

CR 2024/11

**International Court
of Justice**

**Cour internationale
de Justice**

THE HAGUE

LA HAYE

YEAR 2024

Public sitting

held on Friday 23 February 2024, at 10 a.m., at the Peace Palace,

President Salam presiding,

***on the Legal Consequences arising from the Policies and Practices of Israel
in the Occupied Palestinian Territory, including East Jerusalem
(Request for advisory opinion submitted by the General Assembly of the United Nations)***

VERBATIM RECORD

ANNÉE 2024

Audience publique

tenue le vendredi 23 février 2024, à 10 heures, au Palais de la Paix,

sous la présidence de M. Salam, président,

***sur les Conséquences juridiques découlant des politiques et pratiques d'Israël
dans le Territoire palestinien occupé, y compris Jérusalem-Est
(Demande d'avis consultatif soumise par l'Assemblée générale des Nations Unies)***

COMPTE RENDU

Present: President Salam
 Vice-President Sebutinde
 Judges Tomka
 Abraham
 Yusuf
 Xue
 Bhandari
 Iwasawa
 Nolte
 Charlesworth
 Brant
 Gómez Robledo
 Cleveland
 Aurescu
 Tladi

Registrar Gautier

Présents : M. Salam, président
M^{me} Sebutinde, vice-présidente
MM. Tomka
Abraham
Yusuf
M^{me} Xue
MM. Bhandari
Iwasawa
Nolte
M^{me} Charlesworth
MM. Brant
Gómez Robledo
M^{me} Cleveland
MM. Aurescu
Tladi, juges

M. Gautier, greffier

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Mr Paulus Namukwambi, Chief Foreign Relations Officer, Ministry of International Relations and Cooperation,

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The Government of the Kingdom of Norway is represented by:

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Mr Ali A. Al Najaar,

Ms Rawan Al Busaidi,

Mr Waleed H. Al Jahawari,

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HE Mr Abdul Kadir Jailani, Director General for Asia-Pacific and African Affairs, Ministry of Foreign Affairs of the Republic of Indonesia,

HE Mr Lalu Muhammad Iqbal, Special Advisor to the Minister for Foreign Affairs on Strengthening Diplomatic Infrastructure, Ministry of Foreign Affairs of the Republic of Indonesia,

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S. Exc. M. Lalu Muhammad Iqbal, conseiller spécial auprès de la ministre des affaires étrangères pour le développement du réseau diplomatique, ministère des affaires étrangères de la République d'Indonésie,

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Ms Alanoud Ahmad Al-Mohammadi, Second Secretary, Embassy of the State of Qatar in the Kingdom of the Netherlands,

Mr Ioannis Konstantinidis, Assistant Professor of International Law, College of Law, Qatar University.

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M^{me} Sara Abdullah Al-Saadi, première secrétaire, ministère des affaires étrangères de l'État du Qatar,

M^{me} Nofe Khalid Al-Suwaidi, première secrétaire, ministère des affaires étrangères de l'État du Qatar,

M. Hassan Ahmad Al-Hammadi, deuxième secrétaire, ambassade de l'État du Qatar au Royaume des Pays-Bas,

M^{me} Alanoud Ahmad Al-Mohammadi, deuxième secrétaire, ambassade de l'État du Qatar au Royaume des Pays-Bas,

M. Ioannis Konstantinidis, professeur adjoint de droit international à la faculté de droit de l'Université du Qatar.

The PRESIDENT: Please be seated. The sitting is open.

La Cour se réunit ce matin pour entendre la Namibie, la Norvège, Oman, le Pakistan, l'Indonésie et le Qatar sur les questions soumises à elle par l'Assemblée générale des Nations Unies relatives aux *Conséquences juridiques découlant des politiques et pratiques d'Israël dans le Territoire palestinien occupé, y compris Jérusalem-Est*. Permettez-moi de rappeler que chaque délégation doit respecter le temps imparti pour sa présentation, qui est de 30 minutes. Ce matin, la Cour observera une brève pause après la présentation d'Oman.

I shall now give the floor to the representative of Namibia, Honourable Ms Yvonne Dausab. You have the floor, Madam.

Ms DAUSAB:

1. Mr President, Madam Vice-President, Members of the Court, it is a special honour to appear before you today on behalf of the Republic of Namibia.

2. With your kind indulgence, I wish to first pay tribute to our late president Dr Hage Geingob, who passed away on 4 February 2024 and will be laid to rest this weekend. President Geingob was a key figure in our struggle for independence. He was a committed anti-apartheid and anti-colonial freedom fighter, who stood up against injustice and oppression wherever it occurred. It is therefore fitting that, in one of his last public statements, he said that “[n]o peace-loving human being can ignore the carnage . . . waged against Palestinians in Gaza”¹.

