



Case No.196

**Obligations of Israel in relation to the Presence and Activities
of the United Nations,
Other International Organizations and Third States
in and in relation to the Occupied Palestinian Territory
(Request for Advisory Opinion)**

**Written Statement of
THE HAGUE INITIATIVE FOR
INTERNATIONAL COOPERATION**

30 April 2025

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Introduction

1. The Hague Initiative for International Cooperation has the honour to present the following written statement pursuant to Practice Direction XII.¹ This statement is a publication in the public domain to be made readily available by the Court, placing it in a designated location in the Peace Palace and informing all States as well as intergovernmental organizations engaged in the proceedings as to where it may be consulted, in accordance with Practice Direction XII.
2. The Hague Initiative for International Cooperation is an international non-governmental organization that promotes understanding of international law to support regional peace and security between Israel and her neighbours and to protect against misuse of the law to delegitimize and attack Israel. The Hague Initiative engages in research, education and advocacy for the furtherance of justice in international law and its application to the State of Israel.
3. On 19 December 2024, the United Nations General Assembly (UNGA) adopted, at the 54th meeting of its Seventy-Ninth Session, Resolution 79/232 by which it decided, in accordance with Article 96 of the Charter, to request the Court to render an advisory opinion, pursuant to Article 65 of the Statute of the Court.² The request concerns “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”. Specifically, the question referred to the Court is:

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

¹ International Court of Justice Practice Directions, promulgated 30 July 2004; <https://www.icj-cij.org/practice-directions>.

² Request for an advisory opinion of the International Court of Justice on the obligations of Israel in relation to the presence and activities of the United Nations, other international organizations and third States : resolution 79/232/ adopted by the General Assembly; <https://digitallibrary.un.org/record/4069857?ln=en&v=pdf>.

Palestinian civilian population, and in support of the Palestinian people's right to self-determination?

4. The Hague Initiative for International Cooperation has legal concerns about several aspects of the mobilization of the Court's advisory jurisdiction in response to the General Assembly Resolution A/RES/79/232. The primary concerns are:
 - A. Inequitable treatment of member states of the United Nations.*
 - B. Instrumentalization of the Court that undermines its judicial authority.*
 - C. Prejudice to contentious cases under the Court's current consideration.*
 - D. Inadequacy of information available to the Court to render a decision.*
 - E. Conditional diplomatic privileges have been lawfully terminated.*
 - F. No State can be compelled to cooperate with corruption or terrorism.*
 - G. Humanitarian aid can be provided outside of UNRWA auspices.*

Each of these concerns is set out below in Parts A-G, respectively, of this statement.

5. The view of The Hague Initiative for International Cooperation is that the arguments set out in Parts A-D form compelling reasons for the Court to exercise its discretion to decline to respond to this request, even if the Court finds that it does in fact have jurisdiction to do so. This view on the good propriety of the Court exercising its discretion to decline to give an Advisory Opinion is without prejudice to our views on the specific substantive questions that have been put before the Court. In the event that the Court might decide to exercise its advisory jurisdiction, The Hague Initiative for International Cooperation submits that, based upon the arguments set out in Parts E-G of this memorandum, the correct legal advice to the General Assembly must be that Israel's termination of Agreements affording diplomatic privileges and immunities to UNRWA conform to international law.

Part A. Inequitable treatment.

6. The past-President of the Court was of the view that the Court should take all necessary steps to accelerate the advisory procedure, as contemplated by Article 103 of its Rules, 1, so that the Court's advice could be rendered "on a priority basis and with the utmost urgency". Consequently, member States of the United Nations were notified at the commencement of the annual 2024-2025 holiday period that 28 February 2025 was fixed as the time-limit within which written statements on the question could be presented to the Court.
7. Small states with less bureaucratic resources with which to address legal and diplomatic responsibilities to the United Nations were confronted with an eight-week deadline that imposed an inequitable burden upon the least-resourced member states of the United Nations, to their disadvantage. The Hague Initiative for International Cooperation calls upon the Court to review and revise the procedures for member state observations in this advisory opinion. The Hague Initiative for International Cooperation also calls upon the Court to administer its procedures going into the future with a view to ensuring equitable opportunities for the participation in the Court's procedures of all member states.

Part B. Instrumentalization of the Court.

