

INTERNATIONAL COURT OF JUSTICE

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

(REQUEST FOR AN ADVISORY OPINION)

United Kingdom of Great Britain and Northern Ireland
(1 May 2025)

Ms Sally LANGRISH:

I. INTRODUCTION

1. Mr President, Members of the Court, it is an honour for me to appear before you in these proceedings, and to do so on behalf of the United Kingdom of Great Britain and Northern Ireland.

The United Kingdom welcomes this opportunity to emphasize its support for the role of the Court, for the United Nations, and for international law.

2. Let me reaffirm at the outset the United Kingdom's condemnation of Hamas for their outrageous actions on 7 October 2023, and their ongoing threats to Israel. The hostages have endured and continue to endure unimaginable cruelty. We call for the immediate and unconditional release of all hostages.

3. The United Kingdom has consistently urged Israel to ensure access to humanitarian assistance, in accordance with its international obligations. In a speech on 20 March 2025, the Foreign Secretary made it clear that the United Kingdom was "resolute in calling on Israel to abide by international law and to lift the unacceptable restrictions on aid and demand the protection of

civilians”¹. The United Kingdom’s announcement of the suspension of arms export licences on 2 September 2024 was underpinned by the clear risk that certain military exports to Israel might be used in violation of international humanitarian law², an assessment that was based in part on Israel’s restrictions on the provision of humanitarian assistance.

4. On Tuesday this week, the Foreign Office Minister of State addressed the UN Security Council. He called for “a return to the ceasefire to end the relentless death and destruction that Palestinians face daily”. He stated:

“It is unacceptable that Israel has blocked humanitarian support from entering Gaza for nearly two months, meaning that Palestinian civilians, including one million children, are facing starvation, disease and death.

UN and other workers must be able to deliver life-saving assistance safely, and in line with humanitarian principles”³.

5. Mr President, Israel must facilitate full, rapid, safe and unhindered humanitarian provision to the population of Gaza, including food, water and electricity, and must ensure access to medical care in accordance with international humanitarian law.

6. The United Kingdom voted in favour of resolution 79/232 in line with its strong commitment to the international rule of law. Our vote in no way detracts from the United Kingdom’s commitment to Israel’s security, or its commitment to negotiations between the two parties towards a two-State solution⁴. Only the achievement of that goal will put an end to the continuing humanitarian tragedy.

7. Mr President, Members of the Court, the United Kingdom is of the view that the Court has jurisdiction and that there are no compelling reasons not to give an opinion. We wish, however, to stress the importance of the principle that a State is not obliged to allow its disputes to be submitted to judicial settlement without its consent. We urge the Court, as it has often done, to reaffirm that

¹ Available at: <https://www.gov.uk/government/speeches/middle-east-foreign-secretary-statement-20-march-2025#:~:text=The%20UK%20is%20now%20working,is%20in%20no%20one's%20interest>.

² <https://www.gov.uk/government/news/uk-suspends-around-30-arms-export-licences-to-israel-for-use-in-gaza-over-international-humanitarian-law-concerns>.

³ Lord Collins, Minister of State at the Foreign, Commonwealth and Development Office, addressing the UN Security Council on 29 March 2025, available at: <https://www.gov.uk/government/speeches/we-must-reinvest-in-efforts-to-achieve-a-two-state-solution-uk-statement-at-the-un-security-council>.

⁴ UN doc. A/79/PV. 54, Resumption 1, 1 December 2024: UK statement available at: <https://www.gov.uk/government/speeches/the-uk-voted-in-favour-of-this-resolution-in-line-with-our-strong-commitment-to-the-international-rule-of-law-uk-statement-in-the-un-general-assembly#:~:text=We%20have%20made%20clear%20that,services%20to%20the%20civilian%20population>.

principle of consent. Having said that, rendering the present advisory opinion would not, given the terms of the question focusing on obligations, circumvent that principle. This is particularly so since the United Nations has “a direct and special interest” in this case⁵.

