



INTERNATIONAL COURT OF JUSTICE

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Summary

Unofficial

Summary 2025/7

22 October 2025

**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**

Summary of the Advisory Opinion of 22 October 2025

Chronology of the procedure (paras. 1-16)

The Court recalls that, by a letter dated 20 December 2024, the Secretary-General of the United Nations officially communicated to the Court the decision taken by the United Nations General Assembly (hereinafter the “General Assembly”) to submit to it the question set forth in its resolution 79/232 adopted on 19 December 2024.

Paragraph 10 of that resolution reads as follows:

“The General Assembly,

.....

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

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

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

I. JURISDICTION AND DISCRETION (PARAS. 17-41)

A. Jurisdiction (paras. 18-22)

The Court first addresses the question whether it has jurisdiction to give the advisory opinion requested. It notes that, by virtue of Article 96, paragraph 1, of the Charter, the General Assembly may request it to give an advisory opinion on any legal question. In accordance with the requirement in Article 96 of the Charter and Article 65 of its Statute, the Court must satisfy itself that the question put to it by the General Assembly is a legal question. It considers that such is the case in the present instance and, therefore, that it has jurisdiction to render an advisory opinion as requested by the General Assembly.

B. Discretion (paras. 23-41)

The Court recalls that only compelling reasons may lead it to refuse to give its opinion in response to a request falling within its jurisdiction.

1. Whether rendering the advisory opinion prejudices elements of a pending contentious case (paras. 26-31)

The Court rejects the argument that the advisory opinion requested might prejudice elements relevant to the case concerning *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)*. It notes that there is a clear difference between the respective subject-matters of the two proceedings. In the present case, the Court's mandate is limited to the identification of Israel's obligations as an occupying Power and as a Member of the United Nations "in relation to the presence and activities of the United Nations . . . in and in relation to the Occupied Palestinian Territory". By contrast, the contentious case between South Africa and Israel concerns the question whether Israel has violated its obligations under the Convention on the Prevention and Punishment of the Crime of Genocide (hereinafter the "Genocide Convention").

The distinction between the two proceedings is unaffected by the fact that the Court's Orders indicating provisional measures in the contentious case direct Israel, *inter alia*, to ensure the provision of basic services and humanitarian assistance to the population in the Gaza Strip. The measures indicated seek to preserve certain rights that the Court found to be plausible under the Genocide Convention.

Although the same conduct may be required of a State under different legal rules, and the same conduct may simultaneously breach multiple obligations, a determination made by the Court in the context of one obligation does not necessarily prejudice the question of compliance with a different obligation. Here, the facts that are relevant to a potential finding of a violation of obligations under the Genocide Convention are sufficiently distinct from the facts that are relevant to the identification of Israel's obligations as an occupying Power and as a Member of the United Nations in the present context.

There are, however, factual and legal matters that may be relevant both in the present advisory proceedings and in contentious proceedings. In this respect, the Court recalls that the parties to pending contentious proceedings will have the opportunity to present evidence and arguments on questions of fact and law, on the basis of which the Court will decide in those proceedings.

2. Whether the question has already been addressed in previous advisory opinions (paras. 32-35)

The Court then turns to the argument that the question put to it has already been dealt with in its previous advisory opinions on the *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory* and on the *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem* (hereinafter the “2024 Advisory Opinion”). It considers that the current request differs from the two earlier ones and concerns a question that was not addressed in the previous advisory opinions. First, the present request pertains to a specific issue that had not emerged at the time of the earlier advisory opinions. As recounted in the preamble of resolution 79/232, the General Assembly’s request was approved following Israel’s adoption of legislation on 28 October 2024 curtailing the operations of the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA). Second, the 2024 Advisory Opinion was limited *ratione temporis* to policies and practices taking place before 7 October 2023. By contrast, the present request concerns conduct taking place after that date.

3. Whether the advisory proceedings are appropriate to give the requested opinion on the basis of the available information (paras. 36-37)

In response to the argument that the request would require it to undertake significant factual investigations and make findings on disputed and evolving matters, which cannot properly be pursued in the framework of advisory proceedings, the Court notes that the case file contains ample documentation concerning the relevant facts. In the present case, the Court considers that the information available enables it to decide legal questions in a manner consistent with its judicial function.

4. Whether the request abuses the international judicial process (paras. 38-40)

In the Court’s view, even if allegations of abuse of process could be advanced in the context of advisory proceedings, there is no basis for such a finding in the present case. The Court cannot accept the argument that the “political nature” of the case should preclude it from exercising its jurisdiction. The General Assembly’s request calls on the Court to discharge its judicial function, namely to answer a legal question on the basis of the applicable rules of international law. Therefore, the Court does not consider that it would be inappropriate for it to answer the question put to it.

II. GENERAL CONTEXT (PARAS. 42-74)

A. Historical background (paras. 42-47)

The historical background of the situation with regard to the Occupied Palestinian Territory was recently outlined by the Court in its 2024 Advisory Opinion. In the present Advisory Opinion, the Court refers to certain events that took place in the Gaza Strip between 2005 and 2023, as well as to its findings in its 2024 Advisory Opinion and to resolution ES-10/24 adopted by the General Assembly on 18 September 2024.

B. Humanitarian assistance prior to 7 October 2023 (paras. 48-57)

The Court notes that the United Nations, and in particular the General Assembly, became involved in the provision of humanitarian assistance to Palestine refugees. It recalls, in particular, the creation of UNRWA in 1949 and the beginning of its operations in 1950.

Following the 1967 armed conflict, known as the “Six-Day War”, and the start of the occupation by Israel of the West Bank, East Jerusalem and the Gaza Strip, UNRWA and Israel concluded, on 14 June 1967, a provisional agreement concerning assistance to Palestine refugees in the Occupied Palestinian Territory (hereinafter the “1967 Agreement”). The 1967 Agreement provided that “UNRWA would continue its assistance to Palestine refugees, with the full co-operation of Israeli authorities, in the West Bank and Gaza Strip areas”, and that Israel would facilitate the task of UNRWA to the best of its ability, and set out a number of undertakings made by Israel. By resolution 2252 (ES-V) of 4 July 1967, the General Assembly enlarged the mandate of UNRWA to include assistance to persons displaced as a result of the 1967 hostilities.

According to the United Nations, over its 75-year history, UNRWA has become the pivotal United Nations agency for relief and assistance to Palestine refugees in the Occupied Palestinian Territory and neighbouring States. Its mandate has been extended pursuant to successive General Assembly resolutions, the most recent of which extended the mandate of UNRWA until 30 June 2026. UNRWA’s programmes and services have come to cover a broad range of areas including education and training, healthcare, direct relief and developmental services.

The Court also observes that other United Nations agencies and bodies; specialized agencies of the United Nations; other international organizations and third States have also provided assistance in and in relation to the Occupied Palestinian Territory.

C. The attacks of 7 October 2023 and the response thereto (paras. 58-62)

The Court notes that, on 7 October 2023, Hamas and other armed groups present in the Gaza Strip carried out attacks in Israel, killing more than 1,200 people, injuring thousands and abducting 251, some of whom continued to be held hostage for more than two years.

Following these attacks, Israel launched a large-scale military operation in the Gaza Strip, by land, air and sea, which has caused massive casualties, including the death of tens of thousands of civilians, a large number of whom were women and children, extensive destruction of civilian infrastructure and the repeated displacement of the overwhelming majority of the civilian population in the Gaza Strip. In the course of its military campaign, Israel has substantially restricted — and for significant periods of time, including between 2 March and 18 May 2025, completely prevented — the entry of aid (including food and water) into the Gaza Strip and its distribution to the Palestinian population, with catastrophic consequences for this population. The United Nations reported numerous attacks on school buildings and healthcare facilities in the Gaza Strip operated by the United Nations and others, including school buildings that had been directly hit. The Secretary-General of the United Nations has stated that between 7 October 2023 and 20 August 2025 at least 531 aid workers, including 366 United Nations personnel (360 of whom were employed by UNRWA), have been killed in the Gaza Strip.