8. This is the third time that the General Assembly has requested that an Advisory Opinion concerning Israel be delivered by the Court. During each of the past two calendar years, a request was formulated by the Legal Committee and then adopted by the General Assembly in haste during the last weeks of the last month of the year. The General Assembly's request for an Advisory Opinion is inappropriate in this case because it constitutes lawfare.
9. Lawfare misuses law by applying it in extraordinary ways other than those for which it was designed. It is a manipulation or abuse of laws and judicial systems to achieve strategic military or political ends to accomplish purposes other than, or contrary to, those for which they were originally enacted, and which therefore subverts those laws and judicial systems.³
10. This emerging pattern of annual mobilisation of the Court's advisory jurisdiction is concerning. It exhibits abuse of process and politicization of judicial procedures that undermines the judicial authority of the Court. The Hague Initiative for International Cooperation urges the Court to resist abuse and politicisation and to protect the integrity of the rule of international law.

Part C. Prejudice to contentious cases under the Court's current consideration.

11. Two contentious cases currently under the consideration of the Court concern the prevailing humanitarian situation in the Gaza Strip under the conditions of the ongoing war between Hamas and Israel. The rights of the respondents in these contentious cases would be irreparably prejudiced by the Court seizing itself of its advisory jurisdiction over largely the same matters.
12. The two contentious cases are the *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip* (South Africa v. Israel) and the *Alleged Breaches of Certain International Obligations in respect of the Occupied Palestinian Territory* (Nicaragua v. Germany). These cases were instituted on 29 December 2023 and 1 March 2024, respectively. The earlier case (South Africa v. Israel) was initiated a year prior to the current request for an Advisory Opinion and has 13 interveners. They currently are: Nicaragua (23 February 2024); Colombia (5 April 2024); Libya (10 May 2024); Mexico (24 May 2024); Palestine (3 June 2024); Spain (28 June 2024); Türkiye (7 August 2024); Chile (12 September 2024); Maldives (1 October 2024); Bolivia (8 October 2024); Ireland (6 January 2025); Cuba (10 January 2025); and Belize (30 January 2025).
13. The advisory opinion requested by the General Assembly overlaps to a very substantial degree with matters under judicial consideration concerning the scope, content and applicability of humanitarian obligations. Controversy over delivery of supplies of humanitarian aid is a central factor in assessing the alleged breaches of the *Convention on the Prevention and Punishment of the Crime of Genocide* under consideration in both

³ Orde Kittrie, *Lawfare: law as a weapon of war*, Oxford University Press 2015. Also: Brooke Goldstein, Director, *The Lawfare Project*; <http://www.thelawfareproject.org/what-is-lawfare.html>.

contentious cases. Resolution A/RES/79/232 requests the Court to advise on Israel's legal obligations *"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"*.

14. For the Court to render an advisory opinion prior to the conclusion of submissions and its consideration of and delivery of judgments in those contentious cases would do irreparable damage to the rights of the respondents in both those cases. For this reason, the Court must exercise its discretion to decline to consider any aspects of the request in Resolution A/RES/79/232 for an advisory opinion that overlaps with those matters under consideration in its listed contentious cases.

Part D. Inadequacy of information available to the Court to render a decision.

15. The information and the materials provided as background briefings for the court by the United Nations Secretariat are inadequate. For example, they include materials that are represented as true facts although provided by the same United Nations agency - the United Nations Relief and Works Agency for Palestine Refugees (UNRWA) - that is impugned by the state subject of these proceedings, Israel, for a lack of neutrality.
16. Vice-President Sebutinde, in her dissenting opinion on the Court's 10 July 2024 judgment on *Legal consequences arising from the policies and practises of Israel in the occupied Palestinian Territory, including East Jerusalem, Advisory Opinion*, I.C.J. Reports 2024, noted that the information provided by the United Nations Secretariat to the court was inadequate.