8. Mr President, I would request that you now invite Sir Michael Wood to the podium to address certain questions of United Nations law and then, following Sir Michael, I shall return.

9. Thank you, Mr President.

The PRESIDENT: I thank Ms Langrish. I now invite Sir Michael Wood to address the Court. You have the floor.

Sir Michael WOOD:

II. OBLIGATIONS AS A MEMBER OF THE UNITED NATIONS

1. Mr President, Members of the Court, it is an honour to address you and to do so on behalf of the United Kingdom.

2. I shall first say a few words about the question before the Court. I shall then address the obligations of Israel as a Member of the United Nations.

1. The question before the Court

3. I make four points about the question:

- First, the question asks about “the obligations of Israel, as an occupying Power and as a member of the United Nations”. While it does not ask about the obligations of any other actor, the question is framed in general terms and at least in some respects the Court’s response is likely to be relevant to the obligations of all Members of the United Nations and to the obligations of all occupying Powers.
- Second, the question is limited to the “obligations” of Israel. It does not expressly ask about the rights of Israel, in particular its right of self-defence. But any answer must have regard to Israel’s rights. In addition, and as noted by the Secretary-General, the focus of the question on the

⁵ CR 2025/3, Statement on behalf of the Secretary-General of the United Nations, p. 44, para. 8 (Hammarskjöld).

obligations of Israel does not prejudice in any way the obligations of other relevant actors⁶, such as Hamas.

- Third, the question does not ask about violations. It has been suggested by a number of speakers that the Court should address questions of State responsibility but, in our submission, to do so would distort the question for which States, including the United Kingdom, voted.
- Fourth, the question covers a wide range of United Nations bodies, as was well explained in the Secretary-General's written statement⁷.

2. The obligations of Members of the United Nations under the Charter, the 1946 General Convention and other instruments

4. Mr President, Members of the Court, I now turn to the obligations of Members of the United Nations under various provisions of the Charter, in particular Articles 104 and 105, as well as the obligations under the 1946 (General) Convention on the Privileges and Immunities of the United Nations. On Monday the distinguished Legal Counsel of the United Nations set out the position with great authority.

The privileges and immunities of the United Nations

5. Mr President, Members of the Court, we agree with the UN Legal Counsel on the importance of States fully respecting their obligations concerning the legal capacity, privileges and immunities of the United Nations so as to enable the organs of the United Nations to fulfil their mandates.

6. Compliance in good faith with Articles 104 and 105 of the Charter and the General Convention is of the greatest importance for the effective functioning of the United Nations throughout the world⁸.

7. Before turning to some of the obligations of UN Member States under the Charter and Convention, I must mention the obligation of the United Nations to co-operate with the host State. Section 21 of the General Convention provides that:

⁶ Written statement submitted on behalf of the Secretary-General of the United Nations, February 2025, para. 3.

⁷ *Ibid.*, paras. 14-103.

⁸ CR 2025/3, pp. 48-49, paras. 46-47 (Hammarskjöld).

“The United Nations shall co-operate at all times with the appropriate authorities of Members to facilitate the proper administration of justice, secure the observance of police regulations and prevent the occurrence of any abuse in connection with the privileges, immunities and facilities mentioned in this Article.”

In this context, it is important also to recall Article 100 of the Charter, which states that United Nations staff “shall not seek or receive instructions from any government or from any other authority external to the Organization”. And they “shall refrain from any action which might reflect on their position as international officials responsible only to the Organization”.

8. As others have said, under the General Convention, the United Nations enjoys immunity from “every form of legal process”, immunity for its property, and perhaps most importantly for present purposes, its premises are inviolable.

9. UN officials are “immune from legal process in respect of words spoken or written and all acts performed by them in their official capacity”.

10. As stated on behalf of the Secretary-General, the privileges and immunities owed to the United Nations are applicable to UNRWA, a subsidiary organ of the General Assembly, and must be respected at all times⁹.

