacity as Government Authority in its own territory.
202. It will be seen that the obligations already identified have, in many cases, correlated or corresponding obligations that under the legal framework described are not limited, *ratione loci*, to the Occupied Palestinian Territory.

**A. International humanitarian law**

203. As earlier established (reference *supra*), Article 59 of the Fourth Geneva Convention is clearly applicable to the situation in the Occupied Palestinian Territory, as its population is inadequately supplied. Thus, Israel has obligations of facilitation of collective relief schemes. These are not limited to facilitation within the limits of the occupied territory. They also extend to include obligations incumbent on Israel as a transit State.
204. For the sake of good order mention is made to paragraph 3 of this article, which states:

*"A Power granting free passage to consignments on their way to the 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."*

205. This provision must be read in conjunction with the preceding paragraphs of Article 59 already referred to, which establish obligations to grant free passage and protection. Paragraph 3 is not addressed to the occupying Power as such, but to any third States granting free passage. The purpose of the provision is to accommodate reasonable checks and to prevent the abuse of free passage as a means of transferring consignments to the occupying Power. The provision thus confirms not only a duty of care on the part of third States, but also the requirement of a test of reasonableness with regard to searches and security controls by third States, while preserving an obligation of result.
206. Israel is the occupying Power in the Occupied Palestinian Territory. It is also, by virtue of its occupation of the Palestinian territory and the security regime it has established for entry to the occupied territory, *the* crucial transit area for any consignments going to the occupied territories.

#### **B. Self-Determination and Development, including transit and access to the sea**

207. Israel's obligations in relation to third parties' support to the Palestinian people's right to self-determination should also take into consideration the importance of permanent sovereignty over natural resources in this context, in addition to sustainable development goals. This includes the importance of communication and transit for economic development. It may in this context therefore also be useful to seek guidance in treaties of global application that provide for a right of transit to different degrees.
208. Essential to economic development is trade. The General Agreement on Tariffs and Trade 1994<sup>175</sup> contains rules on freedom of transit that Norway considers to be of relevance for the examination of issues relating to international communication to and from the Occupied Palestinian Territory. Reference is made to Article V (2) which provides, with regard to trade in goods, that:

*“There shall be freedom of transit through the territory of each contracting party, via the routes most convenient for international transit, for traffic in*

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<sup>175</sup> United Nations, *Treaty Series*, vol. 1867 p. 187.

*transit to or from the territory of other contracting parties. No distinction shall be made which is based on the flag of vessels, the place of origin, departure, entry, exit or destination, or on any circumstances relating to the ownership of goods, of vessels or of other means of transport.”*

209. Parts of the Occupied Palestinian Territory are land-locked (the West Bank and East Jerusalem), while the movement and access restrictions imposed on the Gaza Strip have created conditions akin to a nearly closed economy on Gaza. As applied to the particular legal framework of the Occupied Palestinian Territory and international cooperation related to support to self-determination, it is noteworthy that Part X of the United Nations Convention on the Law of the Sea<sup>176</sup> [‘UNCLOS’] is dedicated to “Right of Access of Land-locked States to and From the Sea and Freedom of Transit“.

210. Article 125 of the Convention concerns the “*Right of access to and from the sea and freedom of transit*”:

*“1. Land-locked States shall have the right of access to and from the sea for the purpose of exercising the rights provided for in this Convention including those relating to the freedom of the high seas and the common heritage of mankind. To this end, land-locked States shall enjoy freedom of transit through the territory of transit States by all means of transport.*

*2. The terms and modalities for exercising freedom of transit shall be agreed between the land-locked States and transit States concerned through bilateral, subregional or regional agreements.*

*3. Transit States, in the exercise of their full sovereignty over their territory, shall have the right to take all measures necessary to ensure that the rights and facilities provided for in this Part for land-locked States shall in no way infringe their legitimate interests.”*

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<sup>176</sup> United Nations, *Treaty Series*, vol. 1833 p. 3.

