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**International Court
of Justice**

**Cour internationale
de Justice**

THE HAGUE

LA HAYE

YEAR 2025

Public sitting

held on Wednesday 30 April 2025, at 10 a.m., at the Peace Palace,

President Iwasawa presiding,

***on 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***

(Request for advisory opinion submitted by the General Assembly of the United Nations)

VERBATIM RECORD

ANNÉE 2025

Audience publique

tenue le mercredi 30 avril 2025, à 10 heures, au Palais de la Paix,

sous la présidence de M. Iwasawa, président,

***sur les Obligations d'Israël en ce qui concerne la présence et les activités de l'Organisation
des Nations Unies, d'autres organisations internationales et d'États tiers dans
le Territoire palestinien occupé et en lien avec celui-ci***

(Demande d'avis consultatif soumise par l'Assemblée générale des Nations Unies)

Present: President Iwasawa
 Vice-President Sebutinde
 Judges Tomka
 Abraham
 Xue
 Bhandari
 Nolte
 Charlesworth
 Brant
 Gómez Robledo
 Cleveland
 Tladi

 Registrar Gautier

Présents : M. Iwasawa, président
M^{me} Sebutinde, vice-présidente
MM. Tomka
Abraham
M^{me} Xue
MM. Bhandari
Nolte
M^{me} Charlesworth
MM. Brant
Gómez Robledo
M^{me} Cleveland
M. Tladi, juges

M. Gautier, greffier

The Government of the United States of America is represented by:

Mr Joshua B. Simmons, Senior Bureau Official, Office of the Legal Adviser, Department of State,

Mr Richard C. Visek, Principal Deputy Legal Adviser, Office of the Legal Adviser, Department of State,

Mr Steven F. Fabry, Deputy Legal Adviser, Office of the Legal Adviser, Department of State,

Ms Mary Mitchell, Assistant Legal Adviser, Office of the Legal Adviser, Department of State,

Ms Maegan Conklin, Assistant Legal Adviser, Office of the Legal Adviser, Department of State,

Ms Melinda Kuritzky, Special Assistant, Office of the Legal Adviser, Department of State,

Ms Alison Welcher, Legal Counsellor, Embassy of the United States of America in the Kingdom of the Netherlands.

The Government of the Russian Federation is represented by:

Mr Maksim Musikhin, Director, Legal Department, Ministry of Foreign Affairs,

HE Mr Vladimir Tarabrin, Ambassador of the Russian Federation to the Kingdom of the Netherlands,

Mr Ruslan Kantur, Legal Adviser, Permanent Representation of the Russian Federation to the Organisation for the Prohibition of Chemical Weapons,

Ms Victoria Stegnyy, Deputy Director, Department of International Organizations, Ministry of Foreign Affairs,

Mr Dmitrii Zinchenko, Expert, Legal Department, Ministry of Foreign Affairs.

The Government of the French Republic is represented by:

Mr Diégo Colas, Legal Adviser, Director of Legal Affairs, Ministry for Europe and Foreign Affairs,

HE Mr François Alabrune, Ambassador of the French Republic to the Kingdom of the Netherlands,

Mr Nabil Hajjami, Assistant Director for Public International Law, Directorate of Legal Affairs, Ministry for Europe and Foreign Affairs,

Ms Marion Esnault, Legal Adviser, Directorate of Legal Affairs, Ministry for Europe and Foreign Affairs,

Mr Hervé Ascensio, Professor, University Paris 1 Panthéon-Sorbonne,

Mr Pierre Bodeau-Livinec, Professor, University Paris Nanterre,

Le Gouvernement des États-Unis d'Amérique est représenté par :

M. Joshua B. Simmons, haut responsable du bureau du conseiller juridique, département d'État,
M. Richard C. Visek, premier conseiller juridique adjoint, bureau du conseiller juridique, département d'État,
M. Steven F. Fabry, conseiller juridique adjoint, bureau du conseiller juridique, département d'État,
M^{me} Mary Mitchell, assistante juridique, bureau du conseiller juridique, département d'État,
M^{me} Maegan Conklin, assistante juridique, bureau du conseiller juridique, département d'État,
M^{me} Melinda Kuritzky, assistante spéciale, bureau du conseiller juridique, département d'État,
M^{me} Alison Welcher, conseillère juridique, ambassade des États-Unis d'Amérique au Royaume des Pays-Bas.

Le Gouvernement de la Fédération de Russie est représenté par :

M. Maksim Musikhin, directeur du département juridique, ministère des affaires étrangères,
S. Exc. M. Vladimir Tarabrin, ambassadeur de la Fédération de Russie auprès du Royaume des Pays-Bas,
M. Ruslan Kantur, conseiller juridique de la représentation permanente de la Fédération de Russie auprès de l'Organisation pour l'interdiction des armes chimiques,
M^{me} Victoria Stegnyy, directrice adjointe du département des organisations internationales du ministère des affaires étrangères,
M. Dmitrii Zinchenko, expert, département juridique, ministère des affaires étrangères.

Le Gouvernement de la République française est représenté par :

M. Diégo Colas, juriconsulte, directeur des affaires juridiques, ministère de l'Europe et des affaires étrangères,
S. Exc. M. François Alabrune, ambassadeur de la République française auprès du Royaume des Pays-Bas,
M. Nabil Hajjami, sous-directeur du droit international public, direction des affaires juridiques, ministère de l'Europe et des affaires étrangères,
M^{me} Marion Esnault, conseillère juridique, direction des affaires juridiques, ministère de l'Europe et des affaires étrangères,
M. Hervé Ascensio, professeur à l'Université Paris 1 Panthéon-Sorbonne,
M. Pierre Bodeau-Livinec, professeur à l'Université Paris Nanterre,

Mr Jean-Marc Sorel, Professor, University Paris 1 Panthéon-Sorbonne,

Mr Stéphane Louhaur, Legal Adviser, Embassy of the French Republic in the Kingdom of the Netherlands,

Ms Corinne Balleix, Adviser, Embassy of the French Republic in the Kingdom of the Netherlands,

Ms Ambre Bourdon, Chargé de mission for Legal Affairs, Embassy of the French Republic in the Kingdom of the Netherlands,

Ms Eline Boutoux, intern, Embassy of the French Republic in the Kingdom of the Netherlands.

The Government of Hungary is represented by:

Mr Gergő Kocsis, Ambassador, Head of the United Nations Department,

HE Mr Dániel Horogszegi Szilágyi-Landeck, Ambassador Extraordinary and Plenipotentiary of Hungary to the Kingdom of the Netherlands,

Ms Katalin Zámbo, Head of the International Law Department,

Ms Enikő Petőházi, Second Counsellor, Embassy of Hungary in the Kingdom of the Netherlands.

The Government of the Republic of Indonesia is represented by:

HE Mr Sugiono, Minister for Foreign Affairs,

Mr Laurentius Amrih Jinangkung, Director General for Legal and Treaty Affairs, Ministry of Foreign Affairs,

HE Mr Mayerfas, Ambassador of the Republic of Indonesia to the Kingdom of the Netherlands,

Mr Rolliansyah Soemirat, Chief of Staff of the Office of the Minister, Ministry of Foreign Affairs,

Ms Mariska Dwianti Dhanutirto, Deputy Chief of Mission, Embassy of the Republic of Indonesia in the Kingdom of the Netherlands,

Mr Febrizki Bagja Mukti, Minister Counsellor, Embassy of the Republic of Indonesia in the Kingdom of the Netherlands,

Mr Andrea Albert Stefanus, Counsellor, Embassy of the Republic of Indonesia in the Kingdom of the Netherlands,

Mr Aloysius Selwas Taborat, Legal Counsel and Coordinator for Defence and Security Treaties, Ministry of Foreign Affairs,

Mr Rahmat Kurniawan, First Secretary, Office of the Director General for Legal and Treaty Affairs, Ministry of Foreign Affairs,

Ms Indira Kirana Dewi, Attaché, Office of the Foreign Minister,

Mr Teguh Arif Wiyono, Personal Secretary to the Minister for Foreign Affairs.

M. Jean-Marc Sorel, professeur à l'Université Paris 1 Panthéon-Sorbonne,

M. Stéphane Louhaur, conseiller juridique, ambassade de la République française au Royaume des Pays-Bas,

M^{me} Corinne Balleix, conseillère, ambassade de la République française au Royaume des Pays-Bas,

M^{me} Ambre Bourdon, chargée de mission juridique, ambassade de la République française au Royaume des Pays-Bas,

M^{me} Eline Boutoux, stagiaire, ambassade de la République française au Royaume des Pays-Bas.

Le Gouvernement de la Hongrie est représenté par :

M. Gergő Kocsis, ambassadeur, chef du département des Nations Unies,

S. Exc. M. Dániel Horogszegi Szilágyi-Landeck, ambassadeur extraordinaire et plénipotentiaire de la Hongrie auprès du Royaume des Pays-Bas,

M^{me} Katalin Zámbo, cheffe du département du droit international,

M^{me} Enikő Petőházi, deuxième conseillère, ambassade de Hongrie au Royaume des Pays-Bas.

Le Gouvernement de la République d'Indonésie est représenté par :

S. Exc. M. Sugiono, ministre des affaires étrangères,

M. Laurentius Amrih Jinangkung, directeur général des affaires juridiques et relatives aux traités, ministère des affaires étrangères,

S. Exc. M. Mayerfas, ambassadeur de la République d'Indonésie auprès du Royaume des Pays-Bas,

M. Rolliansyah Soemirat, directeur du cabinet du ministre, ministère des affaires étrangères,

M^{me} Mariska Dwianti Dhanutirto, cheffe de mission adjointe, ambassade de la République d'Indonésie au Royaume des Pays-Bas,

M. Febrizki Bagja Mukti, ministre conseiller, ambassade de la République d'Indonésie au Royaume des Pays-Bas,

M. Andrea Albert Stefanus, conseiller, ambassade de la République d'Indonésie au Royaume des Pays-Bas,

M. Aloysius Selwas Taborat, conseiller juridique, coordinateur pour les traités de défense et de sécurité, ministère des affaires étrangères,

M. Rahmat Kurniawan, premier secrétaire, bureau du directeur général des affaires juridiques et relatives aux traités, ministère des affaires étrangères,

M^{me} Indira Kirana Dewi, attachée, cabinet du ministre des affaires étrangères,

M. Teguh Arif Wiyono, secrétaire personnel du ministre des affaires étrangères.

The PRESIDENT: Please be seated. Good morning. The sitting is now open.

The Court meets this morning to hear the oral statements of the United States of America, the Russian Federation, France, Hungary and Indonesia. Each of the delegations has 30 minutes at its disposal for its presentation. The Court will observe a short coffee break after the presentation of France.

I shall now give the floor to Mr Josh Simmons, speaking on behalf of the United States of America. Sir, you have the floor.

Mr SIMMONS:

INTRODUCTION

1. Good morning and thank you, Mr President, Madam Vice-President and Members of the Court. It is an honour to appear before you today on behalf of the United States of America.

2. The ongoing conflict in Gaza is a critical issue for the international community. This week many speakers have focused on the factual circumstances of that conflict. They have voiced significant concerns about the flow of humanitarian assistance into Gaza. You have also heard concerns about Israel's decision to cease engagement with UNRWA.

3. You have heard little, however, about the serious and credible concerns about Hamas misusing UNRWA's facilities and humanitarian assistance. You have also heard little of Israel's security needs after the terrorist attacks on 7 October 2023. Those security needs persist today. Many hostages — including Americans — are still being wrongfully held in horrendous conditions.

4. These are grave circumstances and they warrant careful attention. But the General Assembly's expedited request — and therefore this advisory proceeding — focuses solely on a request to identify *legal* obligations. It is not about adjudicating the facts or determining legal consequences.

5. The United States submits that what is before the Court is a legal question consisting of two narrow legal issues, and that the answers are clear under well-established rules of international law. These answers would apply regardless of the particular State under consideration.

6. The first issue focuses on the obligations of an occupying Power, and the second focuses on the obligations of a UN Member State.

RIGHTS AND DUTIES OF AN OCCUPYING POWER

7. Mr President, Members of the Court, allow me to first address the obligations of an occupying Power to the United Nations, international organizations and third States with respect to humanitarian assistance.