United Nations Charter, Article 2, paragraph 5

11. Mr President, Members of the Court, I now turn to Article 2 (5) of the Charter, to which a number of participants have referred. It is not clear that, in the present context, this very general provision adds anything to the more specific obligations applicable to Israel as an occupying Power and as a Member of the United Nations. It may not be necessary on the present occasion for the Court to delve into the questions that have been raised concerning the scope of Article 2 (5). The “co-operation” at issue in the present case is more easily covered by other provisions of the Charter and IHL. If the Court were, however, to find it necessary to refer to Article 2 (5), it may wish to exercise some caution. This, I think, seems to have been the approach of the UN Legal Counsel on Monday¹⁰.

12. I should recall that, on the relatively rare occasions when Article 2 (5) has been invoked, this has usually been in very general terms. As early as 1949 in the *Reparation for Injuries* Advisory Opinion, the Court considered the need of protection for agents of the Organization, and in that

⁹ CR 2025/3, p. 44, para. 9; p. 49, para. 49; pp. 47-54, paras. 44-81 (Hammarskjöld).

¹⁰ CR 2025/3, pp. 51-52, paras. 66-68 (Hammarskjöld).

particular context stressed “the importance of the duty to render to the Organization ‘every assistance’”¹¹.

13. As you are aware, Members of the Court, Article 2 (5) has two limbs, which are closely related. Under the first, all Member States are required to “give the United Nations every assistance” in “any action” — “any action” — that the United Nations takes in accordance with the Charter. Under the second, all Members are required to “refrain from giving assistance” to any State against which the United Nations is taking “preventive or enforcement action”.

14. Should the Court consider it necessary to address Article 2 (5), the United Kingdom’s position is that the first limb applies only to “action” taken by the Security Council¹². If Article 2 (5) were to provide for an obligation to render “every assistance” to “any action” in a wider sense, that would impose unspecified and potentially unlimited obligations on Members. It would call into question the carefully defined system of competences of the principal organs as laid down in the Charter. The Court has heard from some participants the view that even recommendations adopted by UN organs are binding on Member States, towards the implementation of which they must give every assistance. That view, in our submission, is unrealistic and does not reflect practice. The rare past references to Article 2 (5) do not suggest that the General Assembly can impose obligations on Members where none existed¹³. Only decisions of the Security Council can do that.

15. The word “action”, as opposed to co-operation, is employed in the Charter with particular reference to action by or authorized by decisions of the Security Council. This can be seen, for example, in Articles 11 (2) and 24, and in Chapter VII which is entitled “Action with Respect to Threats to the Peace, Breaches of the Peace and Acts of Aggression”.

¹¹ *Reparation for Injuries Suffered in the Service of the United Nations, Advisory Opinion, I.C.J. Reports 1949*, p. 183.

¹² See, for example, Statement of Romania, S/PV.1803, para. 15; Statement of Yugoslavia, S/PV.1800, para. 41.

¹³ See, for example, Statement of Israel, A/PV.1439, 12 October 1966, p. 10; Statements of Liberia, A/PV.1585, para. 16; S/PV.1632, para. 28; Statement of India, A/PV.923, 22 November 1960, p. 952, para. 39; Statement of Ghana, A/PV.2182, 28 November 1973, p. 4, para. 43; Statement of the USSR, A/C.4/SR.1479, 13 November 1963, p. 306, para. 11; Submissions by the United States in *Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970), Advisory Opinion, I.C.J. Reports 1971*, written proceedings, p. 883.

16. While the General Assembly can make recommendations to Member States, only the Security Council “is given a power to impose an explicit obligation of compliance”, as the Court noted in the *Certain Expenses Opinion*¹⁴.

17. The drafting history of Article 2 (5) supports this view. The Dumbarton Oaks Proposals contained two separate paragraphs¹⁵, which were combined at San Francisco, without discussion. That suggests that they cover similar ground. Indeed, at San Francisco, one delegate stressed that the first limb of Article 2 (5) should be understood to refer to action taken by the Security Council as this was the “only organ of the Organisation having authority to take action”¹⁶. That statement was not challenged by any delegation¹⁷.

