

Postscript

While the work on an academic thesis must eventually come to an end, the work of the international judiciary continues. Since the completion of this book in October 2024, the ICJ has rendered two new advisory opinions¹⁶⁹² and held public hearings in a third case¹⁶⁹³. The purpose of this postscript is to briefly touch upon these recent developments and place them within the framework of the study.

On 23 July 2025, the ICJ has rendered its highly anticipated advisory opinion on the *Obligations of States in respect of Climate Change*.¹⁶⁹⁴ The advisory opinion was the result of a long process that began as a grassroots initiative led by law students at the University of the South Pacific, was then spearheaded by Vanuatu, and eventually gained the support of over 130 states. The proceedings sparked an unprecedented level of interest from states and international organizations alike, with 96 states and eleven international organizations presenting oral statements. The UNGA presented the Court with two questions concerning the international legal obligations of states to ensure the protection of the climate system and other parts of the environment from anthropogenic emissions of greenhouse gases as well as the legal consequences under these obligations for states where they have caused significant harm to the climate system and other parts of the environment. In answering the two questions, the Court made many important findings. Among them, the Court recognized both treaty-based and customary obligations of states to prevent significant environmental harm from anthropogenic greenhouse gases by acting with due diligence and asserted that any breach of the obligations identified in the advisory opinion could potentially constitute an internationally wrongful act which could

1692 *Obligations of States in respect of Climate Change*, Advisory Opinion of 23 July 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*, Advisory Opinion of 22 October 2025.

1693 *Right to Strike under ILO Convention No. 87*, Request for advisory opinion submitted by the Governing Body of the International Labour Office (ILO), verbatim record, CR 2025/20.

1694 *Obligations of States in respect of Climate Change*, Advisory Opinion of 23 July 2025.

in turn engage the international responsibility of the state in question.¹⁶⁹⁵ With regard to the findings of this study, the legal questions presented to the Court did not concern or even relate to a specific bilateral dispute, but rather, as the ICJ put it, “concern an existential problem of planetary proportions”.¹⁶⁹⁶ Considering the abstract nature of the questions presented to the Court, the request did not pose a challenge to the Court’s judicial function in the sense of the Eastern Carelia doctrine.

In the second advisory opinion rendered by the ICJ in 2025, the Court examined Israel’s practice and policies after the attack of 7 October 2023, in particular 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).¹⁶⁹⁷ Just like the 2004 *Wall* advisory opinion¹⁶⁹⁸ and the 2024 *Policies and Practices* advisory opinion¹⁶⁹⁹, the request concerned elements of the ongoing Israel-Palestine conflict. As in these previous cases, Israel and (like in 2024) Hungary argued that the Court should exercise its discretion to decline to give the requested advisory opinion.¹⁷⁰⁰ However, the Court found that there were no compelling reasons to do so.¹⁷⁰¹ The Court started by referring to its 2024 *Policies and Practices* advisory opinion,¹⁷⁰² in which the Court found the request to go beyond a purely bilateral dispute, as it directly concerned the work of the United Nations. In doing so, the Court signaled its continued adherence to the Eastern Carelia doctrine in principle and its position that the UN’s

1695 Ibid. (130 et seq., para. 456).

1696 Ibid. (129, para. 456).

1697 *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*, Advisory Opinion of 22 October 2025.

1698 *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Advisory Opinion, ICJ Reports 2004, 136.

1699 *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*, Advisory Opinion of 22 October 2025.

1700 *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*, Written Statement of Hungary, paras. 12 et seq.; Written Statement of Israel, paras. 59 et seq.

1701 See *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*, Advisory Opinion of 22 October 2025 (19 et seq., paras. 23 et seq.).

1702 *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*, Advisory Opinion of 19 July 2024.

long-standing involvement in the Israel-Palestine conflict elevates the conflict beyond the bilateral level. The Court then went on to address those aspects that were specific to the case at hand.¹⁷⁰³ Among them, the Court rejected the notion that giving the requested advisory opinion could prejudice the Court's decision of the pending *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)* case.¹⁷⁰⁴ In emphasizing the Court's duty to decide the contentious case solely on the basis of the evidence and arguments presented by the parties to those proceedings,¹⁷⁰⁵ the Court denied any legal or *de facto* prejudicial effect of its advisory opinions for its judgments, even as they relate to the same underlying facts. This dictum gives yet more power to the notion that the Court should reconsider its approach to requests for advisory opinions on inter-state disputes and finally abandon its Eastern Carelia doctrine.

Finally, the Court has recently concluded the oral hearings in the *Right to Strike under ILO Convention No. 87* case.¹⁷⁰⁶ The case is the result of a disagreement within the tripartite constituency of the ILO, i.e., between the member states, international employer representatives and international worker representatives, on whether the right to strike is protected under the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87). The request to the Court was made pursuant to Article 37 para. 1 of the ILO Constitution, according to which “[a]ny question or dispute relating to the interpretation of this Constitution or of any subsequent Convention concluded by the Members in pursuance of the provisions of this Constitution shall be referred for decision to the International Court of Justice”. Notwithstanding the importance of the request regarding both the substantive issue and the ILO's decision-making process, which is usually consensus-based, it does not raise issues regarding the Eastern Carelia doctrine. As the request concerns an abstract legal question, it is similar to the 1996 *Nuclear Weapons* advisory opinion and the 2025 *Climate Change* advisory opinion.

1703 *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*, Advisory Opinion of 22 October 2025 (19, para. 24).

1704 *Ibid.* (20-21, paras. 30 et seq.).

1705 *Ibid.* (20, para. 30).

1706 *Right to Strike under ILO Convention No. 87*, Request for advisory opinion submitted by the Governing Body of the International Labour Office (ILO).