8. International law does not impose any unqualified obligations on an occupying Power regarding all these entities, much less any particular entity. The applicable international rules have been carefully developed through State consent to treaties and customary international law. As the Court repeatedly recognized, international humanitarian law is the *lex specialis* governing the obligations of parties to armed conflict¹. Within that *lex specialis*, it is the law of occupation that establishes an occupying Power's specific rights and obligations.

9. Before diving into the particular obligations of any occupying Power, we should step back to understand the context for why States have agreed to specific rights and duties in occupation law. As the Court has previously observed, occupation is a question of fact², and occupation law describes the rights and responsibilities for administering control over occupied territory. An occupying Power has obligations related to maintaining public order and safety and protecting the civilian population. It also has the right, while an occupier, to pursue its military objectives and to govern enemy territory.

10. In the law of occupation, therefore, military and humanitarian interests converge. This means that where specific provisions of that law call on an occupying Power to provide the civilian population with relief, the occupying Power does not lose its right to ensure its own security.

11. With this framing in mind, I will address the specific, limited obligations of an occupying Power toward third States and organizations in two categories: first, obligations on allowing and facilitating relief for the civilian population; and second, rules relating to the impartiality of

¹ *Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion, I.C.J. Reports 1996 (II)*, p. 240, para. 25; see also *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, I.C.J. Reports 2004 (I)*, p. 178, para. 106.

² See *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem* [hereinafter "*Israeli Practices*"], *Advisory Opinion of 19 July 2024*, para. 86; *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda), Judgment, I.C.J. Reports 2005*, pp. 229-230, para. 172.

humanitarian organizations. In both categories, occupation law preserves an occupying Power's discretion to address its security interests, including the ability to curtail the activities of third States or organizations that are contrary to its security.

12. For the first category, most submissions to the Court address the Fourth Geneva Convention of 1949. Article 59 of the Fourth Geneva Convention states that when the population of the 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”³.

13. Several submissions incorrectly assert that this means that Article 59 requires an occupying Power to agree to *all* relief offered by *all* outside organizations. But the text of Article 59 contains no such expansive language. Nor does it prescribe *which* relief schemes an occupying Power must consent to. The only mention of third parties comes in the next paragraph of Article 59, which states, “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”⁴. The word “impartial” is obviously important, and I will return to it. But, for now, focus on the fact that this provision is actually a definition of *what* a relief scheme provides — that is, “food, medical supplies and clothing”. The language on third parties merely describes *possible* providers of relief, which is clear from the words “may” and “such as” before the example of “the International Committee of the Red Cross”.

14. It is also critically important that Article 59 does not remove an occupying Power's authority to ensure public order and safety in the territory. In other words, an occupying Power retains a margin of appreciation concerning which relief schemes to permit⁵.

15. Thus, even if an organization offering relief is an impartial humanitarian organization, and even if it is a major actor, occupation law does not require an occupying Power to allow and facilitate that specific actor's relief operations. An occupying Power may also fulfil its humanitarian obligations toward the civilian population while advancing its own military and security interests.

³ Geneva Convention Relative to the Protection of Civilian Persons in Time of War, Art. 59, 12 Aug. 1949, 75 UNTS 287.

⁴ *Ibid.*

⁵ Dapo Akande and Emanuela-Chiara Gillard, *Oxford Guidance on the Law Relating to Humanitarian Relief Operations in Situations of Armed Conflict* (2016), p. 18.

16. An example can be found in Article 55 of the Fourth Geneva Convention. Article 55 describes the obligation of an occupying Power to ensure the food and medical supplies of the population. But as the ICRC Commentary explains, under Article 55 “the occupying authorities retain complete freedom of action in regard to this, and are thus in a position to take the circumstances of the moment into account”⁶. Similarly, while Article 63 recognizes that national Red Cross societies and other relief societies are permitted to continue their humanitarian work under Red Cross principles, an occupying Power may still impose restrictive measures for urgent reasons of security.

17. I turn now to the second category, which is a fundamentally important limitation built into occupation law. Articles 59 and 61 of the Fourth Geneva Convention make clear that collective relief may be conducted by third States or “impartial” humanitarian organizations. As many submissions acknowledge, impartiality requires that humanitarian relief be distributed in a non-discriminatory manner. However, the concept of impartiality in the phrase “impartial humanitarian organization” also refers to taking no side in the armed conflict. The ICRC Commentary to Article 59 makes this clear: it says that “only those States which are neutral . . . are capable of providing the essential guarantees of impartiality”⁷. And the Commentary to Article 61 shows that the term “impartiality” in describing organizations providing relief is synonymous with “neutrality”⁸.

18. Here, there are serious concerns about UNRWA’s impartiality, including information that Hamas has used UNRWA facilities, and that UNRWA staff participated in the 7 October terrorist attack against Israel. Israel therefore has ample grounds to question UNRWA’s impartiality. Some have argued that the evidence is insufficient, or that the United Nations’ investigation and the Colonna report have resolved concerns about UNRWA. But the Colonna report itself recognizes that “neutrality-related issues persist” for UNRWA⁹, and that there continue to be serious challenges with respect to UNRWA’s oversight and accountability. Again, the Court need not — and should not — reach these factual issues, but given these concerns, it is clear that Israel has no obligation to permit

⁶ International Committee of the Red Cross (ICRC), IV Geneva Convention Relative to the Protection of Civilian Persons in Time of War: Commentary (Jean S. Pictet, ed. 1958), p. 310.

⁷ *Ibid.*, at 321.

⁸ *Ibid.*, at 327.

⁹ Independent Review Group to Assess the UN Relief Agency for Palestine Refugees, Final Rep. for the UN Secretary-General: Independent Review of Mechanisms and Procedures to Ensure Adherence by UNRWA to the Humanitarian Principle of Neutrality, p. 5 (20 April 2024).

UNRWA specifically to provide humanitarian assistance. UNRWA is not the only option for providing humanitarian assistance in Gaza.

19. In sum, there is no legal requirement that an occupying Power permit a specific third State or international organization to conduct activities in occupied territory that would compromise its security interests. To hold otherwise would be contrary to the Fourth Geneva Convention.

OBLIGATIONS OF UNITED NATIONS MEMBER STATES

20. Mr President, Members of the Court, I turn now to the obligations of Israel as a United Nations Member State.

21. The Security Council and General Assembly have worked for decades toward an end to the conflict between Israel and the Palestinians. Throughout that long history, Israel has hosted and engaged with the United Nations, United Nations agencies and United Nations representatives.

22. Some participants have argued that this engagement has resulted in or arisen out of additional obligations on Israel solely by virtue of Israel's membership in the United Nations. Those arguments rest on mischaracterizations of the United Nations Charter. The General Assembly does not have the power to impose on Israel a perpetual obligation to co-operate with UNRWA. This is a fundamental principle that is distinct from any obligations Israel — or any United Nations Member State — might have toward a United Nations entity that it agrees to host.

23. This is because the United Nations Charter codifies an allocation of power and responsibilities among its principal organs, particularly between the Security Council and the General Assembly. That allocation was deliberately chosen by the drafters and is central to the United Nations approach to advancing international peace and security¹⁰.

24. This Court's prior Opinions, both in *Competence of the General Assembly for the Admission of a State to the United Nations*¹¹ and in *Certain Expenses of the United Nations*¹², remind

¹⁰ US Department of State, Charter of the United Nations, Report to the President on the Results of the San Francisco Conference by the Chairman of the United States Delegation 42 (1945).

¹¹ *Competence of the General Assembly for the Admission of a State to the United Nations*, Advisory Opinion, I.C.J. Reports 1950, pp. 8-10.

¹² *Certain Expenses of the United Nations (Article 17, paragraph 2, of the Charter)* [hereinafter "*Certain Expenses*"], Advisory Opinion, I.C.J. Reports 1962, p. 157.

us that, in interpreting the Charter, the Court considers the relationship that the Charter establishes between the General Assembly and the Security Council. This structure has paramount importance.

25. Yet, many arguments in these proceedings would upset this structure, including the suggestion that Article 2 (5) of the Charter effectively confers upon the General Assembly powers reserved in the Charter for the Security Council. That is incorrect.

26. Article 2 (5) states in relevant part that “[a]ll Members shall give the United Nations every assistance in any action it takes in accordance with the present Charter”.

UN resolutions

27. This clause does not mean that resolutions by the General Assembly form binding obligations on Member States. The Charter carefully defines the responsibilities that are unique to the Security Council. Under Article 39, only the Security Council can decide what measures “shall be taken” by United Nations Member States “to maintain or restore international peace and security”. And only the Security Council can make the threat determination that must precede such binding decisions. In addition, such decisions require not only that at least nine Security Council members vote “yes”, but also that the five permanent members either vote yes or abstain¹³. Unlike the Security Council, the recommendations and activities of other United Nations organs, including the General Assembly, do not themselves have authority to bind United Nations Member States.

28. The Charter is clear as to the limits of the General Assembly’s powers. Under Article 10, the General Assembly may make *recommendations* to the Members of the United Nations. And, under Article 14, the General Assembly “may *recommend* measures for the peaceful adjustment of any situation”. In sum, while the General Assembly may make recommendations, it may not order coercive action. Straining international law to expand the General Assembly’s powers, as some have suggested here, would serve only to weaken the foundations of international law.

29. This Court has also recognized the Security Council’s unique role under the United Nations Charter. For example, in the *Certain Expenses* case, the Court explained that “it is the Security Council which is given a power to impose an explicit obligation of compliance”¹⁴ and

¹³ UN Charter, Art. 27 (3).

¹⁴ *Certain Expenses*, p. 163.

“[i]t is only the Security Council which can require enforcement by coercive action”¹⁵. And the Court itself has interpreted “action” to mean coercive or enforcement actions, as in Article 11, paragraph 2, of the United Nations Charter¹⁶. While the Court also indicated that measures recommended by the General Assembly under Article 14 “implies some kind of action”, it did not do so in the context of determining the scope of Article 2 (5)¹⁷.

30. Some suggest that Article 2 (5) is not limited to enforcement actions by the Security Council. But they do not account for the fact that the Charter does not use the word “action” in describing the General Assembly’s powers to make recommendations on questions relating to the maintenance of international peace and security. Nor do they account for the negotiating history of this Article, which is explained in the United States’ written submission¹⁸.

31. The attempt to expand Article 2 (5)’s meaning would also be contrary to the practice of the United Nations with respect to other entities that the General Assembly has created. The Court emphasized this in the *Certain Expenses* case when it pointed to the United Nations Secretary-General’s statement that:

“[w]hile the General Assembly is enabled to *establish* the Force with the consent of those parties which contribute units to the Force, it could not request the Force to be *stationed* or *operate* on the territory of a given country without the consent of the Government of that country”¹⁹.

32. Some have pointed to what they consider to be precedents in arguing for a wider role for the General Assembly, but these are easily distinguishable. The situation here is not parallel to Namibia, where the United Nations General Assembly acted in conjunction with binding United Nations Security Council resolutions²⁰. Nor does the question before the Court involve the responsibilities assigned to the General Assembly, which the Court considered in *Certain Expenses*²¹.

¹⁵ *Ibid.*

¹⁶ *Ibid.*, p. 164.

¹⁷ *Ibid.*, p. 163 and p. 172.

¹⁸ US Department of State, Charter of the United Nations, Report to the President on the Results of the San Francisco Conference by the Chairman of the United States Delegation 42 (1945).

¹⁹ *Certain Expenses*, pp. 170-171 (emphasis in original).

²⁰ *Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970)*, Advisory Opinion, I.C.J. Reports 1971, pp. 51-52, 53-54, paras. 106-110, 115-116.

²¹ *Certain Expenses*, p. 151.

There, the Court found that the General Assembly had the power to take decisions to approve the budget of the organization²². That case is clearly distinct because the General Assembly was acting under express authorization in the United Nations Charter to make certain decisions on budgetary matters²³.