In January 2024, Israeli authorities alleged that a number of UNRWA employees had been involved in the 7 October 2023 attacks, that UNRWA premises had been appropriated by Hamas for military purposes and that UNRWA had long lost its neutrality. The United Nations immediately took steps to investigate these allegations. In this regard, the Court takes note of the investigations conducted by the Office of Internal Oversight Services (OIOS) of the United Nations as well as the work of an independent panel commissioned to assess whether UNRWA was taking all reasonable steps to ensure its neutrality, which submitted its report on 20 April 2024.

Despite these measures, Israel maintained its complaints against UNRWA.

**D. Measures taken by Israel in relation to relief activities in Gaza,
in particular concerning UNRWA (paras. 63-74)**

The Court notes that, on 28 October 2024, the parliament of Israel, the Knesset, adopted two laws entitled respectively the “Law to Cease UNRWA Operations” and the “Law to Cease UNRWA Operations in the Territory of the State of Israel”, the latter of which purported to apply to East Jerusalem, which Israel considers as part of its territory. By a letter dated 3 November 2024, the Ministry of Foreign Affairs of Israel informed the President of the General Assembly that Israel had withdrawn its request to UNRWA to provide humanitarian assistance to Palestinians pursuant to the 1967 Agreement. According to Israel, the 1967 Agreement was terminated. By a letter dated 24 January 2025, Israel informed the Secretary-General that UNRWA had to cease its operations in East Jerusalem and evacuate its premises there no later than 30 January 2025. The two laws on UNRWA adopted by the Knesset entered into force on 30 January 2025.

On 15 January 2025, Israel and Hamas reached a ceasefire agreement, providing in particular for the increase and regularization of the entry into the Gaza Strip of humanitarian aid, relief supplies and fuel. The ceasefire entered into effect on 19 January 2025. For 42 days, an increase of humanitarian aid was authorized to reach the Gaza Strip. However, on 2 March 2025, Israel decided to block all humanitarian aid to the Gaza Strip, asserting, *inter alia*, that this decision was based on Hamas stealing supplies and using them to finance its operations. From 18 March 2025 onwards, Israel resumed military operations in and against the Gaza Strip.

Israel did not allow any aid to reach the Gaza Strip from 2 March until 18 May 2025. Since 19 May 2025, the Israeli authorities have allowed the United Nations to resume the delivery of limited aid into the Gaza Strip. The United Nations and the observer State of Palestine have, however, alleged that Israel has continued to impose substantial restrictions on the entry and distribution of aid and commercial goods into the Gaza Strip. They maintained that, as of the end of August 2025, the humanitarian situation in the Gaza Strip had become catastrophic, with evidence of famine, mass displacement, extreme levels of deprivation and a continued increase in civilian casualties, including children.

On 27 May 2025, Israel launched a new aid distribution system, through a private foundation (the Gaza Humanitarian Foundation), with only a few distribution points, mainly in southern Gaza. The United Nations, other international organizations and humanitarian non-governmental organizations considered that this new system did not align with humanitarian principles, did not meet people’s needs and put people at risk, and they refused to collaborate with it.

**III. SCOPE AND MEANING OF THE QUESTION POSED BY
THE GENERAL ASSEMBLY (PARAS. 75-81)**

The Court observes that the question concerns the identification of the “obligations of Israel”. The General Assembly did not ask the Court to determine the “legal consequences” of any breach of these obligations. For this reason, the Court does not consider that it is called upon to determine whether Israel has violated its legal obligations or to address the legal consequences of Israel’s conduct, including under the law of State responsibility. However, identification of Israel’s legal obligations cannot be undertaken in purely abstract terms and requires taking the particular situation underlying the request into account. Thus, the Court bases its assessment on the factual situation and identifies Israel’s obligations with the degree of specificity it considers warranted to fulfil its judicial function.

Turning to the territorial scope of the question, the Court notes that the question covers Israel's obligations in relation to United Nations entities, other international organizations and third States, "in and in relation to the Occupied Palestinian Territory". Thus, in addition to Israel's obligations in the Occupied Palestinian Territory, the request also requires consideration of Israeli activities undertaken on Israeli territory or elsewhere to the extent that they concern the presence and activities of United Nations entities, other international organizations and third States "in relation to" the Occupied Palestinian Territory. The Court further observes that, while the question encompasses Israel's obligations in the Occupied Palestinian Territory as a whole, due to the specific reference in the request to "urgently needed supplies essential to the survival of the Palestinian civilian population", the Court will pay particular attention to Israel's obligations in the Gaza Strip.

In terms of its temporal scope, the General Assembly's request does not include any limitations. Moreover, the Court is aware that the situation in the Occupied Palestinian Territory is evolving rapidly. It bases its legal analysis primarily on the facts as they stood as of 2 May 2025, the day of the closure of the oral proceedings, as well as on the participants' replies to the questions posed during the oral proceedings and which were received on 7 May 2025. Additionally, it takes into account subsequent developments, based upon the information presented to the Court, at its request, by the United Nations, Israel and the observer State of Palestine.

IV. OBLIGATIONS OF ISRAEL AS AN OCCUPYING POWER IN RELATION TO THE PRESENCE AND ACTIVITIES OF THE UNITED NATIONS, OTHER INTERNATIONAL ORGANIZATIONS AND THIRD STATES (PARAS. 82-162)

The Court recalls that an occupying Power has a general obligation to administer the territory for the benefit of the local population. Israel's particular obligations as an occupying Power in relation to the presence and activities of the United Nations, other international organizations and third States are governed by international humanitarian law, in particular the law of occupation (A), and by international human rights law (B).

A. International humanitarian law (paras. 83-145)

The Court notes that Israel's relevant obligations follow from the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949 (hereinafter the "Fourth Geneva Convention") to which Israel is a party. As confirmed in the Court's jurisprudence, the Fourth Geneva Convention is applicable in the Occupied Palestinian Territory. Moreover, Israel has obligations under customary international law, notably as reflected in the Regulations Respecting the Laws and Customs of War on Land annexed to the Fourth Hague Convention of 18 October 1907 and in certain provisions of the Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the protection of victims of international armed conflicts (hereinafter the "Additional Protocol I"). The Court emphasizes the fundamental importance of the principles of distinction, proportionality and precaution under international humanitarian law.

1. Israel's status as an occupying Power in the Gaza Strip (paras. 85-87)

The Court recalls that it found in its 2024 Advisory Opinion that, after the withdrawal of its military presence in 2005, Israel remained capable of exercising, and continued to exercise, certain key elements of authority over the Gaza Strip, and that Israel's obligations under the law of occupation remained commensurate with the degree of its effective control over that territory. These findings were based on the control exercised by Israel over the Gaza Strip prior to 7 October 2023, including control of the land, sea and air borders, restrictions on movement of people and goods, collection of import and export taxes, and military control over the buffer zone. Since that date,

Israel's effective control over the Gaza Strip has increased significantly. Therefore, the Court finds that Israel's obligations under the law of occupation have also increased significantly, commensurate with the increase in its effective control over the territory. Those obligations include the obligations under the law of occupation considered in Section IV.A.

The Court observes that the fact that hostilities are ongoing does not necessarily preclude the simultaneous application of the law of occupation. When hostilities take place in an occupied territory, the law of occupation applies alongside other rules of international humanitarian law relating to the conduct of hostilities, and the occupying Power must comply with both sets of rules. However, the intensity of the hostilities could affect the implementation of certain obligations under the law of occupation, and therefore the particular conduct required of the occupying Power.

2. The relevance of Israel's security concerns (paras. 88-90)

The Court is conscious of Israel's security concerns. It observes that, while certain provisions of the Fourth Geneva Convention and other rules of customary international law allow the occupying Power to take considerations of security or military necessity into account, the protection of security interests is not a free-standing exception permitting a State to depart from the otherwise applicable rules of international humanitarian law. Any limitations on Israel's obligations under international humanitarian law based on its security concerns must be grounded in a specific rule. The Court underscores that reliance upon such concerns must be exercised in accordance with the principle of good faith.

Further, the Court emphasizes that when States take measures to combat terrorism, they must comply with their obligations under international law, in particular their obligations to respect international humanitarian law and international human rights law.

