

The United Nations and the Gaza Genocide: Legal Pathways to Restoring Institutional Credibility

As of late 2025, the ongoing genocide in Gaza stands as one of the defining and devastating crises of the twenty-first century. The sustained and systematic nature of Israel's military campaign — characterized by the destruction of civilian infrastructure, deprivation of food, water, and medical care, and the mass killing of civilians — has triggered a profound reckoning within the international legal order.

1. States and Organizations Recognizing the Gaza Genocide

A rapidly expanding body of international opinion, spanning governments, intergovernmental bodies, United Nations mechanisms, and civil-society organizations, now identifies Israel's actions in Gaza as constituting genocide within the meaning of the *Convention on the Prevention and Punishment of the Crime of Genocide* (1948). This framing reflects not mere rhetorical denunciation, but a legal characterization grounded in treaty obligations, judicial proceedings, and authoritative investigative findings.

The following list identifies states, intergovernmental bodies, and institutions that have formally designated Israel's actions in Gaza as **genocide** or invoked the *Genocide Convention* in that context:

- **South Africa** — Filed the ICJ case *Application of the Genocide Convention (South Africa v. Israel)* alleging genocide (Dec 29, 2023), with the ICJ finding genocide claims “plausible” at the provisional-measures stage (Jan 26, 2024).
- **Türkiye (Turkey)** — Formally intervened at the ICJ in support of South Africa's genocide case (Aug 7, 2024).
- **Brazil** — President Lula repeatedly called Israel's actions in Gaza “genocide” (Feb 18 & 26, 2024; Jun 8, 2025).
- **Colombia** — President Gustavo Petro publicly labeled Israel's campaign “genocide” (May 1, 2024; Aug 30, 2025; UNGA speech Sept 23, 2025).
- **Saudi Arabia** — Crown Prince Mohammed bin Salman referred to Israel's campaign as “genocide” (Nov 11, 2024).
- **Pakistan** — MFA press briefings and statements repeatedly refer to a “genocide in Gaza.”
- **Malaysia** — MFA statements explicitly describe Israel's actions as “genocide” (multiple 2025 statements).

- **Indonesia** — MFA statements have used “genocide” language in condemning Israel’s operations in Gaza (Aug 2024).
- **Honduras** — Government condemned what it termed “genocide” and recalled its ambassador (Oct 2023).
- **Bolivia** — Filed declaration of intervention supporting the ICJ genocide case; official materials frame the issue in Genocide-Convention terms (Oct 2024).
- **Organization of Islamic Cooperation (OIC)** — Called the assault on Gaza a “mass genocide” (Dec 2023) and later welcomed the UN inquiry’s genocide findings (Sept 2025).
- **Gulf Cooperation Council (GCC)** — Summit communiqué condemned Israeli crimes in Gaza “as part of a genocide and ethnic cleansing agenda” (Dec 1, 2024).
- **UN Independent International Commission of Inquiry (COI)** — Found that Israel has committed genocide in Gaza (report released Sept 16, 2025).
- **UN Special Committee on Israeli Practices** — Determined that Israel’s warfare methods in Gaza were “consistent with the characteristics of genocide” (Nov 14, 2024).
- **International Association of Genocide Scholars (IAGS)** — Membership resolution (Aug 31, 2025) stating Israel’s actions in Gaza meet the legal definition of genocide; widely reported.
- **Amnesty International** — Multiple statements in 2025 asserting Israel is committing genocide in Gaza, including the use of starvation as a method of extermination.
- **Human Rights Watch (HRW)** — 179-page report (Dec 19, 2024) finding “acts of genocide” and extermination (crime against humanity) tied to deliberate deprivation policies.
- **ECCHR (European Center for Constitutional and Human Rights)** — Formal legal position (Dec 10, 2024) concluding Israel is committing genocide in Gaza.
- **B’Tselem (Israeli human-rights NGO)** — 2025 report *Our Genocide* concluding Israel is committing genocide in Gaza.
- **Physicians for Human Rights - Israel (PHRI)** — Concluded in a 2025 report that Israel is committing genocide (as summarized by Amnesty’s roundup).
- **FIDH (International Federation for Human Rights)** — Repeatedly described Israel’s actions as genocide, calling on states to act under the Convention.
- **DAWN (Democracy for the Arab World Now)** — Organizational statements repeatedly refer to an ongoing genocide in Gaza.
- **Al-Haq** — Maintains a registry and advocacy specifically framing Israel’s conduct as genocide; cites ICJ orders.
- **Euro-Med Human Rights Monitor** — Numerous releases explicitly labeling Israel’s campaign as genocide (cited within HRW documentation).
- **Medico International** — Advocacy and analyses addressing genocide framing in Gaza (2025 features and interviews).