211. Article 125 (2) introduces not only an obligation to negotiate an agreement concerning transit. The wording “shall be agreed“ seems to contain an obligation to actually reach an agreement.<sup>177</sup>
212. While Palestine acceded to UNCLOS in 2015, Israel has not become a party to it. Nevertheless, the rules contained in Article 125 are in the opinion of Norway reflective of customary international law, and therefore binding on Israel.
213. Moreover, attention should be drawn to the principles reflective of international legal rules pertaining to the right to self-determination contained in Resolution III of the Final Act of the Third Law of the Sea Conference, in the context of the Convention’s adoption:

*“The Third United Nations Conference on the Law of the Sea,  
Having regard to the Convention on the Law of the Sea,  
Bearing in mind the Charter of the United Nations, in particular Article 73,*

*1. Declares that:*

*(a) In the case of a territory whose people have not attained full independence or other self-governing status recognized by the United Nations, or a territory under colonial domination, provisions concerning rights and interests under the Convention shall be implemented for the benefit of the people of the territory with a view to promoting their well-being and development.*

*(b) Where a dispute exists between States over the sovereignty of a territory to which this resolution applies, in respect of which the United Nations has recommended specific means of settlement, there shall be consultations between the parties to that dispute regarding the exercise of the rights referred to in subparagraph (a). In such consultations the interests of the people of the territory concerned shall be a fundamental consideration. Any exercise of those rights shall take into account the relevant resolutions of the United Nations and shall be without prejudice to the position of any party to the dispute. The States concerned shall make every effort to enter into provisional arrangements of a practical nature and shall not jeopardize or hamper the reaching of a final settlement of the dispute.*

*2. Requests the Secretary-General of the United Nations to bring this resolution to the attention of all Members of the United Nations and the*

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<sup>177</sup> Robin Churchill, Vaughan Lowe & Amy Sander, *The Law of the Sea* (4<sup>th</sup> edn. Manchester University Press 2022) 841. See in the same direction, Mathias Forteau, Alina Miron & Alain Pellet, *Droit international public* (9<sup>th</sup> edn. Paris: LDGJ 2022) 1594, para. 1091: (“de plus, tout en maintenant l’exigence d’un accord entre les pays concernés quant aux conditions et modalités du transit, il abandonne l’exigence de la réciprocité qui permettait auparavant aux États côtiers de monnayer chèrement le droit de transit accordé aux États enclavés.”).

*other participants in the Conference, as well as the principal organs of the United Nations, and to request their compliance with it.”<sup>178</sup>*

214. The above considerations related to the importance of transit for the realization of sustainable development in relation to the right to self-determination are without prejudice to essential national security interests of neighbouring States, including Israel. This allows for taking certain control measures to prevent certain forms of abuse, as long as necessary and proportionate. However, it is noteworthy that the principles referred to in connection also with the adoption of UNCLOS set a central focus on the protection of interests of the local population.

### **C. Immunities and Privileges and other protections in transit**

215. Reference is notably made to various provisions of Article V, concerning immunities and privileges of officials of the United Nations, and Article VII, concerning United Nations laissez-passers in the Convention on the Privileges and Immunities of the United Nations.<sup>179</sup> Similar provisions are contained in the Convention on the Privileges and Immunities of the Specialized Agencies, including Article VIII on Laissez-passers.<sup>180</sup>

216. While Israel, as already noted, is not a party to the 1994 Convention on Safety of UN and associated personnel, it should be noted that its Article 5 sets out a rule which may already be considered reflective of customary international law:

*“A transit State shall facilitate the unimpeded transit of United Nations and associated personnel and their equipment to and from the host State.”*

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<sup>178</sup> Third United Nations Conference on the Law of the Sea, Final Act, UN Doc. A/CONF.62/121.

<sup>179</sup> United Nations, *Treaty Series*, vol. 1, p. 15, and vol. 90, p. 327.

<sup>180</sup> United Nations, *Treaty Series*, vol. 33, p. 261.