3. The relevant legal framework under international humanitarian law, in particular the law of occupation (paras. 91-127)

The Court observes that customary international law imposes a duty on all parties to an armed conflict to allow and facilitate rapid and unimpeded passage of humanitarian relief for civilians in need, subject to a limited right of control. Such relief actions must be impartial in character and conducted in a non-discriminatory manner.

More specific obligations apply in the case of occupation. Articles 55 and 56 of the Fourth Geneva Convention obligate an occupying Power to ensure that the population of the occupied territory is supplied with the essentials of daily life, including food, water, shelter, medical supplies and medical care. Article 59 imposes additional obligations that depend on the population being inadequately supplied. Recalling the particular context of this case, the Court begins its analysis with Israel's obligations under Article 59 of the Convention.

(a) *Obligation to agree to and facilitate relief schemes under Article 59 of the Fourth Geneva Convention* (paras. 93-101)

The Court observes that, as the occupying Power, Israel's obligation under the first paragraph of Article 59 to agree to and facilitate relief schemes if the local population is inadequately supplied is unconditional.

Relief schemes under Article 59 may be undertaken "either by States or by impartial humanitarian organizations". The provision thus places obligations upon Israel both in relation to third States and in relation to the United Nations and other humanitarian organizations. These organizations must qualify as impartial to come within the scope of Article 59.

The fourth paragraph of Article 59 accords certain rights to a State granting free passage to consignments on their way to territory occupied by an adverse party to the conflict. These include, *inter alia*, the right to inspect consignments and the right to be reasonably satisfied that these consignments are to be used for the relief of the deprived population. While the provision does not include an explicit reference to the rights of the occupying Power, it follows from the occupying Power's control over the territory that it is also entitled to exercise these rights. However, no State may exercise these rights to impede the delivery of relief consignments in a manner that undermines the performance of its obligations as set out in Article 59.

An occupying Power's obligation to agree to and facilitate the entry of humanitarian relief into an occupied territory under Article 59 does not displace its basic obligations to ensure the availability of food and medical supplies essential to the survival of the local population.

Other provisions of the Fourth Geneva Convention confirm that aid can be impeded only temporarily and for narrowly circumscribed reasons. For example, the second sentence of Article 60 provides that "[t]he Occupying Power shall in no way whatsoever divert relief consignments from the purpose for which they are intended, except in cases of urgent necessity, in the interests of the population of the occupied territory and with the consent of the Protecting Power". The specific conditions for allowing diversion of relief consignments under Article 60 are cumulative and such action may be taken only in the interests of the local population. Thus, the Court emphasizes that the diversion of relief must remain exceptional, temporary and only for the narrowly defined purposes set forth in the Fourth Geneva Convention. Any large-scale diversion of humanitarian aid constitutes a violation of obligations under the Fourth Geneva Convention. Moreover, the diversion of aid must never undermine the general obligations of an occupying Power to ensure that the population is adequately supplied. The occupying Power may never invoke reasons of security to justify the general suspension of all humanitarian activities in an occupied territory.

The Court observes that the distribution of humanitarian relief in an impartial manner requires considerable planning and co-ordination. Thus, an occupying Power must do more than simply allow the passage of essential items into the occupied territory. It must also use all means at its disposal so that these items are distributed in a regular, fair and non-discriminatory manner, including by facilitating access to them and refraining from threats or use of violence or lethal force against the civilian population seeking to access such humanitarian relief. Relief schemes must be carried out in a manner that respects the dignity of the local population and that is consistent with the protection of the human rights of that population.

(b) *Whether the local population in the Occupied Palestinian Territory is inadequately supplied*
(paras. 102-109)

In light of the evidence in the case file, the Court finds that the local population in the Gaza Strip has been inadequately supplied within the meaning of Article 59 of the Fourth Geneva Convention. In such a situation, Israel, as the occupying Power, is under an obligation to agree to and facilitate relief schemes under that provision.

(c) *Obligations of Israel in relation to UNRWA* (paras. 110-124)

The Court notes that Israel does not consider UNRWA to be an impartial organization and has argued that, as a result, UNRWA does not come within the purview of Article 59. It observes that the qualification of a humanitarian organization as "impartial" or otherwise must be based on an objective assessment. It cannot depend only on the unilateral claim of the organization in question or on the unilateral perception of the occupying Power.

The Court notes that, based on the case file, there is no evidence that UNRWA, as an entity, breached the principle of impartiality within the meaning of Article 59. In other words, there is no evidence that UNRWA has discriminated with respect to nationality, race, religious belief, class or political opinion during its distribution of humanitarian aid and provision of services in the Occupied Palestinian Territory.

However, while neutrality is not a separate requirement under Article 59, the Court observes that the two concepts are related and neutrality plays a role in assessing the impartiality of the activities of humanitarian organizations.

The Court considers that the information before it is not sufficient to establish UNRWA's lack of neutrality for the purpose of assessing its impartiality as an organization under Article 59. In particular, the circumstance that the OIOS investigation in 2024 led to the dismissal of nine members of UNRWA personnel due to their possible involvement in the 7 October 2023 Hamas-led attacks against Israel is insufficient to support a conclusion that UNRWA as a whole is not a neutral organization. In addition, the Court finds that Israel has not substantiated its allegations that a significant part of UNRWA employees "are members of Hamas . . . or other terrorist factions".

The Court notes that an occupying Power is in principle free to choose the humanitarian organizations through which it fulfils its obligation to agree to and facilitate humanitarian relief. However, Article 59 limits an occupying Power's discretion in so far as it requires that Power to allow and facilitate sufficient relief to ensure that the population is adequately supplied.

UNRWA was established by the United Nations in 1949, 18 years before the occupation of the Occupied Palestinian Territory by Israel. It has since become the lead United Nations agency for relief and assistance to Palestine refugees in the Occupied Palestinian Territory and neighbouring States, playing a critical role in the Gaza Strip. UNRWA has thus been deeply integrated into the local infrastructure of the Occupied Palestinian Territory, providing for the most basic needs of the local population, including food, potable water, healthcare and shelter. The Court recalls the scale and urgency of the needs of the population of the Gaza Strip, and UNRWA's unique and sustained connection with the population of the Occupied Palestinian Territory. The Court considers that, in the current circumstances, it is not possible to replicate the capacity of the United Nations, acting through UNRWA, to ensure that the population of the Gaza Strip is adequately provided for. UNRWA cannot be replaced on short notice and without a proper transition plan.

The Court further observes that Israel itself has not ensured that the population of the Gaza Strip is adequately supplied. The Court recalls that, in addition to severely restricting the entry of aid at various times after 7 October 2023, Israel blocked the delivery of humanitarian aid in the Gaza Strip starting from 2 March 2025 and only allowed the delivery of a limited amount of aid to resume on 19 May 2025.

The evidence thus shows that, whether or not the operations of the United Nations, acting through UNRWA, were replaceable, Israel had no replacement system mobilized for a ten-week period. The Gaza Humanitarian Foundation, a purported replacement for UNRWA, has been widely criticized by the United Nations and other international actors, and its operations have been alleged to be inconsistent with core humanitarian principles. The United Nations has observed that aid delivery remains significantly below the volume required to meet the needs of the population. According to the United Nations Office for the Coordination of Humanitarian Affairs, over 2,100 Palestinians have been killed at or near the distribution sites of the Gaza Humanitarian Foundation since that system began operating on 27 May 2025.

The Court concludes that, under these circumstances, the United Nations, acting through UNRWA, has been an indispensable provider of humanitarian relief in the Gaza Strip. Thus, having regard to Article 59 of the Fourth Geneva Convention, and in the circumstances, the Court considers

that Israel is under an obligation to agree to and facilitate relief schemes provided by the United Nations and its entities, including UNRWA.

(d) *Obligations of Israel in relation to other international organizations and third States*
(paras. 125-127)

The Court adds that Article 59 of the Fourth Geneva Convention refers to aid provided by “States or by impartial humanitarian organizations”. Thus, as long as the population remains inadequately supplied and Israel is not itself operating a system of humanitarian support that is in accordance with its obligations under international humanitarian law, Israel is obliged under Article 59 to agree to and facilitate relief schemes provided by third States or impartial humanitarian organizations such as the International Committee of the Red Cross (ICRC).