As a result, the Advisory Opinion is tantamount to a one-sided, "forensic audit" of Israel's compliance or non-compliance with international law, that does not reflect a comprehensive, balanced, impartial, and in-depth examination of the pertinent legal and factual questions involved. It also overlooks the intricate realities and history of the territories and populations within modern-day Palestine, specifically the areas referred to as the "Occupied Palestinian Territories" (OPTs). To be able to render an opinion that is both substantive and equitable, and that genuinely aids the General Assembly and Security Council in resolving the Israeli-Palestinian conflict peacefully and permanently in line with the UN Charter, it is essential to thoroughly examine these issues, informed by the relevant principles of international law, including those I highlight in this dissenting opinion. In this regard, the observation by Judge Rosalyn Higgins in her separate opinion in the Wall Advisory Opinion, is particularly poignant to the questions addressed in the present Advisory Opinion, as the Court has clearly adopted a similar approach in the present case¹.

17. Here in Part C of this memorandum, The Hague Initiative for International Cooperation introduces pertinent background to the mission of UNRWA as it has evolved. Part E briefly outlines allegations of UNRWA's breaches of neutrality, its endemic corruption and its systemic cooperation in the promotion of anti-Semitism, terrorism and regional destabilisation.
18. UNRWA was established under General Assembly Resolution 302 (IV) in 1949. Its mandate was to carry out direct relief and works programs for Palestinian refugees. The Agency began operations on 1 May 1950. In the absence of a solution to the Palestinian refugee problem, the General Assembly has repeatedly renewed UNRWA's mandate, most recently extending it until 30 June 2026.

19. UNRWA was originally intended to provide relief to “Palestine refugees” which included two types of refugees, 850,000 Jews who fled from Arab states to other countries including to inside the borders of Israel during the 1948 war, and Arabs who fled, under actual or perceived threat of violence, from one area in British Mandate Palestine to another, or to other regional locations. Unlike the Arab states, which refused to solve the refugee issue by resettling the Palestinian Arabs, Israel willingly accepted Jewish refugees within its borders. In August 1950, the UN reported that 27,000 people in Israel had claimed refugee status, but the Israeli government had requested that relief distribution be discontinued because it was assuming responsibility for them.⁴
20. UNRWA is unique for its long-standing commitment to only one group of refugees. There is no other such UN agency, as all other refugees are cared for by the United Nations High Commissioner for Refugees (UNHCR). Palestinian Arabs are the only refugee group serviced by a distinct agency and under distinct criteria.
21. “Palestine refugees” are defined as “persons whose normal place of residence was Palestine during the two-year period 1 June 1946 to 15 May 1948, and who lost both home and means of livelihood as a result of the 1948 War”. The descendants of Palestinian Arab refugee males, including legally adopted children, are eligible for registration, in perpetuity. It has contributed to the welfare and human development of four generations of “Palestine refugees”. UNRWA registration is different from all other refugee populations because it is hereditary in perpetuity.
22. UNHCR aims to resettle refugees in third countries. UNRWA is different because it does not aim to resettle its refugees other than in Israel. In the late 1950s, the agency’s focus was amended so that resettlement in third countries was no longer a priority. This change was influenced by politically motivated pressure from Arab states, which kept the “right of return” narrative alive and helped shape the agency’s contemporary role.⁵ As documented by Einat Wolf and Adi Schwartz, UNRWA was used as a political tool by all parties involved in its development: “The West, for buying the silence of the Arab world; the Arabs, for perpetuating the conflict with Israel; and the refugees, as a certificate guaranteeing their eventual return”.⁶ Rather than being a legitimate humanitarian organization, UNRWA was developed as a tool to serve various geopolitical interests.
23. UNRWA’s unique and broader definition of what constitutes a refugee means that Palestinian Arab descendants of the original refugees are considered refugees, even if they have settled in another state. Essentially, a Palestinian Arab refugee remains a refugee until they return to territory that is indisputably sovereign territory of the State of Israel.⁷ This has led to an absurd situation where even rich celebrities living in mansions in the West

⁴ “UN Relief and Work Agency (UNRWA): History & Overview” *UNRWA*; <https://www.unrwa.org/>.

⁵ Robert Satloff, “Replacing UNRWA: An Opportunity Trump Should Not Miss,” *Washington Institute for Near East Policy*, January 15, 2025, <https://www.washingtoninstitute.org/policy-analysis/replacing-unrwa-opportunity-trump-should-not-miss>.

⁶ Adi Schwartz and Einat Wolf, *The War of Return: How Western Indulgence of the Palestinian Dream has Obstructed the Path to Peace* (All Points Books, 2020), 102.

