

[UNOFFICIAL TRANSLATION]

CR 2025/8

International Court
of Justice

Cour internationale
de Justice

THE HAGUE

LA HAYE

YEAR 2025

Public sitting

held on Wednesday 30 April 2025, at 3 p.m., at the Peace Palace,

President Iwasawa presiding,

**on the Obligations of Israel in relation to the Presence and Activities of the United Nations,
Other International Organizations and Third States in and in relation to
the Occupied Palestinian Territory
(Request for advisory opinion submitted by the General Assembly of the United Nations)**

VERBATIM RECORD

ANNÉE 2025

Audience publique

tenue le mercredi 30 avril 2025, à 15 heures, au Palais de la Paix,

sous la présidence de M. Iwasawa, président,

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

[pages 26-30 from the original French]

Mr. KOHEN:

"Israel's primary obligation is to respect the Palestinian people's right to self-determination".

I. Introduction

Mr. President, Members of the Court,

1. It is an honor to appear before you on behalf of the Hashemite Kingdom of Jordan and to ratify his written statement and conclusions, in which we list Israel's obligations that are the subject of this request for an advisory opinion.¹
2. Jordan is particularly concerned by the issues discussed here. The Hashemite Kingdom hosts on its territory two million four hundred thousand Palestinian refugees registered by UNRWA, is the custodian of the Muslim and Christian holy sites of Jerusalem, and is in the front line in providing humanitarian aid to the population of the Occupied Palestinian Territory. Jordan maintains diplomatic relations with both the State of Israel and the State of Palestine, and works tirelessly for peace in the Middle East.
3. Following the filing of the written statements, the situation has dramatically worsened as a result of the breakdown of the ceasefire, the ban on humanitarian assistance to Gaza and the Israeli actions in the West Bank, hence the importance and urgency of the Court's advisory opinion.
4. I shall briefly address the question of your Court's exercise of advisory jurisdiction and then examine the impact of the principle of self-determination on the various aspects of the question posed by the General Assembly. My colleagues Eirik Bjorge and Alfredo Crosato will respectively address UN law and humanitarian assistance.

II. Nothing prevents the Court from exercising its advisory jurisdiction

5. Mr. President, there are decisive reasons for the Court to exercise its advisory jurisdiction; the United Nations has a permanent responsibility regarding the Palestinian question until all its aspects are settled in accordance with international law².
6. The arguments put forward against the exercise of your jurisdiction are unfounded, namely 1) that there would be a risk of prejudgment due to the existence of a pending contentious case, 2)

¹ Jordan's Written Statement, "submissions".

² *Legal consequences arising from Israel's policies and practices in the Occupied Palestinian Territory, including East Jerusalem*, Advisory Opinion of July 19, 2024, para. 35.

that the question would have already been dealt with by the Court in its 2024 opinion, 3) that the question would be "unidirectional" and avoid taking context into account, 4) or that the Court would not have the necessary factual elements³.

7. Suffice it to say here that *South Africa v. Israel* relates exclusively to the Genocide Convention⁴, whereas the question raised here relates to Israeli's obligations within a broader framework.
8. The question also differs from those already answered by the Court in 2024. The last year's advisory opinion provides valuable legal elements to better answer the question now posed⁵, which was not raised by the General Assembly in its previous request.
9. If the question refers only to Israel's obligations, this is because it is this State and no other that occupies the Palestinian territory.
10. The question is limited in scope, and is not intended to address all issues relating to the continuing occupation or to the situation arising from October 7, 2023. The General Assembly, the Security Council and your own Court have already demanded the immediate and unconditional release of the hostages held in Gaza⁶. This situation does not relieve Israel of its obligations under international law. Moreover, the question posed concerns legal obligations and the Court possesses the factual elements enabling it to rule on them. If Israel has grievances against the United Nations or its organs, the Convention on the Privileges and Immunities of the United Nations provides it with the necessary means to have recourse to them.

III. The principle of self-determination is paramount

11. Mr. President, Members of the Court, the principle of self-determination is of vital importance in answering each of the elements of the question posed. Indeed, respect for, and implementation of this right by the Palestinian people is the backdrop against which all other obligations incumbent on Israel must be interpreted and applied. It also requires Israel, in the present circumstances and in accordance with its obligation not to hinder the realization of this right, to adopt all necessary and effective measures to protect the Palestinian civilian population.

³ Israel's Written Statement, para. 59-70; Hungary's Written Statement, para. 12-18

⁴ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)*

⁵ See Jordan's Written Statement, para. 3.4.