4. Obligation to ensure the basic needs of the population (paras. 128-133)

The Court notes that, as an occupying Power, Israel is obliged to ensure the basic needs of the local population, including the supplies essential for their survival. Obligations to this effect are set out in Articles 55 and 56 of the Fourth Geneva Convention, Article 55 being supplemented by Article 69, paragraph 1, of Additional Protocol I.

Israel’s obligations under Articles 55 and 56 are not dependent on the local population being “inadequately supplied” and therefore also extend beyond the Gaza Strip to other parts of the Occupied Palestinian Territory. In the Court’s view, under these provisions, Israel is not only required to perform the positive obligation to ensure essential supplies to the local population to the fullest extent of the means available to it, but it is also under a negative obligation not to impede the provision of these supplies or the performance of services related to public health. In this respect, to the extent that Israel does not itself fulfil the obligations under Articles 55 and 56, leaving that responsibility to the United Nations acting through UNRWA, as well as other international organizations and third States, Israel is under the same positive and negative obligations to support and not to restrict the activities of those entities.

The operations of the United Nations, through UNRWA, and those of other international organizations and third States have been central to Israel’s performance of its obligations as an occupying Power under Articles 55 and 56 of the Fourth Geneva Convention. Consequently, Israel’s obligations under these provisions require it either to facilitate those operations or to otherwise ensure that these obligations are fully met.

5. Obligation to respect and protect relief and medical personnel and facilities (paras. 134-138)

In the Court’s view, the principle that humanitarian relief personnel must be respected and protected forms part of customary international law. The activities of the relief personnel may be limited and their movements may be temporarily restricted only in case of imperative military necessity. Personnel participating in relief actions are also protected by the principle of distinction, unless and only for such time as they directly participate in hostilities.

The obligations of an occupying Power exist alongside the obligations under international humanitarian law of all parties to a conflict to protect civilian hospitals and to respect and protect medical personnel exclusively assigned to medical duties in all circumstances.

6. The prohibition of forcible transfer and deportation (paras. 139-141)

The first paragraph of Article 49 of the Fourth Geneva Convention provides that individual or mass forcible transfers and deportations from occupied territory of protected persons within the meaning of that Convention are prohibited, regardless of their motive. Deportation or forcible transfer of the civilian population of an occupied territory, in whole or in part, is also prohibited under customary international law. The Court recalls that transfer may be forcible not only when it is achieved through the use of physical force, but also when the people concerned have no choice but to leave. This may include inflicting conditions of life that are intolerable.

While the second paragraph of Article 49 of the Fourth Geneva Convention allows an occupying Power to evacuate people to a given area “if the security of the population or imperative military reasons so demand”, it provides that “[p]ersons thus evacuated shall be transferred back to their homes as soon as hostilities in the area in question have ceased”. The Court observes that the third paragraph of Article 49 further stipulates that the occupying Power “shall ensure, to the greatest practicable extent, that proper accommodation is provided to receive the protected persons, that the removals are effected in satisfactory conditions of hygiene, health, safety and nutrition, and that members of the same family are not separated”.

The Court observes that Israel, as an occupying Power, is prohibited from restricting the presence and activities of the United Nations, other international organizations and third States in and in relation to the Occupied Palestinian Territory to a degree that creates, or contributes to, conditions of life that would force the population to leave.

7. The right of protected persons in detention to be visited by the ICRC (para. 142)

The Court recalls that Article 76 of the Fourth Geneva Convention provides that an occupying Power is required to allow protected persons in detention to be visited by delegates of the ICRC. Article 143 in turn allows the ICRC “to go to all places where protected persons are, particularly to places of internment, detention and work” as well as to access “all premises occupied by protected persons”. It further stipulates that visits may be prohibited only “for reasons of imperative military necessity, and then only as an exceptional and temporary measure” and that “[t]heir duration and frequency shall not be restricted”. For these reasons, Israel is obliged to allow the ICRC access to visit protected persons from the Occupied Palestinian Territory detained by the Israeli authorities.

8. The prohibition of starvation as a method of warfare (paras. 143-145)

The Court observes that customary international law prohibits the use of starvation of the civilian population as a method of warfare.

As the Court has noted, Israel blocked aid into the Gaza Strip, preventing the entry of humanitarian aid into the region from 2 March until 18 May 2025. In the view of the Court, Israel’s consent to the operations of the Gaza Humanitarian Foundation since 27 May 2025 and to other limited humanitarian aid has not significantly alleviated the situation. The Court has also found that the local population in the Gaza Strip has been inadequately supplied. In these circumstances, the Court recalls Israel’s obligation not to use starvation of the civilian population as a method of warfare.

B. International human rights law (paras. 146-160)

As an occupying Power, Israel has obligations under international human rights law to respect, protect and fulfil the human rights of the population of the Occupied Palestinian Territory.

Restrictions on the provision of humanitarian aid that is indispensable for the well-being and dignity of the Palestinian population directly implicate these obligations.

Israel is a party to several United Nations human rights treaties. These include the International Convention on the Elimination of All Forms of Racial Discrimination; the International Covenant on Civil and Political Rights; the International Covenant on Economic, Cultural and Social Rights; the Convention on the Elimination of All Forms of Discrimination against Women; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the Convention on the Rights of the Child; and the Convention on the Rights of Persons with Disabilities.

In the Court's view, the principle that a State's human rights obligations extend to acts taken by that State in the exercise of its jurisdiction outside its own territory, particularly in occupied territories, applies also with respect to all the foregoing instruments.

Both the human rights treaties to which Israel is a party and customary international law encompass a wide range of human rights that are relevant to the population of the Occupied Palestinian Territory. These rights apply alongside the obligations of an occupying Power under international humanitarian law, including the obligation under Article 27 of the Fourth Geneva Convention that protected persons shall be respected and humanely treated, and the specific obligations of an occupying Power addressed above. Such rights include the right to life; the right to be free from torture or cruel, inhuman or degrading treatment or punishment; the right to liberty and security; the right to freedom of movement; the right to protection of family life; the right to an adequate standard of living, including adequate food, clothing and housing and the continuous improvement of living conditions; the right to the enjoyment of the highest attainable standard of physical and mental health; the right to education; and the right not to be subject to discrimination on specific grounds.

The Court has confirmed that Israel has a positive obligation to respect, protect and fulfil international human rights in the Occupied Palestinian Territory, even in times of armed conflict. The Court observes that, to the extent that the local population has been capable of enjoying many of these human rights in the Occupied Palestinian Territory, this has been largely enabled and ensured through the work of the United Nations, particularly through UNRWA, supported by the activities of other international organizations and third States. Consequently, any diminution by Israel of the capacity of UNRWA and these other actors to ensure these basic human rights means that the obligations of Israel to respect, protect and fulfil these rights increases to a commensurate degree.

The Court recalls the policies and practices of Israel which have resulted in the deprivation of the essentials of daily life for the population in the Gaza Strip. It then discusses how the various rights that it has identified may be at stake.

V. OBLIGATIONS OF ISRAEL AS A MEMBER OF THE UNITED NATIONS (paras. 163-216)

A. The permanent responsibility of the United Nations towards the question of Palestine (paras. 166-169)

The Court recalls the responsibility of the United Nations towards the question of Palestine, which was described by the General Assembly as a permanent responsibility until this question is resolved in all its aspects in a satisfactory manner in accordance with international legitimacy.

B. Obligation to co-operate with the United Nations (paras. 170-179)

The Court notes that, by virtue of Article 2, paragraph 2, of the Charter, all Members must fulfil in good faith the obligations assumed by them in accordance with the Charter. This provision

must be applied in conjunction with the specific obligations assumed by the Members in accordance with the Charter.

In realizing the purposes of the United Nations as enunciated in Article 1 of the Charter, Members have a specific obligation to co-operate with the United Nations under Article 2, paragraph 5, of the Charter, which provides that “[a]ll Members shall give the United Nations every assistance in any action it takes in accordance with the present Charter”. This provision must be read together with the provisions of the Charter relating to the powers of various organs of the United Nations. Compliance with this duty to render assistance is important for the effective functioning of the Organization, the fulfilment of its mandate, and the independence and efficacy of its personnel in the discharge of their duties. Furthermore, Members are under an obligation to co-operate with the United Nations under Articles 55 and 56 of the Charter.