⁷ Shabtai Shavit, “A Tale of Two Refugee Organizations: UNRWA vs UNHCR”, In: *UNRWA: Past, Present and Future Scenarios* (International Association of Jewish Lawyers and Jurists, Tel Aviv), No.55 (2015), <https://ijl.org/wp-content/uploads/2018/09/Justice-55-Final.pdf>, 34.

are considered refugees.⁸ In contrast, UNHCR considers a person no longer a refugee once they are naturalized or absorbed into their host country.⁹

24. The result is that under UNRWA, the number of Palestinian Arab refugees only continues to grow, further compounding the issue and threatening a demographic collapse for Israel should the “right of return” ever be fully realised (a massive influx of – largely hostile – Palestinian Arabs into Israel would threaten the existence of the State of Israel as a Jewish state). By framing refugees in this manner, and maintaining the myth of the right of return, UNRWA thus perpetuates a significant barrier to peace (the refusal to accept Israel’s right to exist as a Jewish state), thus prolonging the conflict and, correspondingly, Palestinian suffering. Applying UNHCR refugees criteria to the Palestinian situation would, instead, accept the legitimacy of Jewish self-determination in Israel.
25. UNRWA services encompass education, health care, relief and social services, camp infrastructure and improvement, microfinance and emergency assistance, including in times of armed conflict. It is funded almost entirely by voluntary contributions from UN Member States. UNRWA also receives some funding from the Regular Budget of the United Nations, which is used mostly for international staffing costs.
26. UNRWA services are available to all those living in its areas of operations who meet its definition of a “Palestine refugee”, who are registered with the Agency and who need assistance. When the Agency began operations in 1950, it was to respond to the needs of about 750,000 Palestinian Arab refugees. Today, as the number of their descendants has grown, some 5.9 million are eligible for UNRWA services.
27. Ultimately, self-governing entities within Palestinian territories should be responsible for distribution of humanitarian aid and service provision. The Oslo Accords established a framework for Palestinian-led governance of Gaza and the West Bank. Israel withdrew from Gaza in 2005. By enabling external organizations such as UNRWA to bear Palestinian governance responsibility, the international community is inadvertently weakening Palestinian leadership capacity to build institutions and self-government. The Palestinian leadership should take ownership of service provision, rather than relying on external actors like UNRWA to fill gaps that should be managed by the governing entity.
28. However, in 2007, Hamas took over control of Gaza from the Palestinian Authority (PA). Unfortunately, Hamas is not concerned with providing humanitarian aid for Gazans. It is well-known for diverting aid for military purposes, such as its use of cement to build terror tunnels to attack Israel, and it obstructs aid distribution in the current conflict.¹⁰ The PA’s actions also leave much to be desired in this respect. The PA would do well to use its international funding and resources to provide better services for its population, rather than squandering it on terror-supporting schemes such as the ‘pay for slay’ program that provides financial rewards for terrorism.

⁸ For example, real estate mogul Mohamad Hadid and his famous daughters Bella and Gigi Hadid are considered UNRWA refugees.

⁹ Shabtai Shavit, “A Tale of Two Refugee Organizations: UNRWA vs UNHCR”, <https://ijl.org/wp-content/uploads/2018/09/Justice-55-Final.pdf>, 34.

¹⁰ “Cement for Rebuilding Gaza Diverted to Attack Tunnels”, *Times of Israel*, 19 December 2024, <https://www.timesofisrael.com/cement-for-rebuilding-gaza-diverted-to-attack-tunnels/>; “Who’s Really Blocking Aid in Gaza?” *Honest Reporting*, November 13, 2024, <https://honestreporting.com/whos-really-blocking-aid-in-gaza/>.

29. The international community has done little to hold Hamas or the PA to account for these actions, preferring to lay the blame squarely on Israel. This also calls into question the notion that Israel's obstruction of UNRWA undermines Palestinian self-determination. Ironically, by providing services typically offered by the government, it is UNRWA that undermines Palestinian self-determination and the maturation of its governance pathway to statehood. Statehood cannot be achieved if governing entities are not seen as the primary service providers for the population.
30. The failure of the United Nations Secretariat to provide the Court with materials concerning the failings of UNRWA is understandable, given their institutional inter-relationship. However, this omission compromises and contaminates the evidence placed before this Court.