3. President Geingob was the representative of the South West Africa People's Organisation (SWAPO) and its petitioner to the United Nations from 1964 to 1971. It was during this period that the General Assembly condemned and declared “the policies of *apartheid* and racial discrimination” as a “crime against humanity”². Consequently, the General Assembly also appropriately terminated the Mandate in South West Africa³.

4. Mr President, Members of the Court, I stand before you as a representative of a country where Germany brutally carried out the first genocide of the twentieth century against the Herero and the Nama peoples. A country that has known only too well the pain and suffering of occupation,

¹ Statement by His Excellency Dr Hage G. Geingob, 31 Dec. 2023.

² UNGA res. 2074 (XX), 17 Dec. 1965, UN doc. A/RES/2074, para. 4.

³ UNGA res. 2145 (XXI), 27 Oct. 1966, UN doc. A/RES/2145.

colonialism, systematic discrimination, apartheid, and their entrenched consequences. It is because of this history that Namibia considers it a moral duty and sacred responsibility to appear before this Court on the question of the indefensible occupation of Palestine by Israel.

5. The parallels between Namibia and Palestine are striking and painful. Both were integral parts of the mandate system established after World War I. And in both cases, the so-called “sacred trust of civilisation”⁴, which aimed to guide these nations towards self-determination and independence, was utterly betrayed. Instead of achieving self-government, both Namibians and Palestinians suffered the loss of human dignity, life, liberty and the outright theft of their land and natural resources. Hundreds of thousands of their people were violently expelled from their homes or forced into exile, joining the ranks of the world’s refugees.

6. Upon the dissolution of the League of Nations in 1946, the white minority South African régime refused to place Namibia (then South West Africa) under the United Nations Trusteeship and sought to illegally annex our territory as a fifth province, implementing racist homeland policies and apartheid laws targeting Black Africans⁵.

7. Today, Palestinians have had to endure the seizure of their land and property, illegal settlements, unlawful killings, forced displacement, drastic movement restrictions, the denial of refugees’ right to return and of equal nationality and citizenship. The lived reality of the people of Palestine evokes painful memories for many Namibians of my generation. Namibians still experience the entrenched and structural impact of inequality, as a direct consequence of colonialism and the prolonged unlawful occupation.

8. Mr President, Members of the Court, this Court’s four Advisory Opinions on South West Africa played a vital role in our liberation struggle. In its 1971 Opinion, the Court confirmed the right of self-determination as a legal imperative with decisive consequences for States, paving the way for our independence 19 years later in 1990⁶.

⁴ Covenant of the League of Nations, 1919, Art. 22.

⁵ See e.g. the Group Areas Act 41 of 1950 and the Group Areas Act 36 of 1966; see also United Nations, “Issue on Namibia”, in United Nations Department of Political Affairs, Trusteeship and Decolonization, *Decolonization*, No. 9, Dec. 1977, and Written Statement of Namibia, para. 89 (c).

⁶ See *Namibia* Advisory Opinion, p. 31, para. 53.

9. It is because of Namibia's experience with apartheid and its long fight for self-determination that we cannot look the other way in the face of the brutal atrocities committed against the Palestinian people.

10. Mr President, Members of the Court, we ask you not to look away, either. Rather, we appeal to you: once again, end a historic and ongoing injustice by upholding the fundamental rights of a dispossessed people who have endured 57 years of a suffocating occupation. Today, Palestinians are enduring collective punishment in the besieged Gaza Strip, with civilians being killed in continuous and indiscriminate bombardments at a scale that is unprecedented in recent history. This state of affairs — this “hell on earth”⁷ — represents a stain on the collective conscience of the world.

11. Civilized nations cannot, and must not, accept images of children covered in blood with gaping wounds; of men and women crying in despair because of the helplessness they feel.

12. However, in the midst of the ongoing tragedy, I wish to say the following to the people of Palestine: this advisory opinion is an important moment in your long fight for independence. And I leave you with the words of our Founding President and Father of the Namibian Nation, Dr Sam Nujoma: “a people united, striving to achieve a common good for all members of society will always emerge victorious.”⁸

13. Mr President, Members of the Court, I thank you, and I now respectfully ask that Professor Phoebe Okowa be called to address the legal questions before the Court.

The PRESIDENT: I thank Ms Dausab. I now give the floor to Professor Phoebe Okowa. You have the floor, Professor.

Ms OKOWA:

I. INTRODUCTION

1. Mr President, Madam Vice-President, Members of the Court, it is a great honour for me to appear before you in these proceedings, and a special privilege to do so on behalf of the Republic of Namibia. Our presentation is in three parts.