The obligations of Israel, and of all other Member States, to co-operate with the United Nations with respect to the question of Palestine is of paramount importance in addressing the critical situation on the ground since October 2023, in which the United Nations, together with other actors, plays a crucial role in delivering and co-ordinating humanitarian aid and development assistance to the Occupied Palestinian Territory, in particular through UNRWA in the Gaza Strip.

The Court recalls that Israel, as an occupying Power, is not entitled to sovereignty over or to exercise sovereign powers in any part of the Occupied Palestinian Territory, including East Jerusalem. By enacting and enforcing the two laws adopted by the Knesset on 28 October 2024 that unilaterally terminated Israel’s co-operation with UNRWA, including its operation in East Jerusalem, Israel continues to exercise sovereign power in East Jerusalem. Moreover, these laws have directly resulted in obstructions to the operations of UNRWA in and in relation to the Occupied Palestinian Territory, in particular in the Gaza Strip.

Furthermore, the Court notes that UNRWA, as a subsidiary organ of the United Nations, has been entrusted by the General Assembly to provide direct relief and work programmes for Palestine refugees. It cannot carry out such a mandate effectively without having direct access to the population in the Occupied Palestinian Territory. This is particularly true given the crucial role that UNRWA has been playing since October 2023. In the view of the Court, Israel is not entitled to withhold its co-operation with the United Nations by unilaterally deciding on the presence and activities of United Nations entities in and in relation to the Occupied Palestinian Territory, subject to paragraph 184 of the Advisory Opinion.

Lastly, Israel must fulfil its obligations in good faith. In the event of any difference arising between Israel and the United Nations, the obligation to co-operate requires Israel to pursue consultation and negotiation with the United Nations.

C. Obligation to respect the privileges and immunities of the United Nations (paras. 180-216)

With regard to the privileges and immunities of the United Nations, the Court refers to Article 105 of the Charter and to the Convention on the Privileges and Immunities of the United Nations (hereinafter the “General Convention”), to which Israel acceded on 21 September 1949 without making any declaration or reservation.

The Court notes that privileges and immunities are not accorded as benefits to the United Nations or its personnel, but to safeguard their functions.

The Court recalls that, as a general rule, the way in which a subsidiary organ established by the General Assembly is utilized depends on the consent of the State or States concerned, and that States possess a sovereign power of decision with respect to their acceptance of the headquarters or

a regional office of an organization within their territories. It follows that, within the territory of Israel, the presence and activities of the United Nations and its entities are subject to the consent of Israel. However, in the occupied territory, over which Israel, as an occupying Power, enjoys no sovereignty, it is not entitled to decide unilaterally, with respect to the presence and activities of the United Nations in and in relation to the Occupied Palestinian Territory, in the same way as in its own territory.

In the Court's view, in the context of an occupation, an occupying Power exercises jurisdiction and control over the occupied territory and thereby assumes an obligation to respect the privileges and immunities accorded to the United Nations under Article 105 of the Charter and the General Convention in the occupied territory.

The Court considers that Article 105 of the Charter and the General Convention do not cease to operate in the context of armed conflict. This is consistent with the purposes and functions entrusted to the United Nations, which often carries out important missions in areas of tension and conflict.

Pursuant to Article 105 of the Charter, the General Convention sets out the privileges and immunities that the United Nations and its personnel enjoy in the overall performance of their functions. For the purposes of the present proceedings, the Court considers the following aspects and the corresponding provisions of the General Convention to be of particular relevance to the question put to it: first, the obligation to respect the privileges and immunities accorded to the United Nations, its premises, property and assets (Article II, Sections 2, 3 and 7); second, the obligation to respect the privileges and immunities of United Nations personnel (Article V, Sections 18 and 20, Article VI, Sections 22-23, and Article VII, Sections 24-26); and, third, the obligation to address any concern regarding the privileges and immunities of the United Nations and its personnel within the legal framework of the United Nations (Article V, Section 21, and Article VIII, Section 30).

1. Obligation to respect the privileges and immunities accorded to the United Nations, its premises, property and assets (paras. 188-198)

The Court notes that Article II of the General Convention sets out detailed rules on the privileges and immunities of the United Nations, elaborating on Article 105, paragraph 1, of the Charter. It requires Members of the United Nations not to interfere with the independent exercise of the functions of the Organization. This protection accorded to the United Nations extends to its entities that form an integral part of the Organization.

Article II contains, *inter alia*, provisions that address the immunity from legal process of the United Nations, its property and assets; the inviolability of United Nations premises and non-interference with United Nations property and assets; and the exemption of the United Nations, its assets, income and other property from customs duties and prohibitions and restrictions on imports and exports in respect of articles for its official use. These provisions constitute a prerequisite for the United Nations and its entities to be able to implement their mandated activities on the ground.

With respect to the question whether the schools, health clinics and the hospital operated by UNRWA in the Occupied Palestinian Territory fall within the category of United Nations premises, the Court is of the view that what is pertinent is whether the functions and services provided by these facilities form part of the mandate of UNRWA. If that is the case, in addition to its obligations under international humanitarian law, Israel is under an obligation to respect the inviolability of these premises in accordance with Article II, Section 3, of the General Convention. This requirement is grounded in the functional nature of the privileges and immunities at issue.

The obligation to respect the inviolability of United Nations premises and the obligation not to interfere with United Nations property and assets must also be upheld in the context of armed

conflict, as such inviolability and non-interference are essential to safeguarding the independent and effective performance of the functions of the Organization under all circumstances. The Court acknowledges that the context of an armed conflict raises challenges, especially in the situation of potential loss of control by the United Nations over certain of its premises. However, it is for the United Nations to determine whether a particular facility remains the premises of the United Nations. In the view of the Court, such a determination by the United Nations creates a presumption that may only be set aside for the most compelling reasons and is to be given the greatest weight by States. The obligation to respect the inviolability of those facilities qualifying as United Nations premises must be observed by all parties to the hostilities, along with the obligation not to interfere with the property and assets of the Organization. Damage to or destruction of the premises and other property and assets of the United Nations as a result of military activities may amount to a violation of obligations under Article II, Section 3, of the General Convention.

2. Obligation to respect the privileges and immunities of United Nations personnel (paras. 199-210)

The privileges and immunities afforded to the United Nations by its Members to ensure the independent and effective discharge of the functions of the Organization free from interference necessarily extend to the personnel engaged in carrying out its missions. For the purposes of the present Advisory Opinion, the term “United Nations personnel” refers to its officials as well as its experts on mission.

For this purpose, Article 105, paragraph 2, of the Charter stipulates: “[r]epresentatives of the Members of the United Nations and officials of the Organization shall . . . enjoy such privileges and immunities as are necessary for the independent exercise of their functions in connection with the Organization”. Such protection is particularly necessary for United Nations personnel to discharge their critical functions effectively in situations of armed conflict.

In and in relation to the Occupied Palestinian Territory, Israel must respect the independence of United Nations personnel and the privileges and immunities necessary for the exercise of their functions, in accordance with Article 105, paragraph 2, of the Charter and the General Convention. Israel is specifically obliged to comply with Articles V, VI and VII of the General Convention, which further elaborate on the scope and content of the privileges and immunities of United Nations officials, the privileges and immunities of experts on mission for the Organization, and the *laissez-passer* to be used by United Nations officials in carrying out their mandated activities.

United Nations personnel are entitled to the privileges and immunities provided by Article 105 of the Charter and Articles V to VII of the General Convention for all acts performed by them in their official capacity. It is for the Secretary-General to determine whether a particular official or expert on mission is entitled to the privileges and immunities provided, and to assess whether that person acted within the scope of the person’s functions. In the view of the Court, the Secretary-General’s determination of the scope of the official functions of the officials or experts in question creates a presumption that can only be set aside for the most compelling reasons and is to be given the greatest weight by States.