Part E. Conditional privileges have been lawfully terminated.

31. It has been argued that Israel's legislation banning UNRWA operations violates the *1946 Convention on the Privileges and Immunities of the United Nations*, which grants immunity and privileges to UN agencies. However, the scope of these immunities and privileges is generally qualified by individual agreements between agencies and host states.
32. UNRWA was established under General Assembly Resolution 302 (IV) in 1949, which did not specifically outline UNRWA's immunity and privileges. Rather, it simply called on states to grant UNRWA the same privileges and immunities as its predecessor, the United Nations Relief for Palestine Refugees. This non-mandatory language, which stands in contrast to that used for the UNHCR and other comparable agencies, suggests that the scope of UNRWA's privileges and immunities was voluntary and subject to its agreements with host states.¹¹ The conditional nature of UNRWA's immunity is reinforced by the fact that all regional states, including Israel, signed their own special agreements with UNRWA to regulate its status.¹²
33. Following the Six-Day War in 1967, the *Comay-Michelmores Agreement* permitted UNRWA to continue its operations in Israel's newly administered territories, and affirmed that existing resolutions would govern relations between Israel and UNRWA with respect to UN privileges and immunities.¹³ This was an *Exchange of Letters* constituting a provisional agreement between Israel and the United Nations concerning assistance to Palestine Refugees, on June 14, 1967.
34. The wording in the *Comay-Michelmores Agreement* indicates that it was provisional and open to replacement or cancellation, and UNRWA's privileges could be restricted

¹¹ UN General Assembly Resolution 302 (IV) (1949), para. 17.

¹² Exchange of letters constituting a provisional agreement concerning assistance to Palestine Refugees, June 14, 1967, <https://www.jewishvirtuallibrary.org/exchange-of-letters-constituting-a-provisional-agreement-concerning-assistance-to-palestine-refugees> ; Avraham Shalev, "The Test of Immunity: Will UNRWA Retain Its Immunity After Israeli Legislation?" *Kohelet Policy Forum*, <https://www.kohelet.org.il/en/article/the-test-of-immunity-will-unrwa-retain-its-immunity-after-israeli-legislation>.

¹³ Ibid

according to security considerations.¹⁴ This suggests that, under the *Comay-Michelmores Agreement*, it is open for Israel to cancel the *Agreement* and to revoke UNRWA immunity and privileges. Moreover, the *Comay-Michelmores Agreement* superseded or elaborated the prior law governing the relationship between UNRWA and Israel.

35. On 29th October 2024, the Israeli Parliament (Knesset) voted overwhelmingly to approve two bills barring UNRWA from operating in Israel. One law bars UNRWA from operating in Israeli territory, and the other restricts UNRWA's activities in the Gaza Strip and the West Bank by banning state authorities from having any contact with UNRWA. The laws came into effect at the end of January 2025. As noted by one reporter at the time: "Without coordination with Israel, it will be almost impossible for UNRWA to work in Gaza or the West Bank, since Jerusalem would no longer be issuing entrance permits to those territories or allowing coordination with the IDF. Israel also currently controls access to Gaza from Egypt, with Israeli forces deployed along the border between them."
36. Discontinuation of cooperation with UNRWA by Israel is within the scope of and lawful within both the arrangements under General Assembly Resolution 302 (IV) and under the *Comay-Michelmores Agreement*.

Part F. No State can be compelled to cooperate with corruption or terrorism.

37. UNRWA's ties to terrorism have been well-documented for years, but they have come under increased scrutiny following revelations about the involvement of UNRWA employees in the October 7, 2023 massacres in Israel and ongoing reports of the agency's support for Hamas during the current Gaza conflict. Following allegations that at least 12 UNRWA employees participated in the October 7 attacks, several state donors, including the United States, paused funding to UNRWA for various periods.¹⁵ In addition, numerous examples have arisen throughout the war highlighting UNRWA's support and enablement of Hamas, including Hamas' repeated use of UNRWA infrastructure for command and control of terror activities and even for holding hostages.¹⁶
38. Israel alleges that more than 10 percent of UNRWA's staff in Gaza have [ties to terrorist factions](#), and that educational facilities under the organization's auspices consistently incite hatred of Israel and glorify terror. Israel has estimated also that 50 per cent of UNRWA's Gaza employees have close relatives affiliated with Hamas or Palestinian Islamic Jihad.¹⁷ A recent UN Watch report has also documented how UNRWA's senior management employs individuals tied to terrorist organizations and the influence these organizations

¹⁴ Ibid

¹⁵ UN Watch, "Updated List of Countries Suspending UNRWA Funding", 2025, <https://unwatch.org/updated-list-of-countries-suspending-unwra-funding/>.