The unprecedented breadth of this consensus — encompassing both Global South and Global North actors, and extending across state, institutional, and scholarly lines — signals a transformation in the international understanding of accountability and prevention. For the first time in the post-World War II era, the *Genocide Convention* is being invoked by

multiple sovereign states against an active, ongoing genocide, with significant procedural traction at the International Court of Justice.

2. The United Nations' Duty to Prevent Genocide

The cumulative findings by states, intergovernmental bodies, and United Nations mechanisms that Israel's ongoing campaign in Gaza amounts to genocide establish not merely a moral concern but a **credible and urgent legal risk** engaging the United Nations' collective responsibility to prevent genocide. Under **Articles 1, 2(2), and 24** of the *Charter of the United Nations*, the Security Council bears a **legal duty** to take prompt and effective measures to uphold international peace and security and to ensure respect for fundamental principles of international law.

The *Genocide Convention* imposes an *erga omnes* obligation to prevent and punish genocide, reflecting a peremptory (*jus cogens*) norm.

Convention on the Prevention and Punishment of the Crime of Genocide (1948)

- **Article I:** "The Contracting Parties confirm that genocide... is a crime under international law which they undertake to prevent and to punish."

In *Bosnia and Herzegovina v. Serbia and Montenegro* (2007), the **International Court of Justice** held that the duty to prevent genocide arises "the instant that the State learns of, or should normally have learned of, the existence of a serious risk."

ICJ, *Bosnia v. Serbia* (Judgment, 26 Feb 2007)

- "A State's obligation to prevent, and the corresponding duty to act, arise at the instant that the State learns of, or should normally have learned of, the existence of a serious risk that genocide will be committed."

Consequently, when credible evidence of genocide arises — as established by the ICJ's provisional measures, UN investigative mechanisms, and findings by multiple states and human-rights organizations — the Council, and in particular its **permanent members**, are legally obliged to act to prevent it. Given the Security Council's **primary responsibility for maintaining international peace and security** under Article 24(1) of the Charter, and its unique capacity to act collectively on behalf of all Member States, this duty applies with **particular force** to the Council. When credible organs — including the ICJ itself — determine that there exists a *plausible risk of genocide*, the Council is legally obliged to act to prevent it.

3. Abuse of the Veto and the United States' Role

Despite the overwhelming factual record and the binding legal obligations arising from the *Convention on the Prevention and Punishment of the Crime of Genocide* (1948) and the *Charter of the United Nations*, the United States has repeatedly obstructed Security Council action aimed at halting what the International Court of Justice has deemed a **plausible**

genocide in Gaza. Since October 2023, Washington has exercised its veto power no fewer than **seven times** to block draft resolutions seeking to implement ceasefires, facilitate humanitarian access, or demand compliance with international humanitarian law. Each of these resolutions reflected the urgent appeals of the **Secretary-General**, the **Office for the Coordination of Humanitarian Affairs (OCHA)**, and the **UN Relief and Works Agency (UNRWA)**, as well as the findings of independent investigative mechanisms, yet was nonetheless nullified by the unilateral objection of a single permanent member.

The first veto, cast in **October 2023**, blocked a resolution calling for an immediate humanitarian ceasefire following Israel's initial bombardment of Gaza and the onset of mass civilian casualties. Subsequent vetoes — in **December 2023, February 2024, April 2024, July 2024, December 2024, and March 2025** — followed a consistent and deliberate pattern. Each time the Council moved to act in accordance with its Charter-mandated responsibility to maintain international peace and security, the United States exercised the veto to **shield Israel from accountability** and to **prevent collective measures** designed to protect civilian life.