⁷ See United Nations, “Gaza Children Living in ‘Hell on Earth’ Secretary-General Tells General Assembly, as Calls for End to Violence Crescendo, News of Israel-Hamas Ceasefire Breaks”, meetings coverage 20 May 2021 (GA/12325).

⁸ Statement by Dr Sam Nujoma before the United Nations General Assembly, 59th Session, 22 Sept. 2004.

2. *First*, I will make two general observations on why the Court should answer the request in its entirety, and why Israel's occupation is illegal.

3. *Then*, I will focus on Israel's policies and practices in the Occupied Palestinian Territory that grossly violate its obligations under international law, specifically the prohibition of apartheid and racial discrimination, and the principle of self-determination.

4. *Finally*, I will address the legal consequences that arise for Israel, for third States and for the United Nations on account of these violations.

A. The Court can and should answer the request in its entirety

5. As a threshold matter, Namibia reiterates, as do the overwhelming majority of States in these proceedings, that the Court has jurisdiction to render the requested advisory opinion, and that there are no compelling reasons for the Court to decline the request.

B. Israel's occupation is illegal under international law

6. Namibia notes that there is also wide consensus among the participants on "the legal status of the occupation". Namibia makes only four brief observations.

7. *First*, in so far as the law of occupation envisages any belligerent occupation as a temporary measure, immediately following military operations⁹, Israel's prolonged — or permanent — occupation breaches the law of occupation. It is a *de facto* annexation in all but name.

8. *Second*, Israel's occupation, in and of itself, is unlawful under general international law. This is because it violates the Charter of the United Nations and peremptory norms; specifically, the prohibition on territorial acquisitions through illegal use of force, the principle of self-determination, and the prohibition of apartheid¹⁰.

9. *Third*, successive resolutions of the Security Council and the General Assembly have declared Israel's occupation to be illegal and called on Israel to end it *immediately*¹¹. These resolutions provide an independent source of authority for the illegality of the occupation.

⁹ See Fourth Geneva Convention, 12 Aug. 1949, Arts. 6 (3) and 47.

¹⁰ *Wall* Advisory Opinion, p. 171, para. 87; *Namibia* Advisory Opinion, p. 57, para. 131.

¹¹ See e.g. UNSC res. 242 (1967) on a peaceful and accepted settlement of the Middle East situation, 22 Nov. 1967, UN doc. S/RES/242; UNSC res. 471 (1980) on assassination attempts against the Mayors of Nablus, Ramallah and Al Birah, 5 June 1980, UN doc. S/RES/471; UNSC res. 476 (1980) on the status of Jerusalem, 30 June 1980, UN doc. S/RES/476; UNSC res. 478 (1980) on the status of Jerusalem, 20 Aug. 1980, UN doc. S/RES/478.

10. *Finally*, the continuation of the illegal occupation does not absolve Israel of its obligations and responsibilities under international law. This is consistent with your own conclusions in the *Namibia* Advisory Opinion that “[p]hysical control of a territory, and not sovereignty or legitimacy of title, is the basis of State liability for acts affecting other States”¹².

II. ISRAEL’S POLICIES AND PRACTICES IN THE OCCUPIED PALESTINIAN TERRITORY VIOLATE THE PROHIBITION OF APARTHEID AND THE PRINCIPLE OF SELF-DETERMINATION

A. Israel is bound by the prohibition of apartheid under international law

11. In both its written and oral submissions, Namibia focuses on the prohibition of apartheid and of racial discrimination. This is, in part, on account of Namibia’s history, as one of the few countries that were subjected to this egregious form of systematic and institutionalized racial discrimination.

12. We also do so on account of the fundamental importance of the Court’s 1971 *Namibia* Opinion, where this Court declared that the policies of apartheid “constitute a denial of fundamental human rights” and are “a flagrant violation of the purposes and principles of the [United Nations] Charter”¹³.

13. But above all, we do this because, notwithstanding the egregious nature of apartheid — as a State delict, as a violation of a peremptory norm and as a crime — it has received virtually no clarification beyond the specific circumstances of southern Africa. An advisory opinion on threshold questions of apartheid will therefore assist the General Assembly in respect of its own action, in identifying the key elements of the illegality and in formulating appropriate responses to Israel’s discriminatory practices in the Occupied Palestinian Territory¹⁴.

14. Specifically, we invite the Court to clarify three aspects of the obligation.

15. *First*, we respectfully ask the Court to make it clear that the prohibition of apartheid is not limited to southern Africa in the last century. It extends to Israel’s policies in the Occupied Palestinian Territory today. Article 3 of CERD places all States parties, including Israel, under an obligation to prevent, prohibit and eradicate apartheid “in territories under their jurisdiction”. This is

¹² *Namibia* Advisory Opinion, p. 54, para. 118.