According to Article V, Section 20, and Article VI, Section 23, of the General Convention, the Secretary-General has the right and the duty to waive the immunity of United Nations personnel if, in the Secretary-General’s opinion, such immunity would impede the course of justice and can be waived without prejudice to the interests of the United Nations.

In addition, Israel has obligations under the General Convention with respect to the free movement of United Nations personnel in and in relation to the Occupied Palestinian Territory so that they can carry out their mandated activities. The Court emphasizes that the free movement of

local United Nations personnel for the performance of their official functions must also be respected by Israel.

Lastly, the Court underscores the importance of Israel's obligation under Article 105 of the Charter and the General Convention to ensure the safety and security of United Nations officials and experts on mission. In accordance with the Charter and the General Convention, Israel must discharge this obligation in good faith. This includes ensuring that United Nations personnel are not targeted.

3. Obligation to address concerns regarding privileges and immunities within the legal framework (paras. 211-215)

The Court examines the argument that limitations on the privileges and immunities of the United Nations and its personnel may be justified in light of security concerns and doubts surrounding the neutrality, impartiality and independence of UNRWA and alleged abuse of privileges and immunities by its personnel. It notes that the United Nations has a responsibility to prevent and address abuses of the privileges and immunities of the Organization and its personnel. The legal framework governing the privileges and immunities of the United Nations is not impervious to the legitimate concerns of Members over such abuses. The privileges and immunities accorded to the United Nations and its personnel cannot be used as a shield for activities that are against the purposes and principles of the Organization or are outside the functions of its personnel. Nonetheless, any concern of alleged abuse raised by a Member regarding the United Nations or its personnel must be addressed within the existing legal framework for the settlement of differences. In any event, a Member must not disregard its obligations under the Charter based solely on its unilateral assessment of the allegation.

VI. PRESENCE AND ACTIVITIES OF THE UNITED NATIONS IN SUPPORT OF THE RIGHT OF THE PALESTINIAN PEOPLE TO SELF-DETERMINATION (PARAS. 217-222)

The Court explains that it is mindful that the present request for an advisory opinion has not arisen in isolation but is situated in the context of Israel's prolonged occupation of the Occupied Palestinian Territory for more than 58 years, and the continued denial of the Palestinian people's right to self-determination.

The Court recalls that Israel's territorial claim over East Jerusalem has long been declared "null and void" by the Security Council. It notes that the "Law to Cease UNRWA Operations in the Territory of the State of Israel" purports to apply to East Jerusalem. As an occupying Power, Israel must refrain from extending its domestic laws to the occupied territory in any manner inconsistent with its obligation not to impede the Palestinian people from exercising its right to self-determination, including its inalienable right to territorial integrity over the entirety of the Occupied Palestinian Territory.

Moreover, the humanitarian crisis in the Gaza Strip poses a direct risk to the living conditions of the Palestinian people. The deprivation of a people of its essential means of subsistence threatens the fundamental conditions that are indispensable for that people to exercise its right to self-determination. Respect for the right to self-determination of the Palestinian people requires Israel not to prevent the fulfilment of the basic needs of the Palestinian people in the Gaza Strip, including by the United Nations, its entities, other international organizations and third States.

Lastly, UNRWA's unique mandate relates to the core aspects of the right of the Palestinian people to self-determination. The missions undertaken by UNRWA in the areas of direct relief, humanitarian and development assistance — through its programmes covering education and training, healthcare, direct relief and developmental services — are a manifestation of the

Organization's commitment to its responsibility with respect to the right of the Palestinian people to self-determination. Moreover, as noted above, since October 2023, UNRWA has remained the principal means and the backbone of all humanitarian response in the Gaza Strip, serving Palestinian refugees and civilians in urgent need of life-saving humanitarian assistance. In this connection, Israel is under an obligation not to impede the operations of United Nations entities, other international organizations and third States, and to co-operate in good faith with the United Nations to ensure respect for the right of the Palestinian people to self-determination.

The Court reiterates that, ultimately, the realization of the right of the Palestinian people to self-determination, including its right to an independent and sovereign State, living side by side in peace with the State of Israel within secure and recognized borders for both States, as envisaged in resolutions of the Security Council and General Assembly, would contribute to regional stability and the security of all States in the Middle East.

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The full text of the operative part (para. 223) of the Advisory Opinion reads as follows:

For these reasons,

THE COURT,

(1) Unanimously,

Finds that it has jurisdiction to give the advisory opinion requested;

(2) Unanimously,

Decides to comply with the request for an advisory opinion;

(3) *Is of the opinion* that the State of Israel, as an occupying Power, is required to fulfil its obligations under international humanitarian law. These obligations include the following:

(a) Unanimously,

to ensure that the population of the Occupied Palestinian Territory has the essential supplies of daily life, including food, water, clothing, bedding, shelter, fuel, medical supplies and services;

(b) By ten votes to one,

to agree to and facilitate by all means at its disposal relief schemes on behalf of the population of the Occupied Palestinian Territory so long as that population is inadequately supplied, as has been the case in the Gaza Strip, including relief provided by the United Nations and its entities, in particular the United Nations Relief and Works Agency for Palestine Refugees in the Near East, other international organizations and third States, and not to impede such relief;

IN FAVOUR: *President* Iwasawa; *Judges* Tomka, Abraham, Xue, Nolte, Charlesworth, Brant, Gómez Robledo, Cleveland, Tladi;

AGAINST: *Vice-President* Sebutinde;

(c) Unanimously,

to respect and protect all relief and medical personnel and facilities;

(d) Unanimously,

to respect the prohibition on forcible transfer and deportation in the Occupied Palestinian Territory;

(e) Unanimously,

to respect the right of protected persons from the Occupied Palestinian Territory who are detained by the State of Israel to be visited by the International Committee of the Red Cross; and

(f) Unanimously,

to respect the prohibition on the use of starvation of civilians as a method of warfare;

(4) By ten votes to one,

Is of the opinion that, as an occupying Power, the State of Israel has an obligation under international human rights law to respect, protect and fulfil the human rights of the population of the Occupied Palestinian Territory, including through the presence and activities of the United Nations, other international organizations and third States, in and in relation to the Occupied Palestinian Territory;

IN FAVOUR: *President* Iwasawa; *Judges* Tomka, Abraham, Xue, Nolte, Charlesworth, Brant, Gómez Robledo, Cleveland, Tladi;

AGAINST: *Vice-President* Sebutinde;

(5) By ten votes to one,

Is of the opinion that the State of Israel has an obligation to co-operate in good faith with the United Nations by providing every assistance in any action it takes in accordance with the Charter of the United Nations, including the United Nations Relief and Works Agency for Palestine Refugees in the Near East, in and in relation to the Occupied Palestinian Territory;

IN FAVOUR: *President* Iwasawa; *Judges* Tomka, Abraham, Xue, Nolte, Charlesworth, Brant, Gómez Robledo, Cleveland, Tladi;

AGAINST: *Vice-President* Sebutinde;

(6) By ten votes to one,

Is of the opinion that the State of Israel has an obligation under Article 105 of the Charter of the United Nations to ensure full respect for the privileges and immunities accorded to the United Nations, including its agencies and bodies, and its officials, in and in relation to the Occupied Palestinian Territory;

IN FAVOUR: *President* Iwasawa; *Judges* Tomka, Abraham, Xue, Nolte, Charlesworth, Brant, Gómez Robledo, Cleveland, Tladi;

AGAINST: *Vice-President* Sebutinde;

(7) By ten votes to one,

Is of the opinion that the State of Israel has an obligation under Article II of the Convention on the Privileges and Immunities of the United Nations to ensure full respect for the inviolability of the premises of the United Nations, including those of the United Nations Relief and Works Agency for Palestine Refugees in the Near East, and for the immunity of the property and assets of the Organization from any form of interference;

IN FAVOUR: *President* Iwasawa; *Judges* Tomka, Abraham, Xue, Nolte, Charlesworth, Brant, Gómez Robledo, Cleveland, Tladi;

AGAINST: *Vice-President* Sebutinde;

(8) By ten votes to one,

Is of the opinion that the State of Israel has an obligation under Articles V, VI and VII of the Convention on the Privileges and Immunities of the United Nations to ensure full respect for the privileges and immunities accorded to the officials and experts on mission of the United Nations, in and in relation to the Occupied Palestinian Territory.