18. This interpretation is supported by the virtually uniform and consistent practice of the United Nations and Member States with respect to UN missions and staff. The latest edition of the Simma Commentary on the Charter, after an extensive evaluation, concludes that the practice “supports the narrow interpretation which conceives the obligation to give assistance to apply only for enforcement measures under Chapter VII of the Charter”¹⁸.

19. Mr President, Members of the Court, to be clear, the obligations of Israel as a Member of the United Nations of course have to be read together with its obligations as an occupying Power throughout the Occupied Palestinian Territory.

20. And with that, Mr President, I request that you invite Ms Langrish back to the podium to discuss that matter. I thank you, Mr President.

The PRESIDENT: I thank Sir Michael Wood. I now give the floor back to Ms Sally Langrish.

¹⁴ *Certain Expenses of the United Nations (Article 17, paragraph 2, of the Charter)*, Advisory Opinion, I.C.J. Reports 1962, p. 163.

¹⁵ Reproduced in Goodrich, Hambro and Simons, *Charter of the United Nations* (3rd ed.), 1969, 666.

¹⁶ The delegate of Norway: see Helmut Aust, Article 2 (5) in Bruno Simma et al. (eds), *The Charter of the United Nations: A Commentary* (4th ed., Oxford University Press, 2024), 369-370.

¹⁷ US Department of State, Report to the President on the Results of the San Francisco Conference (26 June 1945).

¹⁸ Helmut Aust, Article 2 (5) in Bruno Simma et al. (eds.), *The Charter of the United Nations: A Commentary* (4th ed., Oxford University Press, 2024) 375, MN 16.

Ms LANGRISH:

III. OBLIGATIONS AS AN OCCUPYING POWER

An occupying power's obligations under international humanitarian law

1. Mr President, Members of the Court, I shall now address you on Israel's obligations, under international humanitarian law, as an occupying Power. You have ample material before you on international humanitarian law, so I can be relatively brief.

2. I shall conclude my statement by referring to the obligations owed to the International Committee of the Red Cross, a matter to which the United Kingdom attaches great importance and which we suggest could be reflected in your advisory opinion.

3. As is stated in Article 43 of the 1907 Hague Regulations, under the law of occupation, Israel as the occupying Power "shall take all the measures in his power to restore, and ensure, as far as possible, public order and safety" (*l'ordre et la vie publique*)¹⁹. This fundamental principle reflects customary international law²⁰ and is elaborated on in the provisions of Geneva Convention (GC) IV of 1949²¹.

4. Two provisions of GC IV are particularly relevant: Articles 59 and 55. I will address these in turn.

Article 59 GC IV

5. Under Article 59 of (GC) IV, Israel is bound to facilitate the provision of foodstuffs, medical supplies and clothing into the Occupied Palestinian Territory. A number of points bear emphasis.

6. First, Article 59 provides that if the whole or part of the population of an occupied territory is "inadequately supplied", the occupying Power shall agree to and facilitate relief schemes on behalf of the population²². Once this obligation is triggered, the occupying Power is required to "agree to relief schemes on behalf of the said population". That obligation continues to apply for so long as

¹⁹ Convention (IV) respecting the Laws and Customs of War on Land and its annex: Regulations concerning the Laws and Customs of War on Land. The Hague, 18 October 1907, Article 43.

²⁰ See the ICRC's Customary International Humanitarian Law study (2005), available at <https://ihl-databases.icrc.org/en/customary-ihl>.

²¹ Geneva Convention relative to the protection of civilian persons in time of war (1949), 75 *UNTS* 287 (hereinafter "GC IV").

²² *Ibid.*, Art. 59 (1) 1.

part of the population is inadequately supplied. A refusal to negotiate or agree to relief schemes will constitute a violation of Article 59.

