

ICJ Ruling on Israel's Obligations as an Occupying Power

On **18 December 2024**, the **United Nations General Assembly (UNGA)** adopted **Resolution 79/232**, requesting an **advisory opinion** from the **International Court of Justice (ICJ)** on *"the obligations of Israel in relation to the presence and activities of the United Nations, other international organizations and third States in and in relation to the Occupied Palestinian Territory (OPT)."*

On **22 October 2025**, the **ICJ delivered its advisory opinion**, addressing the legal framework governing Israel's obligations as an **occupying Power** and its responsibilities toward the United Nations, other international organizations, and third States engaged in humanitarian and development activities in the OPT.

The Court **affirmed its jurisdiction** under **Article 65 of the ICJ Statute** and **Article 96 of the UN Charter**, confirming that the General Assembly was competent to seek its guidance. It **rejected objections** that the request was of a political nature or overlapped with issues pending before the Court in *South Africa v. Israel (Application of the Convention on the Prevention and Punishment of the Crime of Genocide)*. Finding **no "compelling reason" to decline the request**, the Court emphasized that the question was **legal in character** and squarely within its advisory function.

It is crucial to emphasize that the **ICJ's mandate in this case was interpretative, not investigative**. The Court was **not tasked with verifying or judging Israel's actual conduct**, but with **elaborating Israel's legal obligations** under international law as an occupying Power and UN Member State. While the Court was aware of numerous UN and media reports alleging violations in Gaza and the West Bank, it did not independently assess or rule on those facts. The contextual information presented here regarding Israel's actions and humanitarian conditions is therefore **not drawn from the advisory opinion itself**, but from **publicly available and well-documented sources** that help illustrate the relevance and gravity of the Court's findings.

Israel Is an Occupying Power

The ICJ reaffirmed that **Israel remains the occupying Power** in the **Gaza Strip** and other parts of the **Occupied Palestinian Territory** within the meaning of **Article 42 of the 1907 Hague Regulations** and the **Fourth Geneva Convention of 1949**, notwithstanding its so-called *"disengagement"* in 2005. Although Israel withdrew its permanent military presence and settlements from Gaza at that time, the Court noted that Israel continues to **exercise effective control** over **borders, airspace, territorial waters, population registry, and essential infrastructure**, thereby maintaining the degree of authority that defines occupation under international law.

The Court clarified that **effective control**, not the **physical stationing of troops**, determines whether an occupation exists. Accordingly, Israel **bears the full range of legal obligations** of an occupying Power, including the **duty to protect civilians**, ensure **public order and safety**, and respect the **sovereignty and rights of the occupied population** under international humanitarian and human rights law.

Obligation to the Welfare of the Civilian Population

Under **Articles 55 and 56 of the Fourth Geneva Convention**, an **occupying Power bears the primary and direct responsibility** for ensuring the **food supply, medical care, and public health** of the population under its control. These are **non-contingent obligations**, to be fulfilled **at the occupier's own expense**.

Only when the occupying Power is **genuinely unable** to provide for the population may it accept and facilitate relief operations by other States or impartial humanitarian organizations. Even then, **Article 59** obliges it to **"agree to and facilitate"** such operations **"by all the means at its disposal."** Any **obstruction or restriction** of relief efforts is contrary to the Convention and, if it causes deprivation or starvation, may constitute a **grave breach** and a **war crime** under customary international law.

The Court's opinion identifies these duties in abstract legal terms; it does **not evaluate Israel's conduct** in Gaza. Nonetheless, extensive UN and humanitarian reporting has documented widespread restrictions on food, fuel, and medical supplies — conditions that closely correspond to the legal prohibitions the ICJ described.

Prohibition of Starvation and Collective Punishment

The ICJ **reaffirmed** that **starvation of civilians as a method of warfare is absolutely prohibited** under **Article 54 of Additional Protocol I (1977)**, **Articles 55–59 of the Fourth Geneva Convention**, and **Rule 53 of customary international humanitarian law**. The prohibition extends to any policy or action that deprives a civilian population of objects indispensable to its survival, including food, water, fuel, and medicine.

While the Court did not assess evidence of conduct on the ground, it clarified that **intentional obstruction of relief** or **manipulation of essential supplies** could amount to **grave breaches** and **war crimes** under international law. The **legal standard** is therefore clear, even if the Court did not itself apply it to factual circumstances.

Independent reports from UN agencies and humanitarian organizations indicate that restrictions imposed on Gaza have resulted in **acute hunger and medical collapse**. While these accounts were not examined by the Court, they illustrate the **type of situation the ICJ's legal reasoning directly addresses**—one in which deprivation of essentials, if deliberate, would constitute the **use of starvation as a method of warfare** and a **form of collective punishment** prohibited under **Article 33 of the Fourth Geneva Convention**.