33. The *Reparations* case stands for nothing different. In that case, this Court affirmed that the United Nations is an international organization, imbued with the powers essential to the discharge of its functions, including the capacity to claim appropriate reparation for damages suffered²⁴. The case has been repeatedly cited by the Court for that limited proposition. And while the Court referred to the importance of Article 2 (5) to the effective functioning of the United Nations, the Court expressed no opinion or analysis as to the scope of obligations incurred by the Member States under that Article²⁵. In the *Reparations* case, the Charter was silent on the issue before the Court. Yet here, the Charter is clear that the General Assembly lacks the power to impose binding obligations on UN Member States.

Other articles in the United Nations Charter

34. Other participants suggest that the Court should interpret Article 2 (5) expansively by reference to other articles in the Charter, the principle of good faith or the duty to co-operate.

35. The United States respectfully submits that the Court should reject the proposition that Article 2 (5) transforms the recommendations of the General Assembly into binding obligations. The obligations under the UN Charter must be implemented in good faith. But good faith does not obligate a UN Member State to take specific measures in the absence of a decision by the Security Council that particular action is necessary. In this case, the Security Council has not adopted a binding resolution that Israel must co-operate specifically with UNRWA. Absent such a Security Council decision, individual Member States have flexibility to determine appropriate measures,

²² *Ibid.*, p. 164.

²³ UN Charter, Arts. 17 and 18 (2).

²⁴ *Reparation for Injuries Suffered in the Service of the United Nations, Advisory Opinion, I.C.J. Reports 1949*, p. 182.

²⁵ *Ibid.*, pp. 178-179.

consistent with applicable law. They can give due consideration to the recommendations of UN organs, but such recommendations plainly are not binding.

36. The Court should also decline to find that a general purpose of the United Nations, such as under Article 1 (3) of the Charter, may impose a specific legal obligation on a UN Member State. As the Court made clear in the *Certain Expenses* case, it is necessary to distinguish between the purposes of the United Nations, and the powers conferred to effectuate those purposes²⁶. These powers are not unlimited²⁷.

37. Nor should the Court reinterpret Article 2 (5) on the basis of Articles 55 or 56 of the Charter. Article 55 provides objectives for the United Nations to promote. Article 56 then provides for a generalized commitment to co-operate with the United Nations in pursuit of the objectives in Article 55²⁸. Neither of these Articles compels — much less list — particular actions for the Organization or its Member States to undertake. These Articles were not intended to infringe upon Member States' authority to determine how to advance these objectives of the United Nations²⁹.

THE SCOPE OF THE QUESTION SHOULD REMAIN FOCUSED

38. Mr President, Members of the Court, before I conclude, I would like to make three overarching observations about the question referred to the Court in this advisory proceeding.

39. First, it cannot escape notice that the request follows the regrettable precedent of seeking advice with respect to the obligations of only one of the parties to the underlying conflict. We are all well aware that less than a year ago the Court provided its advice on a broad set of questions focused, one-sidedly, on Israel and its activities.

40. Second, the General Assembly has simply asked the Court to identify the obligations of Israel. The narrow framing of the question is important, because the Court has related contentious proceedings before it, including with Israel as a party. This means that, consistent with the narrow

²⁶ *Certain Expenses*, p. 168.

²⁷ *Ibid.*

²⁸ UN Charter, Art. 55.

²⁹ Hans Kelsen, *The Law of the United Nations: A Critical Analysis of Its Fundamental Problems* (Frederick A. Praeger 1955), p. 102; US Department of State, Charter of the United Nations, Report to the President on the Results of the San Francisco Conference by the Chairman of the United States Delegation 42 (1945), pp. 115-16.

scope of the question, there should be no finding either as to compliance with any obligations identified in this proceeding or as to the legal consequences of any alleged breach.

41. Third, the question is limited to identifying those obligations in “relation to the presence and activities of the United Nations . . . other international organizations and third States”. While there certainly are rules of international law relevant to the population of an occupied territory, those were addressed in the Court’s July 2024 Opinion and do not need to be revisited³⁰.

42. Similarly, the Court has recently advised on the right to self-determination in this context. The question before it here does not require revisiting the analysis of that right.

CONCLUSION

43. In concluding my remarks, let us return to the principles I began with. The question before the Court in this proceeding is, by definition, a legal question. The General Assembly has asked the Court to identify a set of obligations, and that is all.

44. We also urge the Court to bear in mind that the rules applicable in this context apply globally and to all States. Some have asked you to identify *sui generis* responsibilities for Israel, or even a *sui generis* responsibility tied to UNRWA. Identification of such novel obligations would be inconsistent with international law, including the UN Charter.

45. Novel legal interpretations will not bring an end to the ongoing conflict. They will not bring the hostages home. They will not create a better tomorrow for Israelis, Palestinians and the region. To be clear, the United States supports the flow of humanitarian aid into Gaza with safeguards to ensure it is not looted or misused by terrorist groups. We encourage the international community to focus on advancing a ceasefire and on fresh thinking for a better future for Israelis and Palestinians alike.

46. Mr President, Members of the Court, this concludes the oral statement of the United States. Thank you for your attention.

³⁰ See *Israeli Practices*, pp. 73-77.

The PRESIDENT: I thank the representative of the United States of America for his presentation. I now invite the next participating delegation, the Russian Federation, to take the floor and I call Mr Maksim Musikhin to the podium. You have the floor, Sir.

Mr MUSIKHIN:

1. Mr President, Madam Vice-President, Members of the Court, it is an honour to address the Court — the principal judicial organ of the United Nations — on behalf of the Russian Federation. Today, we confront a crisis of legality and humanity in light of systematic undermining of the United Nations Relief and Works Agency for Palestine Refugees (UNRWA) by Israel and its negligence towards the overall obligations under international law, including those stemming from the status of Israel as an occupying Power. The urgency of this matter cannot be overstated. Gaza balances on the brink of famine, hospitals lie in ruins and millions of Palestinians in the Strip as well as in the West Bank, including East Jerusalem, face existential despair.

I. JURISDICTION

2. Mr President, the General Assembly's request for an advisory opinion, adopted by 137 States in resolution 79/232, is based on Article 96 of the UN Charter and Article 65 of the ICJ Statute. These Articles provide for the advisory jurisdiction of the Court. Some States, including Israel, in their written statements have argued that this request is politically charged, concerns bilateral relations and is the subject of the ongoing proceedings between South Africa and Israel on application of the Genocide Convention.

3. This is not the first time the Court considers the relevant aspects of the conflict between Israel and Palestine. The Court's 2004 *Wall* Advisory Opinion and 2024 Opinion on the *Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*, established irrefutable precedents.

4. In 2004, the Court affirmed that Israel's construction of the Wall violated international humanitarian law (IHL). In 2024, it reaffirmed Israel's status as an occupying Power in the Palestinian Territory, including the Gaza Strip. These Opinions constitute a solid foundation for facilitating peace in the region and ensuring the rights of Palestinians to self-determination, as well

as providing for the legal qualification of Israeli actions. They also serve as a basis for the present request of the United Nations General Assembly.

5. Today, we address a new dimension: Israel's October 2024 laws banning UNRWA's operations, which in our view directly contravene the norms of IHL, the UN Charter and the 1946 Convention on the Privileges and Immunities of the United Nations. Under Article 30 of the latter, disputes over its interpretation must be referred to this Court.

6. Thus, the Russian Federation invites the Court to follow its own reasoning on jurisdiction and discretion to hear the present case used in the 2024 Advisory Opinion, since the factual and legal background of these cases are quite similar. Besides, the question put before this Court is strictly legal. It concerns Israel's duties as an occupying Power under IHL and its obligations to uphold the privileges and immunities of UN agencies, other international organizations and third States in and in relation to the Occupied Palestinian Territory. Therefore, we maintain that judicial restraint here would undermine the very architecture of international law.

II. FACTUAL BACKGROUND

7. Mr President, to understand the importance of this moment, we must reflect on history. Established in 1949 by General Assembly resolution 302, UNRWA was created to address the catastrophic displacement of 750,000 Palestinians. Today, it serves 5.9 million Palestinian refugees across Gaza, the West Bank, Jordan, Lebanon and Syria. For 75 years, UNRWA has been more than just an aid agency — it is a symbol of the international community's collective responsibility to the Palestinian people striving for a State of their own in exercise of their right to self-determination in accordance with international law, and return. The role of UNRWA in facilitating the humanitarian aid is crucial, and its work is strongly supported by the vast majority of the international community. The Agency's mandate — education, healthcare and emergency relief — is not mere charity, these spheres are legal obligations of the occupying Power under IHL. When Israel occupied Gaza and the West Bank in 1967, it inherited the duty to ensure the welfare of the population on the occupied territory. Instead, this responsibility was outsourced to UNRWA and other UN agencies and programmes, relying on the Agency's schools, clinics and distribution networks to mitigate the humanitarian impact of Israel's own policies.

8. In Gaza, as mentioned in the United Nations Security Council Press Statement of 30 October 2024, UNRWA remains the backbone of all humanitarian response and no organization can replace or substitute UNRWA's capacity and mandate to serve Palestinian refugees and civilians in urgent need of life-saving humanitarian assistance. Now, with the resumption of Israel's military operation in Gaza together with the imposition of a total blockade since 2 March, the strip has continued to endure devastating destruction and a humanitarian catastrophe of unprecedented scale.

9. The West Bank, where Israel has launched its full-scale military operation on 21 January, risks repeating terrible Gaza scenario. UNRWA installations and personnel are under attack there too, as well as in East Jerusalem, where after the enactment of the Knesset bills on the cessation of UNRWA operations, all the offices, including the historic premises Sheikh-Jarrah and Kalandia, operated since 1950, were arbitrarily closed. By doing so, Israel for the first time in history unilaterally prohibited the work of the United Nations agency and deprived it of its privileges and immunities.

10. It is also worth mentioning here that this year UNRWA has been again nominated for the Nobel Peace Prize. Awarding this prize will, obviously, be timely and well-deserved, taking into account the highest price Agency has paid during the recent crises in the Middle East — Israeli military operations claimed lives of 290 UNRWA staff members.

11. To this effect Russia has been consistently advocating for an unconditional and sustainable ceasefire, the release of all hostages and detainees, safe and unhindered humanitarian access, as well as the restart of the peace process on a universally recognized international legal basis with two-State solution formula at the centre.

III. OBLIGATIONS OF ISRAEL UNDER IHL

12. Mr President, it is the position of the Russian Federation which is based, *inter alia*, on the Advisory Opinions of the Court of 2004 and of 2024, that Israel as the occupying Power is bound by the IHL, including the Fourth Geneva Convention and the Hague Regulations. The Court observed in the *Wall* Advisory Opinion that, in the 1967 armed conflict, Israel occupied the territory between the so-called Green Line and the former eastern boundary of Palestine under the British Mandate, namely the West Bank and East Jerusalem. The situation since then has not improved, but rather

deteriorated. According to the 2024 Advisory Opinion, “Israel’s withdrawal from the Gaza Strip has not entirely released it of its obligations under the law of occupation”. Therefore, Israel to this day remains an occupying Power in terms of IHL, and its relevant rules and principles are fully applicable to Israel.

13. We consider the following provisions of IHL as especially pertinent to the case in hand.

14. Under Article 43 of the Hague Regulations “the occupant . . . shall take all the measures in his power to restore, and ensure, as far as possible, public order and safety”. Under the Court’s interpretation in the Opinion of 2024, this includes the “duty to administer the territory for the benefit of the local population”.

15. Article 50, paragraph 1, of the Fourth Geneva Convention provides that “the Occupying Power shall, with the cooperation of the national and local authorities, facilitate the proper working of all institutions devoted to the care and education of children”.

16. Article 55, paragraph 1, of the Fourth Geneva Convention further provides that

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

Article 56, paragraph 1, of the Fourth Geneva Convention provides that “the Occupying Power has the duty of ensuring and maintaining . . . the medical and hospital establishments and services, public health and hygiene in the occupied territory”. Article 59 obliges Israel to facilitate humanitarian relief schemes “by all the means at its disposal” if the whole or part of the population of an occupied territory is inadequately supplied.