¹⁶ BBC News, "British-Israeli hostage says Hamas held her at UN facilities", 31 January 2025, <https://www.bbc.com/news/articles/cj91ygv803xo>; "Directly Beneath UNRWA's Gaza Headquarters, IDF Uncovers Top Secret Hamas Data Center," *Times of Israel*, 10 February, 2024, <https://www.timesofisrael.com/directly-beneath-unrwas-gaza-headquarters-idf-uncovers-top-secret-hamas-data-center/>

¹⁷ 'Israeli Intel Shows 10% of UNRWA Workers in Gaza Have Ties to Terror Groups, Report', *Times of Israel*, 29 January, 2024, <https://www.timesofisrael.com/israeli-intel-shows-10-of-unrwa-workers-in-gaza-have-ties-to-terror-groups-report/>

exert on agency decisions and policies.¹⁸ In light of these revelations of UNRWA's systematic support for terrorism, it has become increasingly apparent that UNRWA is not purely an aid organization, but rather one that supports terrorism and poses a significant threat to Israel's security, as well as those Palestinians who wish to be free from Hamas.

39. Article 105(1) of the UN Charter states: "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". However, participation and support for terrorism is not a purpose of the United Nations organisation. Given its breaches of neutrality and links to terrorism, UNRWA can no longer claim the privileges typically afforded to legitimate humanitarian organizations. While Articles 55 and 56 of the UN Charter, along with the Geneva Conventions, protect humanitarian organizations from obstruction, UNRWA's actions demonstrate that it has ceased to function as a neutral humanitarian actor and has become a participant in the conflict. This supports Israel's decision to break its agreement with UNRWA and cease its operations in the territories.
40. It is a well-established international norm, reflected in multiple conventions and UN resolutions, that organizations are prohibited from providing assistance to terrorist organizations, and states are obligated to prevent and prosecute such actions - a norm incorporated in the domestic laws of many countries.¹⁹ Therefore, rather than Israel being in violation of international law, it is UNRWA that is contravening international law and undermining the intent of the UN Charter to maintain international peace and security. This justifies the suspension of any privileges granted to UNRWA as a UN agency.
41. Aside from the clear threat to Israel's security, UNRWA's support for terrorism also constitutes a breach of the principle of neutrality, a core tenet of international humanitarian law applied to humanitarian organizations.²⁰ UNRWA's extensive links with Hamas, as well as its incitement against Israel in its educational and social services, demonstrate that UNRWA is far from a neutral actor in this conflict.
42. The benefits of UNRWA in providing services for Palestinians have arguably been outweighed by its role in prolonging the conflict. Furthermore, UNRWA contributes to the continuation of the conflict by fostering a culture of antisemitism, demonization and hatred towards the Jewish people as Jews. UNRWA-operated schools and social services glorify terrorism, demonize Israel, and incite antisemitism.²¹ This has played a significant role in extending the conflict by ensuring Palestinian culture remains indoctrinated with Jew-hatred, support for terrorism and denial of Israel's right to exist — key obstacles to any lasting peace resolution and alleviation of Palestinian suffering. This is in addition to UNRWA's perpetuation of the so-called Palestinian "right of return", which has long been a key obstacle to peace and political weapon to be wielded against Israel, and to its deep engagement in terrorism.

¹⁸ UN Watch, "The Unholy Alliance: UNRWA, Hamas, and Islamic Jihad," 7 January 2025, <https://unwatch.org/the-unholy-alliance-unrwa-hamas-and-islamic-jihad/>.

¹⁹ For example, the International Convention for the Suppression of the Financing of Terrorism (1999) and UN Security Council Resolution 1373 (2001) following the 9/11 attacks.

²⁰ International Committee of the Red Cross. "Principles of International Humanitarian Law (III)." *International Review of the Red Cross*, <https://international-review.icrc.org/articles/principles-international-humanitarian-law-iii>.