⁶ Security Council Resolutions 2712 (2023) and 2720 (2024), Resolutions ES-10/21 of October 27, 2023 and ES-10/22 of December 12, 2023, *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel), Provisional Measures, Order of January 26, 2024*, I.C.J. Reports 2024, p. 30, para. 85, *Order of March 28, 2024*, para. 50.

12. As a fundamental principle of international law, an *erga omnes* right and a peremptory rule of international law⁷, Israel's obligations are not only to the Palestinian people, but also to the relevant United Nations bodies and to the international community as a whole. As stated in common Article 1 of the two Human Rights Covenants, "[i]n no case may a people be deprived of its own means of subsistence"⁸.
13. The obligation to respect the right of the Palestinian people to self-determination admits of no exception on the part of Israel. The powers of the occupying power under the Hague Regulations and Geneva Convention IV cannot be applied in a manner inconsistent with the peremptory right of self-determination⁹. In time of armed conflict, only the rules relating to the protection of the human person have been considered by your Court as "intransgressible principles" of customary international law¹⁰ and the occupier must respect them. As the Court stated, these powers recognized to the Occupying Power are so for a temporary occupation, not for a prolonged occupation which constitutes *de facto* a permanent annexation in violation of the principle of self-determination¹¹.
14. Israel has an obligation to cooperate with the United Nations, other international organizations and third States to bring its illegal presence in the Occupied Palestinian Territory to an end as soon as possible, in order to allow the full exercise of the right of the Palestinian people to self-determination, to cease all activities which impede this exercise and to act positively to facilitate it. This includes the obligation to respect its territorial integrity, preventing any form of displacement of its components and refraining from any change in the demographic composition of the territory, ensuring and facilitating the unimpeded provision of emergency supplies essential to the survival of the Palestinian civilian population, as well as basic services and humanitarian and development assistance. Israel also has an obligation to respect the permanent sovereignty of the Palestinian people over its natural wealth and resources, and not

⁷ *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, p. 31, para. 52; *Western Sahara*, Advisory Opinion, I.C.J. Reports 1975, pp. 31-33, paras. 54-59; *Frontier Dispute (Burkina Faso/Mali)*, I.C.J. Reports 1986, pp. 566-567, para. 25; *East Timor (Portugal v. Australia)*, Judgment, I.C.J. Reports 1995, p. 102, para. 29; *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Advisory Opinion, I.C.J. Reports 2004, pp. 171-172, para. 88; *Legal Effects of the Separation of the Chagos Archipelago from Mauritius in 1965*, Advisory Opinion, I.C.J. Reports 2019, pp. 131-135, paras. 144-162; *Legal Consequences of the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*, Advisory Opinion of 19 July 2024, paras. 230-234.

⁸ [French: « [e]n aucun cas, un peuple ne pourra être privé de ses propres moyens de subsistance »]

⁹ Cf. Written statement by Israel, par. 87; Written statement by the United States of America, par. 14.

¹⁰ [French: "principes intransgressibles"] *Legality of the Threat or Use of Nuclear Weapons*, Advisory Opinion, I.C.J. Reports 1996 (I), p. 257, para. 79.

¹¹ *Legal Consequences Arising from Israel's Policies and Practices in the Occupied Palestinian Territory, including East Jerusalem*, Advisory Opinion of July 19, 2024, paras. 109, 159-160, 173, 243 and 257

to hinder the diplomatic, consular and other relations of third States and international organizations with the Palestinian authorities.

15. The Knesset adopted a declaration stating that it opposed the creation of a Palestinian state¹², and this, one day before the Court was due to deliver its advisory opinion in July 2024. This declaration by the Israeli parliament once again blatantly contradicts the Palestinian people's right to self-determination. All organs of the State of Israel have an obligation to respect this right and not to obstruct its implementation. In this sense, there is an obligation to repeal any legislative or administrative provision designed to prevent the realization of the right to self-determination.

IV. Conclusion

16. Mr. President, Members of the Court, there is no justification for the continuing Israeli occupation of the Palestinian people, which prevents it from exercising its right to self-determination. The first relevant obligation is therefore to respect this right and cease its violation. It is through strict respect for international law, and not through expansionism, oppression or force, that problems can be resolved. The best guarantee for peace throughout the Middle East is a two-State solution, respecting the independence and security of each State¹³.
17. Thank you for your attention. Mr. President, please give the floor to Professor Eirik Bjorge.

¹² "Knesset Plenum votes in favor of a declaration stating that parliament opposes the establishment of a Palestinian state", 18 July 2024 (available *in*: <https://main.knesset.gov.il/en/news/pressreleases/pages/press18724w.aspx#>).

¹³ Security Council resolutions 1397 (2002), 1515 (2003), 1850 (2008), 1860 (2009) 2334 (2016) and 2720 (2023)