4. Interpreting the Charter — The Vienna Convention Framework

The Charter constitutes a **coherent and integrated legal framework**, in which all provisions possess equal normative status and must be read in harmony with one another. There exists **no internal hierarchy** among its articles; rather, each must be understood contextually, systemically, and teleologically — that is, in light of the Charter's overarching purposes and principles as articulated in Articles 1 and 2. This systemic interpretation, affirmed repeatedly by the ICJ and the UN's own legal organs, ensures that the Charter operates as a single, indivisible instrument of international governance rather than a collection of isolated powers or privileges.

The interpretative framework articulated in the Vienna Convention on the Law of Treaties (1969) applies **equally and fully** to the *Charter of the United Nations*. Although the Charter predates the Convention, the interpretive principles codified therein were already established as **customary international law** by the time of the Charter's drafting and have since been reaffirmed in the ICJ's jurisprudence. Accordingly, the Charter must be interpreted **in good faith, in light of its object and purpose, and as a coherent and integrated whole**.

Vienna Convention on the Law of Treaties (1969)

- **Article 26 (Pacta sunt servanda):** "Every treaty in force is binding upon the parties to it and must be performed by them in good faith."
- **Article 31(1):** "A treaty shall be interpreted in good faith in accordance with the ordinary meaning to be given to the terms of the treaty in their context and in the light of its object and purpose."
- **Article 31(3c):** "There shall be taken into account... any relevant rules of international law applicable in the relations between the parties."

Accordingly, **the powers conferred upon the Security Council**, including the right of veto, cannot be interpreted or applied in a manner that contradicts the Charter's *object and purpose*.

5. Legal Limits of the Veto

While **Article 27(3)** of the *Charter of the United Nations* grants the permanent members of the Security Council the power of veto, this power is **not absolute**. It must be exercised in strict conformity with the Charter's **Purposes and Principles** (Articles 1 and 24) and in **good faith** (Article 2(2)). As the organ bearing *primary responsibility for the maintenance of international peace and security*, the Security Council is legally bound to discharge its functions in accordance with these obligations.

Under **Article 24(1)**, the Security Council exercises its authority *on behalf of the entire membership of the United Nations*. This representative mandate imposes a **fiduciary duty** upon all its members — and particularly upon the **permanent members** endowed with the veto — to act in good faith and in conformity with the Charter's foundational objectives. Read in conjunction with **Articles 1, 2(2), and 24(2)**, Article 24(1) supports the principle that the veto power cannot lawfully be used to frustrate the Council's collective responsibility to maintain international peace and security.

The Charter also imposes explicit procedural limits on the veto through **Article 27(3)**, which provides that *a party to a dispute shall abstain from voting* on decisions under Chapter VI. This provision embodies a fundamental principle of impartiality in the Council's decision-making. Where a permanent member provides substantial **military, financial, or logistical support** to one party to an armed conflict, that member may reasonably be regarded as a **party to the dispute** and is therefore under a legal obligation to **abstain**.

Charter of the United Nations

- **Article 1(1)** "To maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace."
- **Article 2(2)** "All Members, in order to ensure to all of them the rights and benefits resulting from membership, shall fulfill in good faith the obligations assumed by them in accordance with the present Charter."
- **Article 24(1)** "In order to ensure prompt and effective action by the United Nations, its Members confer on the Security Council primary responsibility for the maintenance of international peace and security, and agree that in carrying out its duties under this responsibility the Security Council acts on their behalf."
- **Article 24(2)** "In discharging these duties the Security Council shall act in accordance with the Purposes and Principles of the United Nations. The specific powers granted to the Security Council for the discharge of these duties are laid down in Chapters VI, VII, VIII, and XII."

- **Article 27(3)** “In decisions under Chapter VI, and under paragraph 3 of Article 52, a party to a dispute shall abstain from voting.”