²¹ UN Watch, "UN Teachers' Call to Murder Jews Reveals New Report," March 14, 2023, <https://unwatch.org/un-teachers-call-to-murder-jews-reveals-new-report/>.

43. By supporting terrorism, promoting a culture of hatred and reinforcing the maximalist position on the right of return, UNRWA has arguably done more to prolong Palestinian suffering than alleviate it. This raises further serious questions about its legitimacy as a humanitarian organization. All of these issues indicate that it is time for the international community urgently to critically reassess UNRWA's alleged merits and indispensability, and its role in perpetuating conflict.
44. General Assembly Resolution 79/232 disregards the links of UNRWA with Hamas and other terrorist operatives and its deliberate harm to Israel's national security. The Court cannot render an objective, fact-based, fair or legitimate decision without taking these factors into consideration. The consequence of these factors is that Israel has no legal obligations to cooperate with UNRWA.

Part G. Humanitarian aid can be provided outside of UNRWA auspices.

45. UNRWA is alleged to be the “backbone” of the humanitarian response in Gaza and irreplaceable by other organization to provide aid to Palestinian refugees in need. However, presenting UNRWA as the “backbone” of humanitarian assistance in the territories sets up a false dilemma. There are more than enough viable alternatives that could step in to fill the gap should UNRWA's services cease.
46. According to Israel's Coordination of Government Activities in the Territories (COGAT), UNRWA is just one of a plethora of organizations providing aid in the Gaza conflict and does not even figure in the top six aid providers.²² Israel has also claimed that UNRWA's role in Gaza has been exaggerated and that only 13.5 per cent of aid there comes from UNRWA.²³ This challenges the notion that UNRWA serves as the “backbone” of humanitarian efforts, or that its cessation would inevitably result in increased suffering for Palestinians.
47. Israeli national laws banning UNRWA only and exclusively target UNRWA and not other UN agencies that can channel humanitarian aid into the West Bank and Gaza. Organizations such as the UNHCR and World Food Programme have the capacity to deliver essential aid, as they have done for other global humanitarian situations. As noted by the Washington Institute for Near East Policy, key international donors of these agencies, such as Europe and the United States, could leverage their financial influence to encourage these organizations to take on this responsibility.²⁴
48. Contrary to what has been claimed, Israel has gone above and beyond to facilitate humanitarian aid to the Palestinians. Under international law, there is no obligation on a state engaged in an armed conflict to supply food, fuel, electricity or medical supplies to a

²² Gaza Aid Data, International coordination, <https://gaza-aid-data.gov.il/main/international-coordination/>.

²³ Tovah Lazaroff, “Israel's ban on UN agency for Palestinians comes into effect at critical point for Gaza”, *NBC News*, January 31, 2025, <https://www.nbcnews.com/news/world/israel-banning-unrwa-palestinian-territories-gaza-hamas-west-bank-rcna189554>.

²⁴ Robert Satloff, “Replacing UNRWA: An Opportunity Trump Should Not Miss,” *Washington Institute for Near East Policy*, January 15, 2025, <https://www.washingtoninstitute.org/policy-analysis/replacing-unrwa-opportunity-trump-should-not-miss>.

territory under enemy control.²⁵ However, there is an obligation to facilitate the supply by third parties of food, medical supplies and other supplies essential to the survival of the civilian population into a territory under enemy control, but only if the facilitating party is satisfied that there are no serious reasons for fearing that the supplies may be diverted from their destination, or the control (over their use) may not be effective, or the enemy may obtain a military advantage through substitution.²⁶ Notably, there is no provision specifying that a particular aid agency must provide the assistance, only that humanitarian aid be facilitated.