17. None of that is happening today, as stated in the UN Secretary-General’s press encounter on Gaza of 8 April 2025.

18. Israel and its supporting States claim that other agencies can replace UNRWA and the occupying Power has discretion to determine whether, when and to what extent other parties may be present and operate in the Occupied Palestinian Territory. We respectfully ask the Court not to follow this line of logic.

19. Firstly, no organization possesses UNRWA’s infrastructure in the Gaza Strip and the West Bank — 65 clinics, 12 food distribution centres (in Gaza) and 30,000 local staff. Without UNRWA,

Gaza's humanitarian system will collapse. And secondly, the aforementioned Article 59 of the Fourth Geneva Convention unequivocally obliges the occupying State to "agree to the relief schemes on behalf of the said population". The Fourth Geneva Convention not only lays down that the occupying power must "agree" to the said relief schemes, but insists that it must "facilitate" them by all the means at its disposal. The occupying authorities must therefore co-operate wholeheartedly in the rapid and scrupulous execution of these schemes.

20. Israel claims its laws on UNRWA are necessary for national security. Israel has the right to ensure its own security, but the path to this goal lies exclusively through a comprehensive Middle East settlement process and the realization of the legitimate right of Palestinians to their own State within the borders of 1967, with East Jerusalem as its capital. This right derives from one of the fundamental principles of the United Nations Charter — the right to self-determination of peoples.

21. Even so, these security concerns do not absolve Israel from other norms of international law, including the norms on privileges and immunities of international organizations. Furthermore, the Fourth Geneva Convention in its Article 59 provides for safeguards, that the relief consignments may be searched by the occupying power. UNRWA has co-operated with Israeli authorities for decades, sharing staff lists, facilitating aid co-ordination and conducting a thorough audit, the results of which are available to the public. We maintain that security issues should be subject to substantive co-operation and discussions between Israel and UNRWA to mitigate these concerns. Since the laws on the cessation of UNRWA operations also prohibit all contacts between Israel's Government and UNRWA, the much-needed negotiations are stalled on the part of Israel.

22. Given the crucial role UNRWA has played in over 75 years of its activities in the region on behalf of the Palestinians, the cessation of its operations will result in the catastrophic scarcity of supplies and assistance to the population of the Occupied Palestinian Territory, including refugees in the neighbouring countries — Jordan, Lebanon and Syria. Israel's laws on the prohibition of the work of UNRWA will undoubtedly worsen the humanitarian situation in the Occupied Palestinian Territory and will make the population in the said territory "inadequately supplied", the language used in Article 59 of the Fourth Geneva Convention.

23. The role of the Agency in providing complex assistance to the Palestinians is crucial to ensuring their fundamental rights, including the cornerstone UN Charter right to self-determination, within the two-State solution framework.

IV. OBLIGATIONS OF ISRAEL IN RELATION TO THE PRESENCE OF UNRWA IN THE OCCUPIED PALESTINIAN TERRITORY

24. Mr President, turning to the issues of privileges and immunities, the Russian Federation submits that UNRWA's legal status is clear. As a subsidiary organ of the General Assembly under Article 22 of the UN Charter with a clear humanitarian mandate, it is entitled to privileges and immunities under the 1946 Convention. Furthermore, according to Article 105 of the United Nations Charter, 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. Israel's October 2024 laws — revoking UNRWA's immunities, criminalizing its staff and seizing its assets — constitute a violation of this framework. In no way do the provisions of the UN Convention of 1946 allow the unilateral revocation of privileges and immunities.

25. The privileges and immunities of the United Nations play an important role in ensuring the functioning of this Organization. They are necessary to fulfil the basic functions of the United Nations, such as maintaining peace and security, promoting international co-operation and protecting human rights. Privileges and immunities allow the United Nations to carry out its activities freely without fear of persecution by States or individuals. This ensures the independence and impartiality of the Organization in carrying out its tasks.

26. Israel's legislation is not merely unlawful — it is an attack on the United Nations fundamental principles. If tolerated, it sets a very dangerous precedent for States to dismantle any UN agency they deem inconvenient. Within the broader context of the Arab-Israeli conflict, it is necessary to highlight that other UN structures — UNIFIL and UNDOF in Lebanon and Syria — have also been negatively affected and obstructed by Israeli invasions and continued unlawful military presence.

27. In a more broad context, United Nations and missions of States to the United Nations were also impacted: there were numerous violations by the Biden and Obama administrations of the Agreement regarding the Headquarters of the United Nations of 1947 and the UN Convention of

1946. Part of the official premises of the Russian Mission of the United Nations in New York was blocked, issuance of visas of State representatives for meetings under the auspices of the United Nations and of the UN staff members of specific nationality was deliberately hindered, and movement restrictions were put into effect. Similar violations regarding issuance of visas are committed by France as the host country of UNESCO.

28. The erosion of privileges and immunities strikes at the heart of multilateralism, undermining the United Nations capacities.

V. CONCLUSIONS

29. Mr President, Madam Vice-President, Members of the Court, this case transcends legal technicalities. UNRWA's collapse would not only doom millions of Palestinians — it would shatter the credibility of the UN system.

30. Therefore, the Russian Federation respectfully submits the following:

- First, in our opinion the Court has jurisdiction to give the advisory opinion requested by the General Assembly.
- Second, we believe there are no compelling reasons for the Court to exercise its discretion not to consider the question posed by the General Assembly.
- Third, Israel, as the occupying Power, has the obligation not to impede the Palestinian people from exercising its right to self-determination.
- Fourth, as the occupying Power, Israel is obliged under IHL to ensure and facilitate the unhindered provision of humanitarian aid and assistance to the Palestinian population.
- Fifth, due to the unique role of UNRWA in the Occupied Palestinian Territory, Israeli laws on the prohibition of the Agency's activities violate IHL norms and principles; implementation of these laws will undoubtedly worsen the humanitarian situation for the Palestinian population and significantly hinder the realization of the Palestinian people's right to self-determination.
- And sixth, by passing laws on UNRWA, Israel unilaterally deprives UNRWA of its privileges and immunities, which is a violation of the United Nations Charter and the Convention on Privileges and Immunities of the United Nations of 1946.

31. Mr President, Madam Vice-President, Members of the Court, let this Court's opinion be a beacon of hope — a reaffirmation that international law and not the so-called “rules-based order” governs actions of States and international organizations. Thank you for your attention.

The PRESIDENT: I thank the representative of the Russian Federation for his presentation. J'invite à présent la délégation suivante, celle de la France, à prendre la parole, et appelle à la barre M. Diégo Colas. Monsieur, je vous en prie.

M. COLAS : Merci, Monsieur le président.

1. Monsieur le président, la France souhaite tout d'abord vous féliciter pour votre élection à la présidence de cette Cour.

2. Monsieur le président, Mesdames et Messieurs les juges, ma présence devant vous s'inscrit dans la continuité des efforts déployés par mon pays pour mettre un terme à la situation humanitaire désastreuse dans la bande de Gaza et, plus généralement, dans l'ensemble du Territoire palestinien occupé.

3. La France regrette les grandes difficultés d'accès à l'information fiable dues aux graves attaques dont sont victimes un nombre croissant de journalistes³¹. Pour autant, les informations qui nous parviennent de Gaza sont alarmantes. Au 24 avril, selon les chiffres du ministère de la santé de Gaza, le bilan humain de la guerre était de plus de 51 300 morts et de 117 000 blessés. Il convient en outre de signaler l'interruption totale de l'aide humanitaire depuis le 2 mars, l'épuisement des produits essentiels, y compris des stocks alimentaires, ainsi que la violence des opérations militaires, dont beaucoup touchent les civils et les travailleurs humanitaires. S'agissant de ces derniers, 418 d'entre eux ont été tués depuis octobre 2023, dont 290 personnels de l'Office de secours et de travaux des Nations Unies pour les réfugiés de Palestine dans le Proche-Orient (que j'appellerai ci-après l'«UNRWA» ou l'«Office»).

4. Face à cette situation que la France ne cessera de condamner, sa position restera ferme et constante : l'aide humanitaire doit parvenir massivement à Gaza. Les restrictions à son accès doivent

³¹ Nations Unies, Bureau de coordination des affaires humanitaires, « Reported impact snapshot | Gaza Strip (22 April 2025) », accessible à l'adresse suivante : <https://www.ochaopt.org/content/reported-impact-snapshot-gaza-strip-22-april-2025>.

être levées sans délai, l'ensemble des points de passage doivent être ouverts, le travail des acteurs humanitaires doit être facilité et leur personnel doit être protégé, conformément au droit international.

5. C'est dans ce contexte d'urgence que s'inscrit la présente procédure. Celle-ci permettra à la Cour de clarifier les obligations d'Israël relatives à la présence et aux activités humanitaires dans le Territoire palestinien occupé et en lien avec celui-ci, à l'appui du droit du peuple palestinien à l'autodétermination.

6. La question posée à la Cour appelle quatre remarques liminaires.

7. Premièrement, elle porte sur « les obligations » d'Israël. Partant, il reviendra à la Cour d'identifier précisément ces obligations et les conditions de leur respect. La question ne mentionne pas explicitement, comme c'était le cas pour d'autres demandes d'avis, les « conséquences juridiques » d'un comportement donné. Pour autant, l'Assemblée générale, qui a demandé l'avis, et les États devront en tirer toutes les conséquences.

8. Deuxièmement, la question posée fait référence aux activités « d'autres organisations internationales ». Au regard du rôle essentiel des organisations non gouvernementales telles que Médecins du monde ou Actions contre la faim dans le Territoire palestinien occupé, la France considère que leurs activités doivent aussi être prises en compte dans le cadre de la présente procédure. Toutefois, dans le temps imparti et au regard des circonstances factuelles à l'origine de la saisine de la Cour, mon exposé portera principalement sur la présence et les activités de l'UNRWA.

9. Troisièmement, du fait de l'expression « en lien avec celui-ci », la portée territoriale de la question n'est pas limitée au seul Territoire palestinien occupé. Cette formulation invite en effet la Cour à examiner les obligations internationales dont Israël doit s'acquitter sur son propre territoire dans la mesure où leur exécution serait susceptible d'emporter des conséquences sur le Territoire palestinien occupé.

10. Enfin, la France a constamment rappelé l'importance du respect du droit à l'autodétermination du peuple palestinien. Son exercice a selon elle pour seul horizon possible une solution à deux États, la seule qui puisse garantir la paix et la sécurité sur le long terme aux Israéliens et aux Palestiniens. Comme mon pays l'a déjà souligné, la fourniture de l'aide humanitaire et de l'aide au développement permet d'établir les conditions pour que le peuple palestinien puisse être en

mesure d'exercer son droit à l'autodétermination. Cette aide participe donc pleinement de l'exercice du droit des Palestiniens à disposer d'eux-mêmes.

11. Monsieur le président, Mesdames et Messieurs les juges, à la lumière de ces éléments introductifs, ma plaidoirie détaillera successivement les obligations d'Israël qui découlent de sa qualité d'État Membre des Nations Unies (I) puis celles qui découlent de sa qualité de puissance occupante dans le Territoire palestinien occupé (II). Il est important de souligner que ces obligations ne sont pas exclusives les unes des autres. Elles sont, au contraire, simultanément applicables et se nourrissent mutuellement.

I. LES OBLIGATIONS ISSUES DU DROIT DES NATIONS UNIES

12. Pour ce qui est des obligations issues du droit des Nations Unies, j'aborderai d'abord les obligations générales d'Israël à l'égard de la présence et des activités de l'UNRWA dans le Territoire palestinien occupé et en lien avec celui-ci (A) puis, plus spécifiquement, les privilèges, immunités et facilités dues à l'Office en tant qu'organe de l'ONU (B).

A. Les obligations d'Israël à l'égard de la présence et des activités de l'UNRWA dans le Territoire palestinien occupé et en lien avec celui-ci

13. À titre liminaire, il doit être rappelé que, comme pour tout organe subsidiaire de l'Assemblée générale des Nations Unies, la présence et les activités de l'UNRWA sur un territoire donné sont soumises au consentement des parties intéressées.