Taken together, **Articles 1, 2(2), 24(1)–(2), and 27(3)** of the Charter, interpreted in accordance with **Articles 31–33 of the Vienna Convention on the Law of Treaties**, establish that the veto is not an unfettered prerogative but a **conditional power** held in trust for the international community. The exercise of that power in bad faith, for purposes contrary to the Charter, or in a manner that prevents the Security Council from carrying out its primary duties, constitutes an **abuse of right** and an **ultra vires act**. Such a veto lacks **legal effect** within the framework of the Charter and stands in contradiction to the peremptory norms (*jus cogens*) that govern the international order, particularly those related to the **prevention of genocide and protection of civilians**.

6. The Role of the International Court of Justice

The Security Council’s **responsibility to maintain international peace and security**, as articulated in **Articles 1 and 24** of the Charter, necessarily encompasses a duty to **uphold international law** and to **prevent atrocities** that threaten the stability of international relations. The Council’s mandate is not a political prerogative but a **legal trust**, exercised on behalf of the entire membership and constrained by the Charter’s Purposes and Principles. When a permanent member employs the veto to obstruct measures aimed at preventing or responding to serious violations of international law — including genocide, crimes against humanity, or grave breaches of the Geneva Conventions — such action constitutes an **abuse of the veto power** and an **act ultra vires** the Charter.

In such circumstances, the ICJ’s interpretive role becomes pivotal. Under **Article 36** of its Statute, the Court may exercise **contentious jurisdiction** if a dispute is brought before it by Member States regarding the interpretation or application of the Charter or the Genocide Convention. Additionally, under **Article 65 of the ICJ Statute** and **Article 96 of the Charter**, the **General Assembly** or **Security Council**, as well as other authorized UN organs, may request an **advisory opinion** to clarify the legal consequences of the veto’s use in specific contexts. Although advisory opinions are not formally binding, they constitute **authoritative interpretations** of the Charter and carry decisive weight in UN practice.

Charter of the United Nations

- **Article 96(1)** “The General Assembly or the Security Council may request the International Court of Justice to give an advisory opinion on any legal question.”

While the **International Court of Justice (ICJ)** does not possess explicit authority to invalidate a decision or veto of the **Security Council**, it retains jurisdiction to **interpret the Charter of the United Nations** and to determine the **legal consequences** of actions taken under it. The Court, as the *principal judicial organ of the United Nations* (Article 92 of the Charter), exercises both *contentious* and *advisory* functions that encompass questions of Charter interpretation and the legality of actions by UN organs. Accordingly, should a permanent member be found to have exercised the veto **in bad faith** or **ultra vires** to the

Charter's Purposes and Principles, the ICJ could, in principle, affirm that such a veto was **legally ineffective** and that the corresponding draft resolution was **validly adopted in substance**.

In practical terms, such a finding would enable other Security Council members to regard a veto cast in violation of the Charter as **without legal effect**, thereby allowing the Council to proceed to adopt the corresponding resolution **in substance**. The veto would be treated as *null ab initio* — incapable of negating the Council's collective duty to maintain peace and security.

7. Restoring the United Nations' Credibility — A Path Through Law

The crisis revealed by the Gaza genocide has demonstrated that the United Nations' paralysis is not primarily a failure of its founding text, but of its **interpretation and application**. The Security Council's inability to act — despite the recognition of a plausible genocide by the International Court of Justice and by the UN's own investigative mechanisms — stems not from an absence of legal authority, but from the **misuse of the veto** by a permanent member acting in defiance of the Charter's purposes.

Calls for Charter reform, though morally compelling, have long foundered on the procedural impossibility of amending **Article 108** in a system requiring the consent of those most invested in preserving their privilege. The solution, therefore, lies not in the unattainable project of rewriting the Charter, but in **interpreting it in accordance with the law of treaties and the Charter's own internal logic**.

The first and most immediate step lies in seeking an **advisory opinion** from the **International Court of Justice (ICJ)** on the **legality and limits of the veto power** under **Article 27(3)** of the Charter. Such an opinion would not amend the Charter, but would interpret it in accordance with the **Vienna Convention on the Law of Treaties (VCLT)** and the **peremptory norms of international law**, reaffirming that the veto — like every power under the Charter — is conditioned by the obligations of *good faith, object and purpose, and jus cogens*.