The Court also reaffirmed that such prohibitions are **non-derogable**. Even in situations of armed conflict or legitimate security concerns, **States cannot invoke security arguments**

to justify violations of peremptory norms of international law, including the bans on starvation, collective punishment, and the denial of self-determination. These obligations are **absolute and binding**, irrespective of military or political circumstances.

Obligations as a Member of the United Nations

As a **UN Member State**, Israel is bound to **co-operate in good faith** with the Organization under **Articles 2(2) and 2(5)** of the **UN Charter**, and to respect the **privileges and immunities** of the United Nations, its agencies, and staff under **Article 105 of the Charter** and the **1946 Convention on the Privileges and Immunities of the United Nations (CPIUN)**. These protections remain in force during armed conflict and occupation.

The ICJ reaffirmed that Israel must **respect and protect UN personnel, property, and premises**, and must **allow and facilitate the operations of UN agencies**, particularly those engaged in humanitarian relief such as **UNRWA**. The Court did not make findings regarding specific incidents, but emphasized that interference with UN operations or attacks on its personnel would constitute **serious violations of international humanitarian law**.

For context, UN sources report that between **October 2023 and late 2025, more than 190 UN staff members**—almost all from UNRWA—were **killed in Israeli military operations in Gaza**, marking the **highest toll for UN personnel** since 1945. UN compounds and schools, whose coordinates were provided to Israeli authorities, were repeatedly struck. While the ICJ did not assess these facts, its opinion defines the legal framework within which such actions must be evaluated.

Israel Must Not Impede the Self-Determination of the Palestinian People

The **right of peoples to self-determination** is a **peremptory norm of international law (jus cogens)** and a cornerstone of the UN Charter system. It is reflected in **Articles 1(2) and 55** of the **UN Charter**, **Article 1** of both the **ICCPR** and the **ICESCR**, and recognized as an obligation **erga omnes** owed to the international community as a whole.

In its 2025 advisory opinion, the Court held that Israel must **not impede the Palestinian people's exercise of that right**, including by **obstructing UN or State operations** that provide for their welfare and development. Extending Israeli domestic law or administrative control into the OPT, the Court found, is **incompatible with these obligations** and hinders Palestinian self-governance.

The ICJ recalled its **2024 advisory opinion**, which had declared **Israeli settlements in the West Bank illegal** and required Israel to **cease expansion, evacuate existing settlements, and provide reparations**. Although the 2025 opinion did not examine subsequent developments, public records indicate that Israel has **continued to expand settlements**, and political leaders have **publicly advocated annexation**. These observations, drawn from external reporting, provide context to understand the continued erosion of Palestinian self-determination in light of the Court's prior rulings.

Conclusion

The **International Court of Justice's 2025 Advisory Opinion** represents a pivotal reaffirmation of the legal obligations governing Israel's presence in the Occupied Palestinian Territory. It clarified, but did not adjudicate, Israel's duties as an occupying Power, UN Member State, and participant in the international legal order. The Court's role was to **define the law**, not to **assess evidence or assign culpability**—a distinction that preserves judicial impartiality while offering a binding interpretation of international norms.

Nevertheless, the opinion provides a **clear legal framework** within which Israel's actions can be evaluated by other competent bodies. It establishes that:

- Israel remains the **occupying Power** in Gaza and the West Bank;
- It bears the **primary responsibility** for the welfare of civilians;
- It must **respect UN operations** and **protect humanitarian personnel**;
- It must **not impede Palestinian self-determination**; and
- It must **abstain from any conduct amounting to starvation, collective punishment, or annexation**.

The Court also reiterated that **these obligations are absolute and non-derogable**. Security considerations, no matter how serious, **cannot lawfully override peremptory norms** such as the bans on starvation, collective punishment, and the denial of self-determination.

In light of the ICJ's findings and the growing body of evidence regarding conditions in Gaza and the West Bank, the **UN General Assembly should now consider requesting the ICC to evaluate Israel's conduct** under the **2024 provisional measures**, the **2024 advisory opinion**, and the **2025 advisory opinion**. Such an initiative would shift the focus from clarification to **accountability**, ensuring that violations of peremptory norms are subject to judicial scrutiny.

Moreover, the General Assembly could extend this inquiry to include **the obligations of UN organs and Member States themselves**, assessing whether their actions—or inaction—have met the standards of good faith and cooperation required by the UN Charter and international law.

The **ICJ's jurisprudence** thus provides not only a statement of law but also a **pathway toward enforcement**. Upholding these rulings is essential to preserve the integrity of international law, the credibility of the United Nations, and the universal principles of justice and humanity upon which both are founded.