14. Israël et l'UNRWA ont conclu plusieurs accords, dont un accord concernant une assistance aux réfugiés de Palestine, entré en vigueur le 14 juin 1967 (que j'appellerai ci-après l'« accord de 1967 »)³². Cet accord encadre les activités de l'UNRWA dans le Territoire palestinien occupé, mais également celles « en lien avec celui-ci ». Certaines de ses dispositions évoquent, en effet, l'entrée des véhicules et du personnel de l'Office en Israël³³.

³² Échange de lettres constituant un accord provisoire concernant une assistance aux réfugiés de Palestine, Jérusalem, 14 juin 1967, Nations Unies, *Recueil des traités (RTNU)*, vol. 620, n° 8955. Il remplace l'échange de lettres constituant un accord relatif à l'assistance aux réfugiés de Palestine dans la bande de Gaza, Israël et Beyrouth, 9 novembre 1956, Nations Unies, *RTNU*, vol. 280, n° 4063.

³³ Accord de 1967, par. b) et c).

15. L'autorité palestinienne a également conclu divers accords avec l'UNRWA, dont un accord relatif à l'emplacement de son siège en Cisjordanie et dans la bande de Gaza, signé à Ramallah le 5 juillet 1996.

16. Le 28 octobre 2024, la Knesset a adopté deux lois visant à interdire les activités de l'Office en Israël et, par une extension contestable de son droit interne, dans le Territoire palestinien occupé. Cette législation a, entre autres, donné lieu à une notification, adressée à l'UNRWA le 3 novembre 2024, par laquelle Israël estime résilier l'accord de 1967³⁴.

17. De l'avis de la France, le principe général du consentement des parties intéressées par les activités de l'UNRWA doit s'articuler avec les autres obligations internationales qui pèsent sur Israël, dans le Territoire palestinien occupé, d'une part (1) et sur son propre territoire, d'autre part (2). J'évoquerai ces deux aspects successivement, car l'articulation n'est pas la même dans les deux situations.

1. L'obligation de ne pas entraver les actions de l'Office en ce qui concerne ses activités dans le Territoire palestinien occupé

18. Tout d'abord, dans le Territoire palestinien occupé. En tant que Membre des Nations Unies, les marges d'appréciation d'Israël pour interdire les activités de l'UNRWA sont d'abord encadrées par son obligation générale de coopérer de bonne foi avec l'ONU. Cette obligation découle notamment de l'article 2, paragraphe 5, de la Charte, qui énonce que « [l]es Membres de l'Organisation donnent à celle-ci pleine assistance dans toute action entreprise par elle conformément aux dispositions de la présente Charte ».

19. Comme le souligne son chapeau, la mise en œuvre de cette disposition est une condition nécessaire à la réalisation des buts des Nations Unies qui sont énoncés à l'article premier de la Charte. L'on rappellera à cet égard que l'ONU a, parmi plusieurs objectifs, celui de « [r]éaliser la coopération internationale en résolvant les problèmes internationaux d'ordre [notamment] ... humanitaire ».

³⁴ Nations Unies, Assemblée générale et Conseil de sécurité, « Lettres identiques datées du 18 décembre 2024, adressées au Président de l'Assemblée générale et à la Présidente du Conseil de sécurité par le Représentant permanent d'Israël auprès de l'Organisation des Nations Unies », doc. A/79/710-S/2024/940, 31 décembre 2024, p. 4.

20. La Cour a très tôt retenu une lecture large du devoir d'assistance des États Membres, en l'appliquant aussi aux actions de l'Assemblée générale³⁵, même si ce devoir ne saurait avoir pour conséquence juridique de conférer une valeur obligatoire à ce qui est une recommandation.

21. De plus, l'obligation d'Israël de coopérer avec l'ONU dans le cadre spécifique de l'assistance humanitaire à Gaza a été rappelée à plusieurs reprises par les organes des Nations Unies.

22. Par exemple, dans son ordonnance en indication de mesures conservatoires du 28 mars 2024, qui produit encore des effets à ce jour, votre Cour a enjoint Israël à

« prendre toutes les mesures nécessaires et effectives pour veiller sans délai, en étroite coopération avec l'Organisation des Nations Unies, à ce que soit assurée, sans restriction et à grande échelle, la fourniture par toutes les parties intéressées des services de base et de l'aide humanitaire requis de toute urgence »³⁶.

23. Israël se trouve donc dans l'obligation de donner pleine assistance aux actions de l'Office dans le Territoire palestinien occupé, ce qui implique, *a minima*, l'obligation de ne pas entraver ses activités.

2. Les limites à la faculté d'Israël de refuser les activités de l'UNRWA sur son propre territoire

24. S'agissant maintenant du territoire d'Israël à proprement parler. Les obligations d'Israël à l'égard de l'UNRWA dans le Territoire palestinien occupé sont à distinguer de celles concernant la présence de l'Office sur le territoire israélien en tant que tel.

25. Dans son avis consultatif relatif au siège de l'Organisation mondiale de la santé en Égypte, la Cour a reconnu le « pouvoir souverain de décision » d'un État pour ce qui est de la présence d'une organisation onusienne sur son territoire³⁷. Le retrait du consentement d'un État à cette présence procède de ce même pouvoir souverain de décision.

26. Cela dit, ce pouvoir est encadré par les obligations dues à l'ONU par un État Membre en cas de dénonciation de l'accord relatif à la présence d'une organisation onusienne sur son territoire. Ces obligations ont été détaillées par la Cour dans son avis précité. Celui-ci est tout à fait transposable en l'espèce étant donné notamment que l'accord de 1967 est silencieux quant à ses modalités de

³⁵ Voir, notamment, *Réparation des dommages subis au service des Nations Unies*, avis consultatif, C.I.J. Recueil 1949, p. 183.

³⁶ *Application de la convention pour la prévention et la répression du crime de génocide dans la bande de Gaza (Afrique du Sud c. Israël)*, ordonnance du 28 mars 2024, par. 45.

³⁷ *Interprétation de l'accord du 25 mars 1951 entre l'OMS et l'Égypte*, avis consultatif, C.I.J. Recueil 1980, p. 89, par. 37.

dénonciation. En vertu de ces obligations, Israël et l'UNRWA doivent d'abord négocier de bonne foi les conditions de transfert des activités de l'Office en dehors du territoire israélien. Israël doit ensuite accorder une période de préavis raisonnable à l'Office pour préparer son départ et, enfin, lui octroyer, ainsi qu'à son personnel, les privilèges, immunités et facilités nécessaires au bon déroulé de la période transitoire.

27. En outre, l'exercice par Israël de son pouvoir de retirer son consentement à la présence de l'UNRWA sur son propre territoire exige de tenir compte des conséquences d'une telle décision sur le Territoire palestinien occupé. Il s'agit en effet d'une décision ayant des conséquences « en lien avec » le Territoire palestinien occupé, au sens de la question posée à la Cour.

28. De nombreuses activités de l'UNRWA dans le Territoire palestinien occupé dépendent en effet de facilités ou d'autorisations délivrées par Israël sur son propre territoire, y compris pour tout transit vers ou depuis le Territoire palestinien occupé. La suppression de ces facilités pourrait entraver concrètement et durablement l'accès physique au Territoire palestinien occupé et donc la capacité de l'UNRWA d'y opérer.

29. De telles conséquences seraient de toute évidence incompatibles avec l'obligation d'Israël de ne pas entraver les actions de l'Office sur le Territoire palestinien occupé identifiée précédemment. Cette obligation doit donc également être considérée comme encadrant le « pouvoir souverain de décision » d'Israël vis-à-vis de la présence et des activités de l'UNRWA sur son territoire.

B. L'obligation de respecter les privilèges, immunités et facilités de l'UNRWA

30. L'article 105 de la Charte des Nations Unies et la convention sur les privilèges et immunités des Nations Unies (que j'appellerai ci-après la « convention générale ») précisent les privilèges, immunités et facilités qu'Israël doit reconnaître à l'ONU, ainsi qu'à son personnel.

31. Il convient de relever que le champ d'application de la convention générale a été explicitement étendu au Territoire palestinien occupé par l'accord de 1967. Toutefois, à supposer que cet accord soit considéré comme ayant été régulièrement dénoncé, la convention générale resterait applicable à l'égard de l'UNRWA, tant en Israël que dans le Territoire palestinien occupé.

32. En effet, si l'article 105 de la Charte fait référence au « *territoire* de chacun de ses Membres »³⁸, les dispositions de la convention générale — qui est communément considérée comme une ampliation de l'article 105 — sont, elles, rédigées en des termes particulièrement ouverts. Elles évoquent, par exemple, les biens et les avoirs de l'ONU « où qu'ils se trouvent et quel que soit leur détenteur » (section 3).

33. L'objet et le but de la convention générale est de protéger les avoirs et les agents de l'ONU en vue de permettre à celle-ci d'exercer efficacement les missions pour lesquelles ses Membres l'ont mandatée. De fait, il serait paradoxal, et contraire à l'objet et au but de la convention, de priver l'Organisation de toute forme de protection au motif qu'elle agirait en territoire occupé, et ce alors même que c'est un territoire sur lequel elle exerce une responsabilité particulière. Par conséquent, Israël est dans l'obligation d'appliquer la convention générale dans le territoire qu'elle occupe, même en l'absence d'accord spécial dans ce sens.

II. LES OBLIGATIONS ISSUES DU DROIT INTERNATIONAL HUMANITAIRE ET DU DROIT INTERNATIONAL DES DROITS DE L'HOMME

34. Je traiterai maintenant et successivement des obligations d'Israël issues du droit international humanitaire (A) et du droit international des droits de l'homme (B).

A. Les obligations issues du droit international humanitaire

35. En ce qui concerne le droit international humanitaire, la France souligne, à titre liminaire, qu'Israël a — comme d'ailleurs tous les États — l'obligation de respecter et de faire respecter les conventions de Genève en toutes circonstances. De plus, comme la Cour l'a rappelé dans son avis rendu en juillet 2024, ni la durée ni l'illicéité de l'occupation israélienne en Palestine n'ont pour conséquence de dégager la puissance occupante de ses obligations à ce titre.

36. Dans ce contexte, je me limiterai à détailler deux obligations.

37. La première de ces obligations est celle d'assurer et de faciliter la fourniture sans entrave d'articles de première nécessité essentiels à la survie de la population civile. Elle trouve son origine dans l'article 59 de la quatrième convention de Genève, à laquelle Israël est partie et qui s'applique

³⁸ Les italiques sont de nous.

à l'ensemble du Territoire palestinien occupé, y compris Gaza, comme votre Cour l'a rappelé dans son avis de juillet dernier.

38. La question de l'application de cette disposition se pose avec une extrême gravité au moment même où les présentes audiences se déroulent. À Gaza, l'entrée des camions d'aide humanitaire est totalement suspendue depuis le 2 mars. Les organisations internationales encore sur place nous alertent sur l'épuisement des stocks alimentaires ainsi que sur les multiples pénuries de médicaments. Je relève que, en Cisjordanie aussi, la multiplication des contrôles entrave quotidiennement l'intervention des organismes humanitaires.

39. L'article 59 impose à la charge de la puissance occupante deux obligations auxquelles elle ne saurait se soustraire dès lors qu'il est établi que tout ou partie de la population du territoire occupé est insuffisamment approvisionnée.

40. Dans ce cas de figure, la puissance occupante doit, d'une part, « accepter » l'aide humanitaire. Il s'agit là d'une obligation de résultat : la puissance occupante est tenue de n'opposer aucun refus à l'aide humanitaire.

41. D'autre part, la puissance occupante doit « faciliter [l'aide humanitaire] dans toute la mesure de ses moyens ». En vertu de cette obligation de comportement, la puissance occupante doit, de bonne foi, mettre en œuvre tous les moyens à sa disposition pour faciliter l'acheminement de l'aide qu'elle aura acceptée.

42. L'article 59 est formulé en des termes qui permettent de viser tant les secours collectifs fournis par les États que ceux dispensés par des organismes humanitaires impartiaux. Pour autant, il ne donne aucune liste limitative des organismes pertinents dans ce cadre. En principe, une puissance occupante dispose donc d'une marge d'appréciation dans le choix des organismes capables de fournir l'aide nécessaire à la mise en œuvre de cette disposition. En pratique, néanmoins, une puissance occupante est tenue de prendre en compte les circonstances propres aux territoires qu'elle occupe afin d'autoriser et de faciliter les activités des organismes humanitaires adéquats, c'est-à-dire ceux qui sont en réelle capacité de fournir l'aide suffisante à l'approvisionnement de la population locale.