49. Israel's efforts in the Gaza war demonstrate the lengths it goes to facilitate humanitarian aid. Israel has upheld its obligations even despite the significant risk that Hamas might redirect aid for military purposes, which would justify a restriction of aid. COGAT, which is responsible for facilitating humanitarian relief in Gaza, has meticulously and transparently detailed Israel's efforts throughout the conflict.²⁷ Despite challenges posed by Hamas in aid delivery and the complex situation in Gaza, Israel has successfully facilitated the entry of over 1.3 million tons of aid to Gaza within the last 15 months.²⁸ Remarkably, a study assessing the amount of food entering Gaza from January through April 2024 found that the mean energy count was 3,163 kcal per person per day, which is 40 per cent above the accepted humanitarian standard.²⁹
50. As previously noted, UNRWA is one of a plethora of organizations providing aid in the Gaza conflict and does not even figure in the top six aid providers, according to COGAT.³⁰ Rather than obstructing aid, this highlights Israel's willingness to collaborate with other UN agencies and NGOs, provided they are not supporting terrorism, as is the case with UNRWA. This also counters the claim that Israel's restrictions on UNRWA impede Palestinian self-determination, especially given Israel's documented efforts to facilitate aid delivery to Gaza through various alternative channels.
51. Terminating cooperation with UNRWA does not impede the provision of basic services and humanitarian aid to relieve suffering, displacement and loss of life. Israel is providing assistance to Palestinians, including through measures with the United Nations, its agencies and bodies, and other international organizations and states that provide basic services and humanitarian assistance in the territories.

Conclusion: Discretion to decline jurisdiction should be exercised

52. The Court has discretion whether or not to accept a request by a UN agency for an Advisory Opinion. This is the third Advisory Opinion that the Court has been asked to render concerning Israel. As the Court said in its recent (2024) *Advisory Opinion*:

²⁵ A Briefing Note on Siege, Humanitarian Supplies, and Evacuations," *UK Lawyers for Israel*, November 19, 2023, https://www.uklfi.com/a-briefing-note-on-siege-humanitarian-supplies-and-evacuations#_edn4.

²⁶ 4th Geneva Convention, Art. 23; Additional Protocol I, Art. 70; Additional Protocol II, Art. 18, "A Briefing Note on Siege, Humanitarian Supplies, and Evacuations," UKLFI.

²⁷ Gaza Aid Data, <https://gaza-aid-data.gov.il/main/>.

²⁸ Ibid.

²⁹ Jeremy Sharon, "New study finds food supply to Gaza more than sufficient for population's needs", 24 May, 2024, *Times of Israel*, <https://www.timesofisrael.com/new-study-finds-food-supply-to-gaza-more-than-sufficient-for-populations-needs/>.

³⁰ Gaza Aid Data, International coordination, <https://gaza-aid-data.gov.il/main/international-coordination/>

“The fact that the Court has jurisdiction to give an advisory opinion does not mean that it is obliged to exercise it. Article 65, paragraph 1, of the Statute provides that “[t]he Court may give an advisory opinion on any legal question at the request of whatever body may be authorized by or in accordance with the Charter of the United Nations to make such a request”. As the Court has repeatedly emphasized, this “should be interpreted to mean that the Court has a discretionary power to decline to give an advisory opinion even if the conditions of jurisdiction are met” (*Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion*, I.C.J. Reports 2004 (I), p. 156, para. 44; *Accordance with International Law of the Unilateral Declaration of Independence in Respect of Kosovo, Advisory Opinion*, I.C.J. Reports 2010 (II), pp. 415-416, para. 29). However, given its functions as the principal judicial organ of the United Nations, the Court considers that its answer to a request for an advisory opinion “represents its participation in the activities of the Organization, and, in principle, should not be refused” (*Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965, Advisory Opinion*, I.C.J. Reports 2019 (I), p. 113, para. 65). In accordance with its jurisprudence, only compelling reasons may lead the Court to refuse to give its opinion in response to a request falling within its jurisdiction (*Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965, Advisory Opinion*, I.C.J. Reports 2019 (I), p. 113, para. 65).”

53. To protect UN Charter values for peaceful settlement of disputes and to preserve the integrity and apolitical role of the Court, it would be a sensible exercise of judicial discretion not to give the requested Advisory Opinion.
54. In the alternative, should the Court decide to exercise its advisory jurisdiction, The Hague Initiative for International Cooperation submits that the correct legal advice must be that Israel's termination of Agreements affording diplomatic privileges and immunities to UNRWA conform to international law. Those privileges and immunities are discretionary under the operating circumstances. There is sufficient evidence linking UNRWA with Hamas terrorist operatives and, as a result, the measures to ban UNRWA from operating in Israel and the disputed territories are based on compelling national security needs.



Andrew Tucker

Director-General, The Hague Initiative for International Cooperation
The Hague
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