IN FAVOUR: *President* Iwasawa; *Judges* Tomka, Abraham, Xue, Nolte, Charlesworth, Brant, Gómez Robledo, Cleveland, Tladi;

AGAINST: *Vice-President* Sebutinde.

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Vice-President SEBUTINDE appends a separate opinion to the Advisory Opinion of the Court; Judges ABRAHAM and CLEVELAND append a joint declaration to the Advisory Opinion of the Court; Judge XUE appends a separate opinion to the Advisory Opinion of the Court; Judge CHARLESWORTH appends a declaration to the Advisory Opinion of the Court; Judge BRANT appends a separate opinion to the Advisory Opinion of the Court; Judge GÓMEZ ROBLEDÓ appends a partially dissenting opinion to the Advisory Opinion of the Court; Judges CLEVELAND and TLADI append declarations to the Advisory Opinion of the Court.

Separate opinion of Vice-President Sebutinde

In her separate opinion, Vice-President Sebutinde explains the reasoning behind her partial alignment with the majority. While she concurs that the Court has jurisdiction to render the advisory opinion, she believes the Court should have adopted a more measured approach in addressing the question posed. She highlights several considerations that warranted caution, including the importance of avoiding re-litigation of previously adjudicated matters, the risk of prejudging issues pending before the Court in contentious proceedings or of circumventing the principle of State consent in the judicial resolution of inter-State disputes.

Vice-President Sebutinde further voices concern that the Court did not sufficiently consider the host State's stated security concerns — particularly, its allegation that Hamas operatives have infiltrated UNRWA, thereby calling into question the organization's neutrality. She argues that the Court's reasoning overlooks the complex realities of urban warfare in Gaza that have an impact on Israel's compliance with its international obligations, such as Gaza's exceptionally high population density, Hamas' use of civilians and hostages as human shields and its militarization of civilian infrastructure, including hospitals and schools. She underscores the challenges in verifying the accuracy and authenticity of information regarding the humanitarian situation in Gaza and stresses the need for the international community to identify and address the root causes of impediments to aid delivery.

Regarding the question posed by the General Assembly, Vice-President Sebutinde emphasizes its narrow scope, namely: it seeks to identify Israel's international obligations as a host State, without assessing its compliance therewith. She outlines the roles of the United Nations, other international organizations and third States in the Occupied Palestinian Territory (OPT), and examines the legal framework governing UNRWA's operations, including the 1967 Exchange of Letters between Israel and UNRWA. She notes that UNRWA's presence in Israel is subject to the host State's consent and considers Israel's decision to prohibit UNRWA's operations within its territory as an exercise of its sovereign rights. She also discusses Israel's obligations to combat terrorism and summarizes its security concerns regarding UNRWA, which led to its withdrawal of co-operation. In her view, Israel retains discretion under international humanitarian law to determine how aid is delivered in the OPT and is not legally required to channel such assistance specifically or solely through UNRWA. Accordingly, she finds that Israeli domestic legislation restricting UNRWA's operations is consistent with Israel's obligations under international law.

Vice-President Sebutinde clarifies that Israel's obligations as a Member of the United Nations are neither unlimited nor unconditional. She argues that there is no obligation to assist UN agencies acting contrary to the Charter's principles and that the duty of assistance under Article 2, paragraph 5, of the Charter is limited to enforcement actions authorized by the Security Council under Chapter VII. She further asserts that UN privileges and immunities apply only to conduct within the proper execution of the Organization's functions, noting the lack of thorough investigation into complaints against UNRWA. Finally, she stresses that any obligations Israel may have as an occupying Power are not absolute. Israel retains the right to pursue legitimate military objectives in its administration of the disputed territory. There is no legal requirement for Israel to permit specific third States or international organizations to conduct humanitarian activities in the OPT, if doing so would compromise its security.

In conclusion, Vice-President Sebutinde advocates for constructive engagement through established international mechanisms as the most effective path toward permanently resolving the Israeli-Palestinian conflict. She cautions that advisory proceedings of this nature — given their inherently politicized and divisive character — risk deepening existing tensions and hindering meaningful progress toward reconciliation.

Joint declaration of Judges Abraham and Cleveland

Judges Abraham and Cleveland agree in general with the Court's replies to the question of the General Assembly. Through their joint declaration, they wish to further elaborate on subparagraph 5 of the operative clause, relating to Israel's obligation to co-operate in good faith with the United Nations by providing every assistance in any action it takes. They underscore that this obligation to co-operate must be applied in conjunction with the legal obligations that a Member State has undertaken and that the words "any action . . . in accordance with the . . . Charter" under Article 2, paragraph 5, must be understood as referring to United Nations actions that are legally binding on a Member State. They agree that Israel has broad obligations to co-operate with United Nations activities in and in relation to the Occupied Palestinian Territory and consider that this duty to co-operate is triggered, *inter alia*, by the obligations identified in other sections of the Advisory Opinion. According to Judges Abraham and Cleveland, the Court's conclusion in subparagraph 5 of the operative clause must be understood in this light.

Separate opinion of Judge Xue

In her separate opinion, Judge Xue underscores two important aspects, which she believes the Court should have dealt with in depth in its Advisory Opinion. First, Judge Xue considers that Article 2, paragraph 5, imposes a legal obligation binding on the Members, including Israel, to give every assistance to actions undertaken by the United Nations. Such actions, in her view, are not limited to those undertaken by the Security Council. Second, she is of the view that it is imperative for the Court to reaffirm Israel's obligation to respect the right of the Palestinian people to self-determination, in the Advisory Opinion.

Judge Xue considers that a broad interpretation of Article 2, paragraph 5, is in conformity with the rules of treaty interpretation. She states that Article 2, paragraph 5, consists of two parts. The first part stipulates a positive obligation on all Members to assist in the actions taken by the United Nations, which could be described as a duty to co-operate, while the second part imposes a negative obligation on the Members, requiring them to "refrain from giving assistance to any State against which the United Nations is taking preventive or enforcement action". This duty not to give assistance is addressed at the State against which an action is taken. It applies specifically to a distinct category of United Nations actions — preventive or enforcement actions — to the exclusion of other types of actions.

Judge Xue underlines that the ordinary meaning of the terms of Article 2, paragraph 5, does not exclude actions taken by other organs, for the simple reason that the maintenance of peace and security, over which the Security Council has the primary responsibility, constitutes only one part, albeit the most important, of the functions of the United Nations. Moreover, the word "it" in that provision refers to the Organization and is not limited to any of its specific organs. To confine the scope of actions under Article 2, paragraph 5, to the actions of the Security Council would not only render Article 25 of the Charter superfluous but also diminish and disregard the roles of other organs in achieving the common aims of the United Nations, such as promoting international co-operation in economic and social development as well as fundamental human rights and self-determination. Judge Xue points out that assistance may be given in various ways; to "carry out" a decision of the Security Council is just one of them. According to the Charter, other major organs, such as the General Assembly and the Trusteeship Council, may also take actions in certain areas for the accomplishment of the purposes of the Organization; Members are expected to provide possible support to those actions and co-operate with the United Nations. By virtue of Article 56 of the Charter, moreover, Members pledge to work and co-operate with the Organization to promote international economic and social development as well as respect for human rights. As is observed,

"[t]he actions taken by the United Nations in accordance with the Charter are wide in scope and varied in nature. In a sense many decisions taken by the organs of the

United Nations which requested Member States to co-operate in such actions may be said to bear upon Article 2 (5).” (See *Repertory of Practice of United Nations Organs, Supplement No. 1 (1954-1955)*, p. 15, para. 29.)