217. As regards representatives of States and the conduct of diplomatic relations. Article 40, paragraph 1, of the Vienna Convention on Diplomatic Relations regulates passage of a diplomatic agent passing through or being in the territory of a third State. This applies while proceeding to take up, or to return to his post, or when returning to his own country, and the third State shall accord him inviolability and such other immunities as may be required to ensure his transit or return. Paragraph 2 of this article concerns the passage of members of the administrative and technical or service staff of a mission, and of members of their families, “(i)n circumstances similar to those specified in paragraph 1 of this article”.
218. In the Vienna Convention on Consular Relations obligations of third States are regulated in Article 54.

#### **D. Facilitation of prompt and effective external assistance to address or prevent disasters**

219. The following point is made, on a general basis, in the commentaries to the 2016 ILC Draft Articles on the Protection of Persons in the Event of Disasters:<sup>181</sup>

*“The draft articles are not limited, *ratione loci*, to activities in the area where the disaster occurs, but also cover those within assisting States and transit States.”*

220. Accordingly, Draft Article 15 on Facilitation of External Assistance is applicable to transit States, as also explicitly mentioned in its commentary. It usefully includes a listing of operational prerequisites (“necessary measures”), *ratione materiae*, for the facilitation of prompt and effective provision of external assistance by third parties.
221. As regards relief personnel, concrete reference is made in this provision to “fields such as privileges and immunities, visa and entry requirements, work permits and freedom of movement”. For equipment and goods, reference is similarly made to “customs requirements and tariffs, taxation, transport, and the disposal thereof”. Significantly, Draft

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<sup>181</sup>Yearbook of the International Law Commission, 2016, vol. II, Part Two, p. 27. (Paragraph 5 of the Commentary to Draft Article 1 on “Scope”).

Article 15 (2) also underlines the importance of ensuring that relevant legislation and regulations are readily accessible, to facilitate compliance with national law.

222. Norway considers that the latter prerequisites for prompt and effective provision of external assistance by third parties are particularly useful in order to give an operationally relevant and updated formulation of legal guidance in response to the Request.

223. As earlier discussed, the provisions in the Draft Articles pertaining to consent and termination are not applicable in the present legal framework, as they are superseded by applicable rules notably of international humanitarian law and the particular legal context of the Occupied Palestinian Territory.

## VII. Submissions

224. The Court has previously noted the importance of facts in the application of rules of international law and in effectively answering a request for an Advisory Opinion:

*“a rule of international law, whether customary or conventional, does not operate in a vacuum; it operates in relation to facts and in the context of a wider framework of legal rules of which it forms only a part. Accordingly, if a question put in the hypothetical way in which it is posed in the request is to receive a pertinent and effectual reply, the Court must first ascertain the meaning and full implications of the question in the light of the actual framework of fact and law in which it falls for consideration.”<sup>182</sup>*

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<sup>182</sup> *Interpretation of the Agreement of 25 March 1951 between the WHO and Egypt, Advisory Opinion, I.C.J. Reports 1980, p. 76 (para. 10).*

225. It is within the specific factual context and the concrete legal framework described in the present Written Statement that Norway, respectfully, makes the following submissions, which represent a summary of its observations:

225.1 The Court has jurisdiction to give an advisory opinion on the Question posed to it in resolution 79/232 on 19 December 2024, and there are no compelling grounds for the Court to decline to exercise its jurisdiction to answer the Request.

225.2 Israel has an obligation to take all necessary and effective measures to ensure, without delay, in full cooperation with the United Nations, the unhindered provision at scale of urgently needed basic services and humanitarian assistance, including food, water, electricity, fuel, shelter, clothing, hygiene and sanitary requirements, as well as medical supplies and medical care to Palestinians through the Occupied Palestinian Territory, including by increasing the capacity and number of land crossing points and maintaining them open for as long as necessary.