43. Enfin, il convient de souligner que l'article 59 contient en effet une clause de sauvegarde permettant, notamment, à la puissance occupante de « vérifier les envois » et « de réglementer leur passage selon des horaires et itinéraires prescrits ». Si, en application de cette clause, des contrôles

peuvent être justifiés, la France rappelle qu'ils ne peuvent aboutir à empêcher l'aide humanitaire ; cela viderait l'article 59 de sa substance.

44. En l'espèce, il convient de tenir compte du fait que l'UNRWA est le principal pourvoyeur d'aide humanitaire et de services essentiels dans le Territoire palestinien occupé. En outre, la France relève que l'UNRWA, pour bénéficier de ces dispositions, doit être un organisme « impartial » au sens de l'article 59. Dans ce cadre, la France a pris note des conclusions du rapport Colonna sur l'adhésion de l'UNRWA au principe de neutralité. Elle souligne que l'Office s'est engagé à le mettre en œuvre ainsi qu'à continuer d'appliquer une politique de « tolérance zéro » à cet égard.

45. Ces circonstances, couplées à l'état catastrophique de la situation actuelle, réduisent significativement les marges d'appréciation d'Israël dans l'exécution de son obligation au titre de l'article 59. En effet, en l'absence d'autres acteurs en capacité suffisante d'assurer de manière effective l'approvisionnement adéquat de la population, Israël est tenu, en tant que puissance occupante et tant que cette situation perdure, d'autoriser et de faciliter les activités de secours de l'UNRWA dans le Territoire palestinien occupé.

46. La seconde obligation incombant à Israël en tant que puissance occupante est celle de protéger les travailleurs humanitaires. Pour que l'aide humanitaire soit effectivement fournie aux populations civiles, la sécurité des personnels travaillant pour l'organisme pourvoyeur de cette aide doit être assurée sur le terrain, et les Parties au conflit doivent conduire les hostilités en tenant compte de cette protection. L'obligation de protection des travailleurs humanitaires peut, à ce titre, être considérée comme le « corollaire du droit de la population civile d'être secourue »³⁹.

47. Prévue par le droit international coutumier⁴⁰, la règle selon laquelle « le personnel de secours humanitaire doit être respecté et protégé » est en outre régulièrement rappelée par le Conseil de sécurité⁴¹.

³⁹ Commission nationale consultative des droits de l'homme, déclaration « Rappel des règles fondamentales du droit international humanitaire applicable dans le cadre du conflit impliquant le Hamas, d'autres groupes armés et Israël », D-2023-7, 30 novembre 2024, accessible à l'adresse suivante : <https://www.cncdh.fr/publications/declaration-rappel-des-regles-fondamentales-du-droit-international-humanitaire-d-2023>.

⁴⁰ CICR, *Bases de données de Droit international humanitaire*, « Règle 31. La sécurité du personnel de secours sanitaire », accessible à l'adresse suivante : <https://ihl-databases.icrc.org/fr/customary-ihl/v1/rule31>.

⁴¹ Voir, par exemple, Nations Unies, Conseil de sécurité, Résolution 2730 (2024), S/RES/2730 (2024), 24 mai 2024.

48. Ce rappel paraît d'autant plus nécessaire que, selon le Bureau de coordination des affaires humanitaires des Nations Unies, il y a eu, au 22 avril 2025, au moins 418 travailleurs humanitaires tués dans la bande de Gaza depuis le début de la guerre en octobre 2023⁴² — comme je l'ai déjà indiqué. Dans ce cadre, la France réitère sa condamnation des tirs israéliens sur des ambulances qui ont tué 15 secouristes du Croissant-Rouge palestinien, de la défense civile et de l'UNRWA à Gaza le 23 mars 2025⁴³.

B. Les obligations issues du droit international des droits de l'homme

49. J'en viens maintenant à l'obligation d'Israël de respecter le droit international des droits de l'homme dans le Territoire palestinien occupé. Comme la Cour a déjà eu l'occasion de l'indiquer, les obligations d'Israël découlent, entre autres, des deux Pactes de 1966, ainsi que de la convention des Nations Unies relative aux droits de l'enfant⁴⁴.

50. En outre, la Cour a déjà rappelé que « la protection offerte par les conventions régissant les droits de l'homme ne cesse pas en cas de conflit armé ou d'occupation »⁴⁵. De fait, à l'obligation d'Israël d'assurer un accès humanitaire au titre du droit international humanitaire, s'ajoutent diverses obligations tirées du droit international des droits de l'homme.

51. Au regard du risque grave et imminent de famine auquel sont confrontés les civils palestiniens à Gaza, je mettrai l'accent sur le droit à la santé⁴⁶ et le droit à une nourriture suffisante⁴⁷.

52. Conformément à l'article 2, paragraphe 1, du PIDESC (Pacte international relatif aux droits économiques, sociaux et culturels), chaque État partie s'engage à agir, « tant par son effort

⁴² Nations Unies, Bureau de coordination des affaires humanitaires, « Reported impact snapshot | Gaza Strip (22 April 2025) », accessible à l'adresse suivante : <https://www.ochaopt.org/content/reported-impact-snapshot-gaza-strip-22-april-2025>.

⁴³ Intervention de M. Jérôme Bonnafont, représentant permanent de la France auprès des Nations Unies, Conseil de sécurité, New York, 3 avril 2025, accessible à l'adresse suivante : <https://onu.delegfrance.org/la-france-reaffirme-qu-il-n-y-aura-pas-de-solution-militaire-a-gaza>.

⁴⁴ *Conséquences juridiques de l'édification d'un mur dans le territoire palestinien occupé, avis consultatif, C.I.J. Recueil 2004 (I)*, p. 177-181, par. 102-113 ; *Conséquences juridiques découlant des politiques et pratiques d'Israël dans le Territoire palestinien occupé, y compris Jérusalem-Est, avis consultatif du 19 juillet 2024*, par. 100.

⁴⁵ *Conséquences juridiques découlant des politiques et pratiques d'Israël dans le Territoire palestinien occupé, y compris Jérusalem-Est, avis consultatif du 19 juillet 2024*, par. 99 ; *Conséquences juridiques de l'édification d'un mur dans le territoire palestinien occupé, avis consultatif, C.I.J. Recueil 2004 (I)*, p. 178, par. 106.

⁴⁶ Article 12 du PIDESC, article 24 de la CIDE (convention internationale des droits de l'enfant).

⁴⁷ Article 11 du PIDESC, articles 24 et 25 de la CIDE.

propre que par l'assistance et la coopération internationales, ... en vue d'assurer progressivement le plein exercice des droits reconnus dans le présent Pacte par tous les moyens appropriés ».

53. Par conséquent, si l'aide humanitaire est, dans une situation donnée, indispensable à la réalisation des deux droits susmentionnés, un État doit considérer cette aide comme un moyen approprié à leur réalisation au sens de cette disposition.

54. Au vu de la situation insoutenable dans laquelle se trouve la population civile palestinienne, il ne fait aucun doute que l'aide humanitaire peut être qualifiée de mesure propre à la mise en œuvre, par Israël, de ses obligations au titre du PIDESC. En outre, dès lors que cette aide s'avérerait essentielle pour la jouissance, par les Palestiniens, de leurs droits fondamentaux, Israël ne pourrait en restreindre l'accès sans agir en violation des obligations susmentionnées.

55. Monsieur le président, Mesdames et Messieurs les juges, il découle de l'ensemble de ces éléments qu'Israël est dans l'obligation, au regard de la situation humanitaire critique dans la bande de Gaza, d'y autoriser et d'y faciliter la présence et les activités des acteurs humanitaires, en particulier de l'UNRWA.

56. Pour conclure, la France réitère son appel aux autorités israéliennes à mettre un terme à la situation humanitaire dramatique à Gaza. À cette fin, elle appelle Israël à coopérer avec ses partenaires internationaux, y compris l'ONU, afin d'assurer, de toute urgence, l'accès et la sécurité des opérations humanitaires dans la bande de Gaza et l'ensemble du Territoire palestinien occupé.

57. Je vous remercie pour votre attention.

Le PRÉSIDENT : Je remercie le représentant de la France pour sa présentation. Before I invite the next delegation to take the floor, the Court will observe a coffee break of 15 minutes. The hearing is suspended.

The Court adjourned from 11.20 a.m. to 11.40 a.m.

The PRESIDENT: Please be seated. The sitting is resumed. I will now invite the next participating delegation, Hungary, to address the Court and I give the floor to Ambassador Gergő Kocsis.

Mr KOCSIS:

INTRODUCTION

1. Mr President, Madam Vice-President, distinguished Members of the Court. It is an honour to appear before you today on behalf of Hungary concerning the case *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*.

2. Allow us to take this opportunity to express Hungary's commitment to the principal judicial forum of the United Nations that plays a fundamental role in the field of international law. During its 80-year-long history, the Court has contributed significantly to the strengthening of the rules-based international order. The increasing number of States submitting their disputes to the Court's adjudication and the unprecedented workload of the Court reflects the trust of States both in the Court's mandate and in the quality of its work.

3. It is of great importance to maintain the confidence in the work of the Court and to abstain from proceedings that may erode that confidence and may create a situation where the Court becomes an actor in an ongoing conflict. The Government of Hungary recognizes the importance of the numerous proceedings for an advisory opinion and the potential impact that they have on the prospects for peace and stability in the Middle East.

4. When discussing the issue of the advisory opinion proceedings and the question posed to the Court within the request at hand, one must reflect upon the broader political context, taking into account the dimensions of the Israeli-Palestinian conflict.

5. Although the current proceeding aims to address specific issues of international law obligations with regards to a Member State of the United Nations, the pattern of politicization of international judicial fora cannot be disregarded when examining this case before the esteemed Court.

6. Hungary recalls that, in 2004, this esteemed Court clearly stated in its Advisory Opinion concerning the *Construction of a Wall* that the resolution of the Israeli-Palestinian conflict can only be achieved through direct negotiations between the parties, on the basis of international law and

through the implementation of the relevant Security Council resolutions. Since 2004, this original approach has not changed, although numerous aspects of the political context have shifted.

7. The horrendous terrorist attack conducted against Israel by Hamas on 7 October 2023 was a turning point. Hungary strongly condemns these horrific terrorist attacks and calls for the immediate and unconditional release of all hostages. Since then, Israel has been fighting the terrorist organization Hamas, with the aim to prevent such monstrous terrorist attacks ever happening again. The evil of terrorists is well shown by the fact that they use innocent civilians as well as education and healthcare facilities, including those associated with the United Nations, as shields. Sparing the lives of both Israeli and Palestinian civilians is of the utmost importance, now, as well as in the future, with a sustainable peace free of terror.

8. The terrorist attack of 7 October 2023 can also be considered a turning point with regards to the intensification of activities in the field of international law in relation to the conflict, including those of the esteemed Court.

9. We welcome that the esteemed Court has called several times for the immediate and unconditional release of the hostages held by Hamas and underlined that all parties to the conflict must abide by international humanitarian law and international human rights law.

10. We must also note that the proceeding brought before this esteemed Court may directly contribute to the escalation of the conflict. We are of the view that the present and the former requests for rendering an advisory opinion, as well as the procedure initiated by the Republic of South Africa against the State of Israel, may be considered as an interference in an ongoing conflict that does not contribute to the de-escalation and an eventual settlement.

11. It is our conviction that politicization of the Court and in fact utilization of the Court creates new dividing lines and continues to fuel tensions.

12. Hungary has also welcomed the ceasefire agreements related to the hostilities. Unfortunately, the latest ceasefire agreement collapsed in March of this year, leading to an all-consuming high-level conflict. In view of this, Hungary stresses the need for a new ceasefire agreement in order to secure the immediate and unconditional release of all hostages and to achieve a lasting resolution of the conflict through negotiations between the parties concerned.