Dual Pathways to the ICJ: The General Assembly and the Security Council

Under **Article 96(1)** of the *Charter of the United Nations* and **Article 65** of the *Statute of the International Court of Justice*, both the **General Assembly** and the **Security Council** possess the competence to request advisory opinions from the Court on *any legal question*. Each pathway provides a distinct — but complementary — means for the Organization to clarify the lawful limits of the veto.

The **General Assembly route** offers a **clear and assured pathway**, as such a resolution requires only a simple majority and is **not subject to veto**. This makes it the most accessible and procedurally certain means of obtaining judicial clarification on the scope and limits of the veto, particularly in cases where the Security Council itself is paralyzed.

However, the **Security Council** also retains the authority to request such an opinion. Here, the question arises whether a **permanent member's veto** could block the Council from seeking legal advice on the limits of its own powers. Under **Article 27(2)** of the Charter, *decisions of the Security Council on procedural matters shall be made by an affirmative vote of nine members* and are **not subject to veto**. A resolution requesting an advisory opinion — which neither determines substantive rights nor imposes binding obligations — falls squarely within this procedural category.

Charter of the United Nations

- **Article 27(2)** “Decisions of the Security Council on procedural matters shall be made by an affirmative vote of nine members.”

The **Namibia precedent** (*S/RES/284 (1970)*) supports this interpretation: the Council's request for an advisory opinion on the legal consequences of South Africa's presence in Namibia was treated as a procedural decision and adopted without a veto. By analogy, a resolution requesting an advisory opinion on the **limits of the veto power** likewise concerns the Council's own institutional procedure and does not constitute a substantive act affecting state rights or obligations.

Therefore, the **Security Council** could lawfully adopt a resolution requesting an ICJ advisory opinion on the limits of the veto **as a procedural vote**, requiring only nine affirmative votes and **not subject to veto**. Once transmitted, it would then fall to the **International Court of Justice** itself to determine whether to accept the request. By doing so, the ICJ would implicitly confirm that the matter is procedural and properly before it — thereby resolving, through law rather than politics, whether the question of the veto's limits lies within the judicial purview of the Court.

This path ensures that **no permanent member** may unilaterally prevent the United Nations from seeking a legal interpretation of its own foundational instrument. It also honors the principle of *effet utile* under the Vienna Convention — that every treaty must be interpreted so as to give full effect to its object and purpose. To allow a veto to prevent legal clarification of the veto's own legality would be a logical and legal paradox, undermining the Charter's coherence and the integrity of the international legal order.

Restoring the Primacy of Law

Accordingly, both the **General Assembly** and the **Security Council** possess lawful and complementary pathways to seek an advisory opinion from the ICJ. The General Assembly's route is **procedurally certain**; the Security Council's route is **legally defensible** under the Charter and the law of treaties. Either would achieve the same essential aim: to **clarify that the veto cannot lawfully be exercised to obstruct the prevention of genocide or to frustrate the United Nations' purposes**.

Through this process, the Organization would take a vital step toward restoring its credibility — reaffirming that its authority flows not from power, but from the supremacy of international law. The rule of law, not political privilege, must govern even the most powerful

organs of the United Nations. Only by reaffirming that principle can the Organization reclaim its founding purpose: *to save succeeding generations from the scourge of war*.

Conclusion

The credibility of the United Nations stands today at a moment of profound reckoning. The unfolding genocide in Gaza has revealed the fault lines within the international legal order — not in the insufficiency of its norms, but in the failure of its institutions to uphold them. The prohibition of genocide, enshrined in the *Convention on the Prevention and Punishment of the Crime of Genocide (1948)* and recognized as *jus cogens*, binds all states and all organs of the United Nations without exception. Yet, in the face of overwhelming evidence and formal findings by the International Court of Justice, the Organization's principal organ for maintaining peace and security has remained paralyzed by the misuse of the veto.