Referring to the practice of the United Nations, Judge Xue states that this duty to co-operate with the Organization has proven vital in ultimately resolving such questions as the question of Southern Rhodesia (Zimbabwe) (see e.g. General Assembly resolutions 31/154 of 20 December 1976, 32/116 of 16 December 1977, and 33/38 of 13 December 1978) in the decolonization movement, as well as in many other important issues concerning world peace and development. She emphasizes that confining the scope of Article 2, paragraph 5, to the decisions of the Security Council is certainly not facilitative of the attainment of the purposes of the Organization, if a Member is given the liberty not to co-operate with actions taken by other organs; any interpretation that may leave room for a Member to ignore, hinder, impede or even obstruct actions adopted by United Nations organs for the purported reason that they are not binding would seriously undermine the authority and integrity of the Organization.

With regard to the application of Article 2, paragraph 5, in the present proceedings, Judge Xue states that the United Nations has a permanent responsibility towards the question of Palestine. Unless and until this question is fully resolved, the United Nations must remain seised of the matter. Israel, as a Member of the United Nations, must co-operate with the Organization in accordance with the Charter and the relevant resolutions of the United Nations.

Judge Xue notes that the mandates of the United Nations and its entities operating in the Occupied Palestinian Territory come from the actions of the United Nations, particularly through General Assembly resolutions (e.g. General Assembly resolution 302 (IV), which established UNRWA and which Israel voted in favour of). Over the decades, the United Nations and its entities, in particular UNRWA, have carried out their functions for the benefit of the local population. Israel, as the occupying Power, has no right to unilaterally put an end to the presence and activities of the United Nations in the occupied territory. Article 2, paragraph 5, of the Charter requires it to enter into consultation with the Organization in respect of any issues arising from the presence and activities of the United Nations in the occupied territory and ensure uninterrupted supplies of urgently needed humanitarian assistance to the people in the Gaza Strip in accordance with international humanitarian law.

Judge Xue observes that, since 7 October 2023, the General Assembly and the Security Council have adopted a large number of resolutions calling upon Israel to fulfil its obligations to ensure unhindered provision of urgently required humanitarian assistance to the Gaza Strip. Israel’s obligation under Article 2, paragraph 5, requires it to co-operate with the United Nations and its entities, in particular UNRWA, in every possible way, as required by the resolutions of the General Assembly and the Security Council to ensure unhindered provision of humanitarian assistance to the occupied territory and to respect and protect humanitarian personnel, United Nations personnel and associated personnel in the Gaza Strip, in line with its obligations under international law and international humanitarian law.

Lastly, Judge Xue states that the connection between the Palestinian people’s right to self-determination and the present proceedings is neither incidental nor artificial. The current situation in the Gaza Strip demonstrates a most devastating humanitarian crisis in recent times, which would likely further erode the conditions for the Palestinian people to exercise its right to self-determination. In this connection, there is a reason that General Assembly resolution 79/232, which puts the question to the Court, begins with the affirmation of the right of the Palestinian people to self-determination.

Judge Xue notes that, since October 2023, Israel has intensified its control over the Gaza Strip. Its large-scale military operations in the Gaza Strip, its extensive non-co-operation with international humanitarian assistance and obstruction of the presence and activities of United Nations entities,

other international organizations and third States, and its massive forcible transfer and displacement of the local population further impair the territorial integrity of Palestine and the integrity of the Palestinian people. She is of the view that reaffirmation of Israel's obligation to respect the right of the Palestinian people to self-determination is crucial for the achievement of peace and security in the region and for the ultimate realization of the two-State solution.

Declaration of Judge Charlesworth

While supporting the Court's conclusion that Israel is obliged "to co-operate in good faith with the United Nations by providing every assistance in any action it takes in accordance with the Charter of the United Nations", Judge Charlesworth considers that the Court's interpretation of the scope of Article 2, paragraph 5, of the United Nations Charter lacks clarity. In her view, the obligation of Member States under this provision to give "every assistance" should be interpreted as encompassing actions taken by all organs of the United Nations, and the provision's application is not confined to assistance given in relation to the binding resolutions of the United Nations Security Council.

Partially dissenting opinion of Judge Gómez Robledo

Judge Gómez Robledo agrees with the Opinion rendered by the Court in this case. However, he cannot endorse the Court's reasoning on certain substantive points that, in his view, warranted further elaboration.

He considers that the current situation on the ground fully justifies the characterization of the Gaza Strip as occupied territory. He argues that the continuation of hostilities in Gaza, in so far as they are still taking place, does not preclude the existence of an occupation. He underlines that the Gaza Strip is, and continues to be, occupied territory since the outbreak of the full-scale war following the attacks of 7 October 2023. In his view, the Court could have shown less deference in its reasoning (Opinion, paras. 85-87) and should have stated explicitly that Israel is currently occupying the Gaza Strip and, moreover, maintaining an occupation there that is in breach of international law (*Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem, Advisory Opinion of 19 July 2024*, para. 261).

As for the obligation to co-operate with the United Nations in accordance with Article 2, paragraph 5, and Articles 55 and 56 of the Charter, he considers this obligation to be one of the cornerstones of the architecture of the United Nations system and a *raison d'être* of the Organization. In his view, the Court has adopted a timid and excessively formalistic approach, disconnected from reality, by failing to specify that this duty of co-operation also entails, in certain circumstances, an obligation to lend assistance to the General Assembly in any action undertaken by it (Opinion, paras. 172-173). He considers that the Court should have made clear the importance of the obligation to co-operate with the General Assembly, the most representative organ of the United Nations and the best expression of the universal conscience.

Judge Gómez Robledo further adds that the Court should also have emphasized the "permanent responsibility" of the United Nations with regard to the question of Palestine. In this respect, he argues that the Court should have made clear that the Member States of the United Nations, including Israel, have an obligation to give every assistance to the Organization in any action undertaken by it, in accordance with the Charter, to discharge this permanent responsibility towards the question of Palestine.

Lastly, while acknowledging that the question submitted to the Court in the present request for an advisory opinion is narrower in scope than that examined in the 2024 Opinion, he nonetheless considers that the Court should not have remained silent as to the legal consequences of the violations

of the obligations it has identified as incumbent upon Israel. According to Judge Gómez Robledo, the provisional measures that Israel has been ordered by the Court to take — which constitute binding obligations upon that State — form part of the applicable law in this instance, for at least two principal reasons. The first is substantive and concerns the normative autonomy of provisional measures in relation to the merits of a case. In light of this, the Court would in no way have prejudged the merits of the case pending between South Africa and Israel, had it reaffirmed the applicability of its provisional measures as a source of binding obligations for Israel. The second reason is procedural. Provisional measures are autonomous, not only with respect to the obligations they create but also with regard to their basis of jurisdiction. The Court, therefore, does not derive its power to indicate provisional measures from the principal basis of jurisdiction invoked by the Applicant in the *South Africa v. Israel* case — namely Article IX of the Genocide Convention — but from Article 41 of the Statute. Consequently, had the Court recalled, in this Advisory Opinion, the provisional measures it indicated in the *South Africa v. Israel* case, it would in no way have prejudged the merits of that case, as the two questions are, and remain, distinct.

Declaration of Judge Cleveland

1. The Court's jurisdiction to render an advisory opinion is determined by the scope of the request, and the Court's reply thus necessarily focuses on the obligations of Israel. Nevertheless, Judge Cleveland emphasizes, the opinion should not be misconstrued to suggest that Israel is the only bearer of obligations under international law with respect to the activities of the United Nations, other international organizations and third States in and in relation to the Occupied Palestinian Territory. She writes to underscore that many of the international legal obligations identified in the Advisory Opinion, as well as others that are beyond its scope, also apply to Hamas and other armed groups in the Gaza Strip, irrespective of any claimed status as State or non-State actors or the classification of the conflict. These include obligations under international humanitarian law, international human rights law, international criminal law, and obligations to respect United Nations immunities, including the inviolability of premises. It would have been welcome for the Court to explicitly acknowledge this.

2. The fact that the Court was not asked to address the obligations of other actors, however, does not detract from the validity of its legal conclusions regarding Israel. The international law obligations at issue are not reciprocal and the failure of one actor to comply in no way excuses or justifies lack of compliance by another. Israel necessarily bears significant legal obligations with respect to the United Nations, other international organizations and third States in and in relation to the Occupied Palestinian Territory. This fact must not obfuscate the responsibilities of Hamas and other parties to the conflict in the Gaza Strip.