7. Second, the occupying Power must “facilitate [relief schemes] by all means at its disposal”. This obligation is “unconditional”²³. Facilitation requires wholehearted co-operation “in the rapid and scrupulous execution of these schemes”²⁴. This includes the provision of transport, storage and distribution facilities²⁵.

8. Third, relief schemes “may be undertaken either by States or by impartial humanitarian organizations”²⁶. In circumstances where the civilian population of the Occupied Palestinian Territory is inadequately supplied, Israel “may not withhold consent to offers to conduct humanitarian relief operations that are exclusively humanitarian and impartial in nature”²⁷.

9. The United Kingdom considers that UNRWA is an “impartial humanitarian organization” for the purposes of Article 59 of GC IV. In so far as impartiality is understood as meaning “neutrality”²⁸, UNRWA also satisfies that requirement. The Colonna report states that “since 2017 UNRWA has established and updated a significant number of policies, mechanisms and procedures to ensure compliance with the obligation to uphold the principle of neutrality”²⁹.

10. The United Kingdom has made clear its serious concern about the two recent Knesset laws. We have reiterated our support for UNRWA’s mandate to provide essential services and humanitarian assistance to Palestine refugees in the Occupied Palestinian Territory.

11. At the same time, the United Kingdom has been clear that UNRWA should abide by the highest standards of neutrality and that any allegations otherwise should be independently investigated.

²³ ICRC, *Commentary on the Fourth Geneva Convention: Convention (IV) Relative to the Protection of Civilian Persons in Time of War* (1958), 320.

²⁴ *Ibid.*

²⁵ *Ibid.*

²⁶ GC IV, Art. 59 (2).

²⁷ Emanuela-Chiara Gillard and Dapo Akande, *Oxford Guidance on the Law Relating to Humanitarian Relief Operations in Situations of Armed Conflict* (United Nations Office for the Coordination of Humanitarian Affairs 2016) 20 [42] D (iii); GC IV, Art. 59 (2).

²⁸ See, e.g., CR 2025/7, United States of America, p. 11, para. 18 (Simmons); Written Statement of China, paras. 26, 53; Written Statement of the Philippines, para. 29.

²⁹ Catherine Colonna, ‘Independent Review of Mechanisms and Procedures to Ensure Adherence by UNRWA to the Humanitarian Principle of Neutrality’ (2024), 36.

12. The United Kingdom notes that UNRWA has adopted a “High-Level Action Plan” to respond to the Colonna report’s recommendations. So far, UNRWA has fully implemented five recommendations, including sharing staff lists with Israel and providing for a centralized Neutrality Investigations Unit with international staff. The United Kingdom supports UNRWA’s continued work and commitment to the principle of neutrality, in line with the Colonna report.

13. Any alleged involvement of UNRWA staff in the barbaric terrorist attacks of 7 October 2023 and subsequent allegations must be thoroughly investigated. The United Kingdom expressed its deep concern in respect of Emily Damari, a United Kingdom national who was taken hostage on 7 October; and about reports that she was held in an UNRWA facility. The United Kingdom welcomed the UNRWA Commissioner-General’s call for an independent investigation into any reported misuse of UN premises by Palestinian militants, including Hamas.

14. Overall, an occupying power retains a discretion, in principle, as to which States or organizations provide assistance³⁰. However, in circumstances where (i) the occupying power is unable to meet the needs of the population; (ii) no other offer of assistance will be sufficient to render adequate assistance; and (iii) the humanitarian need is grave and urgent, it would be incompatible with a good-faith performance of Article 59 to refuse an offer of assistance from an organization that has capacity. Such refusal would be incompatible with the obligation to use “all means at its disposal” to facilitate relief schemes on behalf of the population.