This paralysis is not an inevitable feature of international politics; it is a **failure of governance** and a **breach of legal trust**. The Security Council's permanent members hold their powers on behalf of the entire membership under Article 24(1) of the Charter. That authority is fiduciary, not proprietary. When the veto is used to shield an ongoing genocide or to obstruct humanitarian protection, it ceases to be an instrument of peacekeeping and becomes an instrument of impunity. Such use is **ultra vires** — beyond the powers conferred by the Charter — and legally inconsistent with both the letter and the spirit of the United Nations.

Ultimately, the United Nations' ability to recover its legitimacy depends upon its willingness to **enforce its own law**. To restore credibility is not merely to issue resolutions or reports; it is to realign the Organization with the principles that justified its creation — peace, justice, equality, and the protection of human life. The genocide in Gaza will define the legacy of this era, not only for the states directly involved, but for the entire international system.

The credibility of the United Nations, and the integrity of international law itself, depend on that choice.

United Nations General Assembly - Draft Resolution

This draft resolution is offered in good faith and out of necessity, recalling principles articulated for centuries in the world's great juristic traditions, which hold that authority must be exercised with sincerity, justice, and reverence for life.

It is offered as a **convenience and resource** to any Member State or group of Member States that may wish to pursue, through the **General Assembly**, a **lawful and constructive pathway** for clarifying the limits of the **veto power** under **Article 27(3)** of the *Charter of the United Nations*, in accordance with the interpretive framework of the **Vienna Convention on the Law of Treaties** and the **Convention on the Prevention and Punishment of the Crime of Genocide (1948)**.

The draft is not prescriptive and carries **no proprietary claim**. It is designed to be **modified, adapted, or expanded** by any State or delegation as it deems appropriate to the exigencies of international peace and the purposes of the United Nations.

It is submitted in the conviction that, where political reform remains unattainable, **lawful interpretation** remains the surest means of restoring the **credibility of the United Nations** and reaffirming the supremacy of **international law over power**.

Request for an advisory opinion of the International Court of Justice on the legal limits of the veto power under Article 27(3) of the Charter of the United Nations

The General Assembly,

Recalling the Purposes and Principles of the United Nations as set forth in the Charter,

Reaffirming that, under Article 24(1) of the Charter, Members confer on the Security Council **primary responsibility** for the maintenance of international peace and security and agree that the Council acts **on their behalf**,

Recognizing that all Members shall fulfill in **good faith** the obligations assumed in accordance with the Charter, pursuant to Article 2(2),

Mindful that under Article 27(3) of the Charter, *a party to a dispute shall abstain from voting* on decisions under Chapter VI and under paragraph 3 of Article 52,

Recalling Article 96(1) of the Charter and Article 65 of the Statute of the International Court of Justice, which authorize the General Assembly to request advisory opinions on any legal question,

Affirming that the **Convention on the Prevention and Punishment of the Crime of Genocide** (1948) (the “Genocide Convention”) codifies an obligation **erga omnes** and **jus cogens** to **prevent and punish** genocide,

Taking note of the International Court of Justice’s jurisprudence, including *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro)* (Judgment of 26 February 2007), which held that the **duty to prevent genocide** arises at the moment a State learns of, or should have learned of, a **serious risk** of genocide,

Recognizing that the **Vienna Convention on the Law of Treaties** (1969) reflects customary international law on treaty interpretation and performance, including the principles of **good faith, object and purpose**, and **effet utile** (Articles 26 and 31–33),

Conscious that the exercise of the veto must be consistent with the Charter’s object and purpose, general international law, and peremptory norms, and that an abuse of right cannot produce lawful effects,

Concerned that the use of the veto to obstruct measures intended to prevent or halt genocide, crimes against humanity, or serious violations of international humanitarian law risks rendering the Council unable to discharge its responsibilities and undermines the Organization's credibility,

Determined to clarify, in law, the **limits** and **legal consequences** of the use of the veto under Article 27(3) in such circumstances,