13. Bearing in mind this broader context, let me now turn to addressing the three main issues that Hungary considers the most important to highlight, as we have also done so in our written statement. Hungary wishes to present issues related to the jurisdiction of the Court, arguing that the Court should use its discretionary power to decline to give an opinion. With regards to the questions posed to the esteemed Court, we wish to present arguments based on the established legal framework regarding the agreements on privileges and immunities of the United Nations with a particular focus on UNRWA. Finally, Hungary wishes to reiterate its position concerning the context of the present advisory procedure.

CONSIDERATIONS

Jurisdiction and admissibility in advisory cases

14. Mr President, distinguished Members of the Court, with regard to the first issue: Hungary duly submits that Article 96 of the Charter of the United Nations establishes the possibility for certain organs of the United Nations to initiate advisory proceedings. In addition, it is necessary to take into account paragraph 1 of Article 65 of the Statute of the Court, according to which: “[t]he Court may give an advisory opinion on any legal question”. The Court was unanimously convinced that Article 65 “means that the Court has a discretionary power to decline to give an advisory opinion even if the conditions of jurisdiction are met”.

15. The Court has to take into consideration several aspects when elaborating on the question of whether to use its discretionary power to refuse to give an opinion. As regards the limit of the discretionary power, the Court’s jurisprudence is consistent in this regard: “only ‘compelling reasons’ should lead the Court to refuse its opinion”.

16. With regard to the “compelling reasons”, in the present case we are of the view that several “compelling reasons” should be taken into account that individually, as well as cumulatively, may require the Court to refrain from issuing an advisory opinion to the present question.

17. First, in 2024 in another advisory proceeding on the *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*, the Court has already given its opinion with regards to the applicable rules and principles of international law, and expanded on its understanding of Israel’s specific obligations. It cannot be disregarded that

the Advisory Opinion of the Court was given on 19 July 2024, merely four months before the request for the present advisory opinion was adopted by the General Assembly of the United Nations.

18. Second, a contentious proceeding is currently pending before the Court that also touches upon the specific obligations of Israel. Giving the advisory opinion might essentially prejudge elements relevant to the case brought against Israel by the Republic of South Africa, thus gravely undermining the integrity of the Court's judicial function.

19. We recall the existing precedent for rejecting a request for an advisory opinion based on compelling reasons. The predecessor of the Court, the Permanent Court of International Justice, declined to issue an advisory opinion on the status of Eastern Carelia, a decision that gave rise to the "*Eastern Carelia* principle". This decision — and principle — has never been overruled. We note that the Court, in its subsequent decisions, has always taken due care to demonstrate the factual differences from the *Eastern Carelia* case when considering the exercise of its jurisdiction. This must lead us to the conclusion that the legal criteria set out in that decision remain authoritative. In the decision not to render an advisory opinion it was stated "the question put to [the PCIJ was] . . . directly [related] to the main point" of the dispute actually pending between two States, so that "[a]nswering the question would be substantially equivalent to deciding the dispute between the parties". The situation in the present case is strikingly similar, as any advisory opinion rendered will unquestionably influence (and thus might potentially prejudge) determinations to be made in the parallel contentious proceeding.

20. Third, the question submitted to the Court has been formulated in a manner that is blatantly prejudicial and one-sided. The question posed by the request is indeed so targeted at Israel, that it proceeds on the assumption that Israel has failed to meet its obligations under international law, without any regard to Israel's legitimate security interests and concerns, or to the obligations of the United Nations and third parties in relation to the very subject-matter of the question. Replying to the question would inherently entail an affirmation of the statements in the request.

21. Last but not least, we emphasize that the request would require the Court to undertake significant factual investigations and make concrete findings on disputed and dynamic matters, which cannot properly be pursued in the framework of advisory proceedings. However, the advisory proceedings of the Court are inherently ill-suited for fact-specific analysis. Disregarding such

analysis may further hinder the legitimacy of the Court, thus the limitations of advisory proceedings should be duly taken into account by the Court when deciding to exercise its jurisdiction.

22. Therefore, we reaffirm that an advisory opinion in the present case would be contrary to the common interpretation of “compelling reasons” and therefore could have a negative impact on the perceived legitimacy of the Court.

Legal framework of United Nations presence in Member States and specificities of UNRWA

23. Mr President, distinguished Members of the Court, without prejudice to our firm position that the Court should decline to give the advisory opinion, we now turn to the second major issue: the legal framework of United Nations presence in Member States and specificities of UNRWA.

24. Members of the United Nations have assumed voluntarily obligations to enable the United Nations, its specialized agencies, funds and subsidiary bodies to fulfil its principal purpose, as enshrined in the Charter of the United Nations — namely, the maintenance of international peace and security and the peaceful settlement of disputes. The obligations enabling the fulfilment of these peaceful purposes are, as such, neither absolute nor unqualified.

25. The obligations that Members of the United Nations have taken upon themselves are in the Charter of the United Nations as well as the 1946 Convention on Privileges and Immunities of the United Nations. We have to underline the necessity of the joint interpretation of numerous Articles of the UN Charter and provisions of the 1946 Convention.

26. Article 1 of the Charter states clearly the purposes of the Organization, and the introductory sentence of Article 2 makes a clear link to the first Article. In it, the introductory sentence of Article 2, a distinction is made clearly indicating that obligations arising from Articles 1 and 2 are also prescribed for the Organization itself.

27. Obligations arising from Article 2 thus have to be interpreted consistently taking into account the actions of the United Nations, its specialized agencies and subsidiary bodies as well. Thus when paragraph 5 of Article 2 of the Charter stipulates that “[a]ll Members shall give the United Nations every assistance in any action it takes in accordance with the present Charter”, it is clear that a limitation to this obligation is included. The Organization is obliged to take actions in accordance with the Charter, thus if actions of the Organization were to be found contrary to the

Charter, the Member in question cannot be expected to give the assistance required by the said Article.

28. Article 105 of the Charter provides that “[t]he Organization shall enjoy in the territory of each of its Members such privileges and immunities as are necessary for the fulfilment of its purposes”. This provision is also clearly linked to Articles 1 and 2 of the Charter that contain that the fulfilment of the purposes of the Organization must be in accordance with the Charter. Article 105 also sets a clear limitation in terms of the extent of the privileges and immunities, making it clear that there is a functional approach to be applied.

29. The obligation of impartiality in the execution of the functions of the Organization can be derived from Articles 100 and 101 of the Charter. This obligation is further codified in the Staff Regulations and Rules of the United Nations, including in its core values. Moreover, the duty to act impartially constitutes a fundamental principle of the status of international civil servants.

30. It must be noted that the 1946 Convention has a specific functional approach as laid down in the preamble and Articles IV and V of the Convention. As is customary in international law, privileges and immunities are intended to enable the efficient functioning of actors of international law, in this case the United Nations.

31. The joint interpretation of the Articles of the Charter, the 1946 Convention and the Staff Regulations and Staff Rules, including provisional Staff Rules, of the United Nations is necessary. It can thus be concluded that obligations exist not only for the Member States, but the Organization as well. The United Nations shall act in accordance with the purposes of the Charter, and this creates a limitation to the privileges and immunities provided to the Organization in carrying out its functions.

32. As resolution 79/232 is specifically focused on UNRWA, observations must be made with regards to this subsidiary body established by the UN General Assembly. Resolution 302 (IV) of 1949 did not specifically outline UNRWA’s privileges and immunities, it simply called on States to grant the same privileges and immunities as for its predecessor. This clearly means that in order to be able to implement the requirements of the Charter and the 1946 Convention, additional agreements with the host States needed to be concluded. This has in fact become the practice concerning other host States of UNRWA.

33. With regards to Israel, an Exchange of Letters was conducted on 14 June 1967 between Israel and UNRWA, the so-called Comay-Michelmore Agreement. The Exchange of Letters specifically states that “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”, thus taking into account the legitimate security concerns of Israel. The Exchange of Letters also makes specific reference to the 1946 Convention.

34. UNRWA’s failure to maintain neutrality and the involvement of UNRWA staff members in acts of terror undermine its status as a legitimate aid organization. UNRWA’s ties to terrorism have become an established fact, particularly following the revelations regarding the involvement of UNRWA employees in the 7 October 2023 attacks. Following allegations that at least 19 UNRWA employees participated in the attacks, the United Nations itself also responded, thus acknowledging the necessity to react to the presented evidence of this involvement.

35. The involvement of UNRWA staff members in acts of terror constitutes a serious breach of the principle of impartiality and the lack of acting in accordance with the principles enshrined in the UN Charter. Furthermore, it is a well-established international norm, reflected in multiple conventions and UN resolutions, such as resolution 1373 (2001), that organizations are prohibited from providing assistance to terrorist organizations. These facts constitute a ground for the abrogation from the Comay-Michelmore Agreement and justify the limitations to the privileges and immunities granted to UNRWA as a subsidiary body of the United Nations General Assembly.

Context of the present request for an advisory opinion

36. Mr President, distinguished Members of the Court, without prejudice to our firm position that the Court should decline to give the advisory opinion, I now turn to our third and final query. Further elaborating on the introductory remarks, we would like to refer to the broader context in which the request for the advisory opinion was made.

37. It is important to note that Israel withdrew its military presence from the Gaza Strip in 2005. It is the terrorist organization Hamas, which violently took power in 2007, that has been governing the territory, including by way of control over the local economy, policing and internal security, welfare services, tax collection, education and the media.

38. This request for an advisory opinion cannot be separated from the ongoing conflict and, regrettably, it may only be interpreted as an additional avenue within the conflict. There is a realistic fear that the Court itself is being used as a “battleground”. As explained above, the involvement of a subsidiary body of the United Nations General Assembly — through its staff members — in actual acts of terrorism is precisely the reason why there is a need to consider the abrogation of privileges and immunities.

39. Unfortunately, the esteemed Court will implicate itself in matters that unduly politicize the esteemed institution of an otherwise strictly judicial character. Our concern is not in vain, the Advisory Opinion of 19 July 2024 did in fact become part of the already heated political debate.

40. We firmly believe that peace and the long-term solution of the Israeli-Palestinian conflict can only be achieved through enabling meaningful dialogue between the parties concerned. The proceedings before the Court, due to their highly politicized and divisive nature, further escalate the tensions between the parties.

CONCLUSION

41. In conclusion, Hungary has in the present statement put forward four “compelling reasons” why the Court should not render the advisory opinion which has been requested of it. Without prejudice to this request, Hungary has also put forward arguments with regards to the broader political context, which must be taken into account, as well as the legal framework of privileges and immunities of the United Nations and UNRWA.

42. Therefore, Hungary respectfully requests the Court to decline providing an advisory opinion.

43. Mr President, Members of the Court, this concludes my presentation today. I thank you for your kind attention.

The PRESIDENT: I thank the representative of Hungary for his presentation. I now invite the delegation of Indonesia to address the Court and I call upon His Excellency Minister of Foreign Affairs Sugiono to take the floor.

Mr SUGIONO:

STATEMENT BY THE GOVERNMENT OF THE REPUBLIC OF INDONESIA

1. Mr President, Madam Vice-President, honourable judges of the Court, it is a great honour and privilege for me to appear before your honourable judges on behalf of the Republic of Indonesia, to defend justice and humanity of the people of Palestine.

2. Indonesia is and will always stand with the people of Palestine to attain their independence.

3. Our commitment to and profound bond with the Palestinian people is rooted in humanity, that it is their inalienable right to live in peace in their very own homeland.

4. Indonesia attaches its utmost importance to the rule of international law and has a strong confidence that the decision of this distinguished Court will guide the General Assembly and its Member States in delivering justice to the persecuted and oppressed Palestinian people.

5. Let me stress that while many countries, including Indonesia, clearly expressed that no country should be above the law, Israel has consistently imposed its nefarious policies and measures in the Occupied Palestinian Territory (OPT) in utter disrespect against international law.

6. Israel's continuing unlawful presence in the Occupied Palestinian Territory and its coercive environment created had made it impossible for the Palestinian people to exercise its basic right as a nation: the right to self-determination.

7. Against this backdrop, Indonesia assumes its moral duty to furnish information on the issues brought by the General Assembly to this Court.