Article 55 GC IV

15. Mr President, I turn now to Article 55 of GC IV. Pursuant to Article 55, an occupying power has a duty to ensure the food and medical supplies of the population to the “fullest extent of the means available to it”. Where the “resources of the occupied territory are inadequate”, the occupying power comes under an additional obligation “in particular, [to] bring in the necessary foodstuffs, medical stores and other articles”. This extends to bringing in supplies necessary for an adequate standard of living, including clothing, bedding and shelter.

16. Article 55 does not prescribe the method of compliance. What is essential is that the occupying power takes measures to ensure the necessary food and medical supplies for the

³⁰ See also CR 2025/7, United States of America, p. 9, para. 8 (Simmons).

population. This requires the occupying power to maintain at a reasonable level the material conditions under which the population of the occupied territory lives.

17. It is open to an occupying power to procure the supply of food and medical supplies through a third party, including through a relief scheme under Article 59. In a situation where an occupying power decides to meet its obligations through a third party, such as UNRWA, the occupying power must ensure the safety and security of that third party as far as possible.

18. In circumstances where an occupying power has failed to ensure the food and medical supplies of the population, a failure to agree to, and facilitate, relief being provided by that impartial organization is likely to constitute a violation of both Article 59 and Article 55.

19. This conclusion is reinforced by two obligations, which both inform the content of Articles 59 and 55 and also constitute independent obligations.

20. First, Israel is under an obligation under customary international law to allow and facilitate rapid and unimpeded passage of humanitarian relief for civilians in need.

21. Second, Article 55 requires an occupying power to allow a protecting power to verify the state of food and medical supplies in occupied territories. That obligation can only be temporarily restricted for imperative military reasons. Restrictions are moreover only authorized as an exceptional measure and may not at any time be of a general or permanent nature.

Article 60

22. Finally, it should be recalled that Article 60 makes clear that the fact that humanitarian agencies are providing services and assistance to the population does not relieve the occupying power of any of its responsibilities under Articles 55, 56 and 59.

Obligations in connection with the International Committee of the Red Cross

23. Mr President, Members of the Court, as a concluding point, it is important to highlight the International Committee of the Red Cross. The ICRC plays a vital role in protecting the lives and dignity of victims of armed conflict, providing assistance and promoting respect for international humanitarian law. As Members of the Court are well aware, the law of occupation provides a “special

position” for the ICRC that “shall be recognized and respected at all times”³¹. With respect to visits to protected persons, this is spelt out in detail in Article 143 of GC IV.

24. Under Article 30 of GC IV, “Protected persons shall have every facility for making application to . . . the International Committee of the Red Cross”. The right to be visited by the ICRC equally applies to protected persons charged with offences by the occupying power. Visits to detainees by the ICRC “may not be prohibited except for reasons of imperative military necessity, and then only as an exceptional and temporary measure”³². The exception is expressed in narrow terms. The provision applies equally to the hostages being held in Gaza.

25. Mr President, there have been repeated, credible reports of ill-treatment of Palestinian detainees held in Israeli custody since the 7 October 2023 attacks³³. ICRC visits and access to those interned at times of conflict is aimed precisely at ensuring that they are treated humanely and with dignity, and to provide some information to their families and loved ones as to their well-being.

26. It should be noted that neither the ICRC — nor anyone else — has been able to visit and access the Israeli and other hostages being held in Gaza by Hamas and other militants. Hostages released have shared horrific stories of ill-treatment and abuse that may amount to torture. This also is completely unacceptable, but cannot serve as justification for Israel to deny the ICRC access to Palestinian detainees since October 2023.

27. Mr President, Members of the Court, in our statement today we have aimed to assist the Court by indicating our views on the question put to the Court and on the obligations of Israel, both as a Member of the United Nations and as an occupying Power.

28. Mr President, Members of the Court, that concludes our oral statement in these proceedings and we thank you for your attention.

³¹ GC IV, Art. 142.

³² *Ibid.*, Art. 143.

³³ Statement by the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment on one-year anniversary of the October 7th attacks, 7 October 2024, <https://www.un.org/unispal/document/statement-by-special-rapporteur-on-torture-07oct24/>.