1. **Decides**, pursuant to Article 96(1) of the Charter of the United Nations and Article 65 of the Statute of the International Court of Justice, to request an **advisory opinion** from the International Court of Justice on the legal questions set out in **Annex A** to the present resolution;
2. **Requests** the Secretary-General to **transmit** the present resolution, together with **Annexes A–C**, to the International Court of Justice forthwith, and to provide to the Court the **factual and legal dossier** listed indicatively in **Annex C**;
3. **Invites** Member States, the Security Council, the Economic and Social Council, the Human Rights Council, the International Criminal Court (within its mandate), and relevant UN organs, agencies and mechanisms to **submit written statements** to the Court on the questions set out in Annex A, and **authorizes** the President of the General Assembly to submit an institutional statement on behalf of the Assembly;
4. **Requests** the International Court of Justice, if practicable, to accord the matter **priority** and to indicate **time limits** for written statements and oral proceedings suitable to the urgency inherent in questions involving **peremptory norms** and the **duty to prevent genocide**;
5. **Calls upon** the Security Council, pending the advisory opinion, to **consider** its practice regarding the veto in light of Articles 1, 2(2), 24, and 27(3) of the Charter, the Genocide Convention, and the Vienna Convention on the Law of Treaties;
6. **Decides** to include in the provisional agenda of its next session an item entitled **"Follow-up to the advisory opinion of the International Court of Justice on the limits of the veto power under Article 27(3) of the Charter,"** and to remain **seized** of the matter.

Annex A — Questions to be put to the International Court of Justice

Question 1 — Treaty Interpretation and Good Faith

1. Do the customary rules of treaty interpretation codified in Articles 31–33 of the Vienna Convention on the Law of Treaties apply to the Charter of the United Nations, and if so, how do **good faith**, **object and purpose**, and **effet utile** inform the interpretation of **Article 27(3)** in relation to **Articles 1, 2(2), and 24** of the Charter?
2. In particular, may the veto be exercised **consistently with the Charter** when its effect is to **frustrate** the Council's primary responsibility to maintain international peace and security and to obstruct measures required by **peremptory norms**?

Question 2 — Party to a Dispute and Abstention

What is the legal meaning of the phrase “**a party to a dispute shall abstain from voting**” in Article 27(3) of the Charter, including:

1. the criteria for determining whether a Council member is a “**party to a dispute**” under Chapter VI; and
2. whether and how **material military, financial, or logistical support** to a belligerent party renders a permanent member a “party to a dispute” obliged to **abstain**?

Question 3 — Jus Cogens and the Duty to Prevent Genocide

1. Do **jus cogens** norms and **erga omnes** obligations, including the **duty to prevent genocide** under Article I of the Genocide Convention and customary international law, **limit** the lawful exercise of the veto?
2. At what point—particularly in light of the ICJ’s jurisprudence on **serious risk**—does a **duty to act** arise for the Security Council and its members such that casting a veto would be **incompatible** with the Charter?

Question 4 — Legal Consequences of an Ultra Vires Veto

1. What are the **legal consequences** within the institutional framework of the United Nations when a veto is cast **in bad faith, contrary to jus cogens, or in violation of Article 27(3)**?
2. In such circumstances, may the Security Council or the United Nations **treat the veto as legally ineffective**, proceed to adopt measures **in substance**, or otherwise **disregard** its effects to the extent necessary to fulfill the Council’s responsibilities under Articles 1 and 24?
3. What are the **obligations** of Member States under Articles 25 and 2(2) of the Charter when faced with a veto alleged to be **ultra vires**?

Question 5 — Relationship with the General Assembly (Uniting for Peace)

What are the **legal implications** for the General Assembly’s powers under Articles 10–14 of the Charter and resolution **A/RES/377(V) (Uniting for Peace)** when a veto is cast in circumstances described in Questions 3 and 4?

Question 6 — Law of Treaties

1. How do Articles **26** (*pacta sunt servanda*) and **27** (internal law not a justification) of the Vienna Convention on the Law of Treaties bear upon a permanent member’s reliance on the veto where such reliance would **prevent performance** of Charter or Genocide Convention obligations?
2. Does an **abuse of rights** doctrine or the principle that **acts ultra vires produce no legal effects** apply to the veto in the UN legal order, and with what consequences?