225.3 In light of the situation in the Occupied Palestinian Territory, Israel has an obligation to permit and facilitate assistance, including free passage in transit through Israel of necessary civilian supplies, personnel and equipment, from the United Nations, other international organizations and third States, to respond to the essential needs of the Palestinian civilian population, with full respect for their rights, including the right of the Palestinian people to self-determination.

225.4 Israel has an obligation to take all necessary and effective measures to facilitate the prompt and effective provision of external assistance to the Occupied Palestinian Territory, in particular regarding relief personnel, in fields such as privileges and immunities, visa and entry requirements, work permits, and freedom of movement, and equipment and goods, in fields such as customs requirements and tariffs, taxation, transport, and the disposal thereof.

225.5 Israel has an obligation to permit, facilitate and protect development assistance by the United Nations, other international organizations and third States, where such assistance is offered, in conformity with relevant resolutions of the United Nations, for the benefit of the Palestinian civilian population, and in support of the Palestinian people's right to self-determination.

225.6 To all these ends, Israel retains an obligation to respect applicable conventions on privileges and immunities, including of competent international organizations.

225.7 Israel has an obligation to respect notably the Convention on the Privileges and Immunities of the United Nations of 13 February 1946 in all that concerns the operations and functions of the United Nations and its subsidiary organs.

225.8 Israel has an obligation to comply with all applicable rules of the Convention on the Privileges and Immunities of the United Nations of 13 February 1946 notably as regards UNRWA, as a subsidiary organ of the United Nations. Moreover, Israel has an obligation to ensure the protection and security of UNRWA personnel, installations and property, to permit its free movement of vehicles into, within and out of Israel and the areas in question, to permit its international staff to move in, out and within Israel and the areas in question, and to permit its local staff to move within the areas in question under arrangements, where applicable, made or to be made with the military authorities.

225.9 Israel has an obligation not to legislate or enact measures which impede permits or other bureaucratic requirements necessary for the continued presence and activity of the United Nations, other international organizations or third States in the Occupied Palestinian Territory for the benefit of the Palestinian civilian population, and in support of the Palestinian people's right to self-determination.

225.10 In any system of permits, Israel has an obligation not to impair or delay affected transits to the Occupied Palestinian Territory for any other reason than reasonable satisfaction that the transit in question is for the benefit of the Palestinian civilian population, and in support of the Palestinian people's right to self-determination.

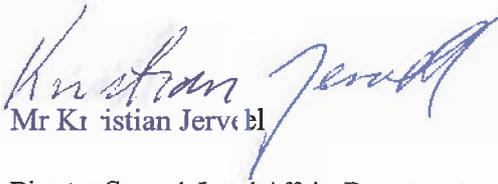
225.11 The Laws for the Cessation of UNRWA Activities (2024) and for the Cessation of UNRWA Activities in the State of Israel (2024) adopted by the Israeli Knesset 28 October 2024 violate Israel's obligations under international law.

225.12 Israel has an obligation not to impede the exercise of the Palestinian people's right to self-determination in regard to the establishment and conduct of foreign relations with competent international organizations and third States.

225.13 Israel has an obligation to respect the establishment and conduct of such foreign relations, including applicable immunities and privileges rules.

226. Norway trusts that the Advisory Opinion of the Court will assist the General Assembly and the United Nations family, in furtherance of its permanent responsibility for this former mandated territory, and that it will also assist the United Nations, other international organizations and third States in their efforts toward a realization of the right to self-determination for the peoples affected by the conflict, based on the vision of two States living in peace within secure and recognized boundaries.

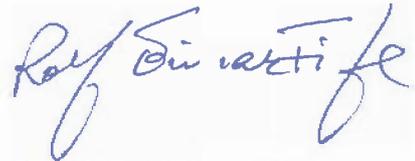
Respectfully submitted on behalf of the Kingdom of Norway,



Mr Kristian Jervel

Director General, Legal Affairs Department

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HE Mr Rolf Einar Fife

*Ambassadeur en mission spéciale*

Ministry of Foreign Affairs

Oslo, 28 February 2025