8. I will firstly address the issue of jurisdiction, followed by the merit of the case, on Israel's obligations as a UN Member and as the occupying Power.

9. Honourable judges, on the jurisdiction, Indonesia asserts that this Court has jurisdiction to provide its opinion requested by the General Assembly under Article 96, paragraph 1, of the UN Charter and Article 65 of the Court's Statute, and that there are no grounds for declining to do so.

10. The question raised to this Court is a legal question and within the scope of activities of the General Assembly.

11. This is consistent with the opinion of the Court, such as in the *Chagos* Advisory Opinion, which stated that a request for an advisory opinion from the Assembly, seeking to examine a situation by reference to international law, is a legal question.

12. The present request fits into that requirement, as the *chapeau* to the present question makes it unequivocal for scrutinizing Israel's obligations by reference to international law.

13. There should be no doubt that this Court has jurisdiction to deliberate over the present request for an advisory opinion.

14. Mr President, on the merit of the case, Indonesia submits that Israel, as a Member of the United Nations, bears a general obligation to adhere to its commitments to accept and perform obligations stipulated by the UN Charter in good faith.

15. Israel had accepted such obligations through its Declaration accepting obligations under the Charter made on 29 November 1948.

16. And Israel's acceptance was a crucial undertaking pursuant to Article 4, paragraph 1, of the Charter to be admitted to the UN membership.

17. In its Declaration, Israel states that "the State of 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".

18. The term used in the Declaration is "unreserved" — and I do not need to enlighten this Court on the significance of this term. Referring to this Court's Opinion on *Reparation for Injuries*, Israel's acceptance of the obligations of the Charter must be strictly observed.

19. In this regard, Israel's ongoing violation of and its failure to fulfil its obligation under international law have raised the question of its suitability to be called a peace-loving State, which is a prerequisite of UN membership as prescribed in Article 4, paragraph 1, of the Charter.

20. I shall explain further that Israel's general obligations under the Charter encompass obligations to respect the presence of the United Nations, to facilitate and give every assistance to the United Nations, as well as to carry out the decisions of the UN Security Council, the judgments and the decisions of this Court.

21. By virtue of the Security Council's resolutions, Israel also owes those obligations towards other international organizations and third States.

22. Honourable judges, I shall emphasize that Israel is under the obligation to respect the presence of the United Nations, including UNRWA as the UN body responsible for discharging United Nations humanitarian assistance.

23. This obligation is provided for in Article 105 of the UN Charter and has been further elaborated in the two UN Conventions on the Privileges and Immunities of the United Nations, both of which Israel is a State party.

24. These Conventions envisage that the scope of Israel's obligations is relevant to the present request, in relation to the premises, property, assets and funds of the United Nations; to the archives and documents of the United Nations; and to the experts and officials on missions of the United Nations.

25. As this Court noted in its Advisory Opinion regarding *Reparation for Injuries*, these privileges and immunities are essential for ensuring the fulfilment of the United Nations functions independently and effectively.

26. This is particularly relevant in the present context where the United Nations has to properly discharge its humanitarian functions in the Occupied Palestinian Territory.

27. Having said the above, I wish to submit that Israel's conduct, including its enactment of laws targeting UNRWA operations, contradicts Israel's obligations to respect the presence of the United Nations.

28. Honourable judges, on the obligation of Israel to facilitate and provide every assistance to the United Nations as well as other international organizations and third States, I wish to point out several obligations that were imposed on Israel by this Court in its various Orders on provisional measures in the case of *South Africa v. Israel*.

29. Those, among others, are the obligation to take all necessary and effective measures to ensure the unhindered provision of the urgently needed basic services and humanitarian assistance; to immediately halt the military offensive and any other action which may inflict on the Palestinian people; and to maintain the opening of the Rafah crossing for unhindered provision of urgently needed basic services and humanitarian assistance.

30. As a matter of law, those obligations imposed by the Court have a binding effect upon Israel by virtue of Article 94, paragraph 1, of the UN Charter. This binding effect has also been affirmed by this Court in its 2001 Judgment in the *LaGrand* case.

31. I wish to stress that a failure to perform the above-mentioned obligations would result in the suffering of innocent civilians, particularly the vulnerable groups such as the elderly, women and children, and Israel's non-fulfilment of those obligations constitutes a violation of human rights obligations.

32. Article 4 of the International Covenant on Civil and Political Rights (ICCPR) establishes that human rights protection does not stop during armed conflict.

33. And as this Court determined in its 2004 *Wall* Advisory Opinion, both international humanitarian law and international human rights law are applicable in times of armed conflict.

34. Having pointed out all the above, Indonesia emphasizes that the issue we deliberated is not a matter of political exigency, nor is it merely a moral inquiry, but one that is grounded in international law, upon which Israel is legally bound to discharge its obligations in good faith and without reservation.

35. Honourable judges, I would like now to move to Indonesia's submission regarding Israel's obligations as an occupying Power.

36. Israel's status as an occupying Power in the Palestinian territory, including Gaza, is a matter beyond dispute. It has been affirmed by this Court and by countless resolutions of the UN Security Council and the UN General Assembly.

37. This determination has also been made by the Court's previous Advisory Opinions of 9 July 2004 and 19 July 2024.

38. As an occupying Power, Israel's legal obligations extend beyond the general duties owed by all States under international law.

39. The Fourth Geneva Convention governs the protection of civilians during times of armed conflict and occupation, and it places specific duties on Israel with respect to the humanitarian needs of the Palestinian population in the OPT.

40. The language of this Convention is clear: that Israel is bound to uphold *at all times* and *under all circumstances* those obligations. It is important to highlight that those obligations are rooted in customary international law and have been consistently reinforced by international legal precedent.

41. With regard to this Fourth Geneva Convention, Indonesia respectfully submits that Israel is duty-bound at least to, *first*, ensure the provision of basic supplies; *second*, to accept and facilitate relief schemes; *third*, maintain medical services and protect humanitarian personnel; *fourth*, not conduct any forms of collective punishment; and *fifth*, not forcibly transfer and deport the civilian population. I will address those obligations in turn.

42. First, Indonesia submits that Israel is bound to comply with its obligations to ensure basic supplies as provided for under Articles 50 and 55 of the Fourth Geneva Convention.

43. In particular, Israel must ensure that the civilian population in the OPT is provided with essential supplies, including food, medical care and other necessary services. This obligation goes further to underscore the positive duty to maintain special protections for vulnerable groups, including children under 15, expectant mothers and mothers of young children.

44. Israel cannot ignore these responsibilities as they are unequivocal and opposable to Israel as the occupying Power. Failure to meet these obligations would have grave consequences for the civilian population and constitute a breach of Israel's duties under international law.

45. Second, Israel is obliged to agree on relief schemes, especially to fulfil basic necessities as provided under Articles 38, 59, and 62 of the Fourth Geneva Convention.

46. This obligation extends to Israel, as the occupying Power, to co-operate with international humanitarian agencies to establish relief schemes for the provision of food, medical care and other essential services. This obligation becomes even more crucial as the civilian population is inadequately supplied.

47. The spirit of these provisions is clear: humanitarian aid must be facilitated by the occupying power, not obstructed.

48. It becomes evidently clear that Israel does not fulfil this obligation. Moreover, it played a pivotal part in the unfolding of the biggest humanitarian catastrophe of this decade, if not this century.

49. The entire Palestinian territory has been living with persistently low living standards, being denied access to water, food and energy.

50. Third, the Geneva Conventions also imposed strict obligations on Israel to protect medical facilities, healthcare personnel and the provision of healthcare services under Articles 14, 17, 18, 20, 21, 30, 47, 53, 56 and 63 of the Fourth Geneva Convention.

51. These include ensuring that hospitals are not attacked and that medical personnel can carry out their work without interference. These duties are not optional.

52. At this juncture, Israel has clearly failed to respect those obligations. Indonesia wishes to highlight the fact that one of these failures was evident in the event of Israel's attack towards the Indonesian hospital in Gaza in 2023. This attack was perpetrated against one of the most critical health infrastructures in Gaza, despite the fact that there were patients being treated.

53. Fourth, Israel is also duty-bound to not perpetrate collective punishment under Article 33 of the Fourth Geneva Convention. Collective punishment is prohibited, and any policy or practice that imposes collective punishment is a violation of these rules.

54. Israel must therefore ensure that any measure taken in the OPT does not punish the civilian population collectively. The legal principle is clear: individuals should not suffer for the actions of others.

55. However, the reality speaks a horrible truth. The imposition of a total siege by Israel — cutting off electricity, water, food and medicine — punishes the entire civilian population of Gaza for the actions of a few.

56. Statements by high-ranking Israeli officials that assign collective guilt to “an entire nation” reinforce the conclusion that such measures are intended to punish civilians indiscriminately. This is not only illegal but morally indefensible.

57. Fifth, Article 49 of the Fourth Geneva Convention prohibits the transfer or deportation of civilians from the OPT. This provision is designed to protect the integrity of the Palestinian population and to ensure that they are not forcibly displaced from their homes.

58. Any measures relating to evacuations may only occur for imperative military reasons, and even then, must be temporary and non-destructive of the civilian population's rights.

59. Israel must respect this obligation and refrain from engaging in any actions that would lead to the unlawful transfer of civilians from the occupied territory.

60. Yet what we have witnessed in Gaza is a *de facto* policy of permanent dispossession. Israel is deliberately conducting a policy of forced mass displacement, accompanied by the destruction of civilian infrastructure.

61. More than 66 per cent of buildings in Gaza were destroyed, and the requirement to return displaced persons to their homes has been rendered meaningless.

62. Honourable judges, Indonesia would also like to add that Israel's obligations as an occupying Power are also grounded in international human rights law, particularly the International Covenant on Civil and Political Rights (ICCPR) and International Covenant on Economic, Social, and Cultural Rights (ICESCR), of which Israel is a State party.

63. According to these international covenants, Israel is obliged, among others, to allow and facilitate relief schemes of the United Nations.

64. There are specific obligations to implement this relief scheme, such as the obligation to recognize the right of everyone to an adequate standard of living which is stipulated under Article 11, paragraph 1, of the ICESCR; the obligation to recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health which is under Article 12, paragraph 1, of the ICESCR.

65. Furthermore, there are also obligations to respect and ensure the right to liberty and security of person under Article 9, paragraph 1, of the ICCPR; and the obligation to respect and ensure that persons deprived of their liberty shall be treated with humanity under Article 10, paragraph 1, of the ICCPR.

66. Honourable judges, finally, I shall also furnish information on the crux of the Palestinian issue: the right to self-determination.

67. The Palestinian right to self-determination is the *raison d'être* on why the Court should grant the request of the UN General Assembly.

68. The questions posed are central to the fulfilment of the Palestinian right to self-determination, a fundamental principle of modern international law as provided in the UN Charter, as well as the Bandung Conference of 1955.

69. This honourable Court has repeatedly and unequivocally stated, in the 2004 *Wall Opinion* as well as the 2024 *Legal Consequences Opinion*, that Palestinians have the right to

self-determination. This opinion has also been exemplified by a multitude of resolutions of the United Nations.

70. The current reality contradicts all that was envisioned by such right.

71. On the ground, the world has vividly witnessed the systematic destruction of civilian infrastructures and hospitals in Gaza, making life unattainable.

72. These actions actively impede the dispersal of Palestinian people and hinder their rights to determine their very own political, socio-economic and cultural status.

73. In light of these facts, time and again Indonesia unwaveringly submits to the Court that Israel shall be under the obligation to fulfil the Palestinian people the right to self-determination.

74. Indonesia respectfully appeals to the honourable judges that international law must prevail and justice is rightfully delivered.

75. This Court opinion will provide much-needed guidance to the international community on how to reinforce the primacy of international law to solve the worst man-made humanitarian catastrophe of this century the Palestinian people continue to endure. Thank you.

The PRESIDENT: I thank the representative of Indonesia for his presentation. This concludes this morning's sitting. The oral proceedings will resume this afternoon at 3 p.m., in order for Türkiye, the Islamic Republic of Iran, Jordan, Kuwait and Luxembourg to be heard on the question submitted to the Court. The sitting is closed.

The Court rose at 12.30 p.m.