Annex B — Key Legal Texts

Charter of the United Nations

- **Article 1(1):** “To maintain international peace and security... and to take effective collective measures for the prevention and removal of threats to the peace.”
- **Article 2(2):** “All Members... shall fulfill in good faith the obligations assumed by them in accordance with the present Charter.”
- **Article 24(1):** “In order to ensure prompt and effective action by the United Nations, its Members confer on the Security Council primary responsibility for the maintenance of international peace and security, and agree that in carrying out its duties... the Security Council acts on their behalf.”
- **Article 27(3):** “In decisions under Chapter VI, and under paragraph 3 of Article 52, a party to a dispute shall abstain from voting.”
- **Article 96(1):** “The General Assembly or the Security Council may request the International Court of Justice to give an advisory opinion on any legal question.”

Vienna Convention on the Law of Treaties (1969)

- **Article 26 (Pacta sunt servanda):** “Every treaty in force is binding upon the parties to it and must be performed by them in good faith.”
- **Article 27:** “A party may not invoke the provisions of its internal law as justification for its failure to perform a treaty.”
- **Article 31(1):** “A treaty shall be interpreted in good faith in accordance with the ordinary meaning to be given to the terms of the treaty in their context and in the light of its object and purpose.”
- **Article 31(3)(c):** “There shall be taken into account... any relevant rules of international law applicable in the relations between the parties.”
- **Articles 32–33:** (supplementary means; interpretation of authentic texts)

Convention on the Prevention and Punishment of the Crime of Genocide (1948)

- **Article I:** “The Contracting Parties confirm that genocide... is a crime under international law which they undertake to prevent and to punish.”

International Court of Justice — Bosnia and Herzegovina v. Serbia and Montenegro (Judgment, 26 Feb 2007)

- “A State’s obligation to prevent, and the corresponding duty to act, arise at the instant that the State learns of, or should normally have learned of, the existence of a serious risk that genocide will be committed.”

Annex C — Indicative Dossier for the Secretary-General

To assist the Court, the Secretary-General is requested to compile and transmit a dossier including, inter alia:

1. **UN Charter practice:** Repertory of Practice entries on Articles 24 and 27; historical travaux on Article 27(3); precedents on “party to a dispute” abstentions.
2. **Security Council records:** Draft resolutions and voting records in situations involving mass atrocities; verbatim meeting records noting invocation of Article 27(3) or abstention obligations.

3. **General Assembly materials:** Resolutions under **Uniting for Peace**; relevant advisory-opinion requests and subsequent practice.
4. **ICJ jurisprudence:** *Bosnia v. Serbia* (2007); relevant provisional-measures orders and advisory opinions addressing Charter interpretation, *jus cogens*, *erga omnes*, and institutional powers.
5. **Treaty law:** Vienna Convention travaux préparatoires and ILC commentary on Articles 26–33; UN Secretariat memoranda on the Charter as a treaty.
6. **Atrocity-prevention corpus:** Secretary-General reports; HRC and COI findings; OHCHR and OCHA situation updates; practice on due-diligence obligations to prevent genocide and mass atrocities.
7. **Scholarly and institutional analyses:** Materials from recognized public-international-law authorities on **abuse of rights**, **ultra vires** acts, and the **legal effect** of actions taken in violation of peremptory norms within international organizations.

Explanatory Note (non-operative)

- **Objective:** Clarify the **legal limits** on veto use where **peremptory norms** and **erga omnes** duties are engaged; identify the **legal consequences** of an **ultra vires** veto; and outline the interplay between the Council and the Assembly (including **Uniting for Peace**).
- **Design:** The Questions in Annex A invite the Court to:
 - Apply **VCLT Articles 31–33** to the Charter (interpretation in good faith; object and purpose);
 - Define “**party to a dispute**” and abstention under **Article 27(3)**;
 - Articulate how **jus cogens** (including the **duty to prevent genocide**) conditions the veto;
 - Specify the **legal effect** of a veto cast **in bad faith** or **contrary to peremptory norms**; and
 - Clarify the **Assembly’s role** when the Council is paralyzed.