¹³ *Namibia* Advisory Opinion, p. 57, para. 131.

¹⁴ See Written Statement of Namibia, para. 7 (a)-(b).

also the conclusion of the CERD Committee¹⁵. The 1998 Rome Statute of the International Criminal Court, negotiated after the end of apartheid in South Africa, also recognized apartheid as a crime against humanity without temporal or geographical restriction¹⁶.

16. *Second*, the Court should also confirm that the prohibition of apartheid binds *all States* as a peremptory norm. In your decision in the case under CERD brought by Qatar against United Arab Emirates, you acknowledged the “universal character [of CERD] is confirmed by the fact that 182 States are parties to it”¹⁷. The International Law Commission and its Special Rapporteur on *jus cogens* (as Judge Tladi then was) have also expressly recognized the peremptory character of the prohibition of apartheid¹⁸.

17. *Finally*, Namibia invites the Court to clarify the definition of apartheid. Namibia aligns itself with other participants¹⁹ that the definition in Article 2 of the Apartheid Convention incorporates the three key elements of the delict under international law²⁰.

18. *First*, the State must engage in one or more “inhuman acts”. Crucially, these take the form of violations of fundamental human rights within an institutionalized framework of systematic oppression and domination.

19. *Second*, these inhuman acts must be directed against a “racial group” or its members.

20. *Finally*, the State must commit these inhuman acts “for the purpose of establishing and maintaining domination” by one racial group over the other and “systematically oppressing them”.

B. Israel’s policies and practices constitute apartheid

21. Other participants have already made extensive statements on the discriminatory and *inhuman acts* carried out against the Palestinians as a *racial group*²¹. These policies and practices are

¹⁵ UN CERD Committee, 2020 Concluding Observations on Israel, para. 23.

¹⁶ See Rome Statute of the International Criminal Court, Art. 7 (2) (h).

¹⁷ *Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Qatar v. United Arab Emirates), Preliminary Objections, Judgment, I.C.J. Reports 2021*, p. 99, para. 87.

¹⁸ United Nations International Law Commission, Fourth Report on Peremptory Norms of General International Law (*Jus Cogens*) by Dire Tladi, Special Rapporteur, 31 Jan. 2019, UN doc. A/CN.4/727, paras. 94, 137.

¹⁹ See e.g. CR 2024/6, p. 13, para. 4 (Webb).

²⁰ UNGA res. 3068 (XXVII), International Convention on the Suppression and Punishment of the Crime of Apartheid, 30 Nov. 1973, UN doc. A/RES/3068 (XXVIII).

²¹ See e.g. CR 2024/6, pp. 14-15, paras. 6-11 (Webb); CR 2024/4, pp. 51-55 (Malki), pp. 80-85 (Negm); CR 2024/5, pp. 10-14 (Madonsela), pp. 18-20 (Stemmet).

too many to enumerate in the time available. They include laws that discriminate in matters of citizenship, ownership and transfer of property, and freedom of movement. The systematic and excessive use of force against Palestinian civilians, the arbitrary killings and mass incarceration of Palestinians, including children; the illegal settlements; the discriminatory residency regulations²²; and, crucially, the denial of a Palestinian identity by refusing to recognize them as a people with a right to determine their own political destiny and to pursue social, economic and cultural development²³.

22. Namibia's submission will focus on the final requirement: the purpose of establishing, maintaining domination and systematic oppression. *First*, the term "domination" signifies a pervasive, all-encompassing, serious form of control over a group. *Second*, "oppression" implies prolonged cruelty, reflecting a sustained violation of human rights. *Third*, "systematic" implies the organized nature of violent acts and the improbability of their random occurrence.

23. Namibia shares the view of other participants that Israel's policies and practices meet the evidentiary standard for establishing the State delict of apartheid. The Israeli Government's openly articulated aim is to ensure Jewish Israeli control of all facets of Palestinian life, as evidenced by legislation affirming Israel as the nation State of the Jewish people, with unique self-determination rights reserved for Jewish individuals only²⁴.

24. It is clear from all the available evidence that these discriminatory practices are not accidental or fortuitous but are designed for the specific purpose of privileging Jewish Israelis over Palestinians. The fact that the practices in question may have other collateral objectives, such as maintaining security, is irrelevant. It will suffice if the primary motive is discriminatory, even if it also serves ancillary purposes.

C. Israel's apartheid practices violate the Palestinian people's right to self-determination

25. It follows in Namibia's submission that Israel's policies and practices are inconsistent with the prohibition of apartheid as a State delict under international law. Furthermore, these

²² See also Written Statement of Belize, para. 56; Written Statement of South Africa, paras. 112, 115.

²³ See also Written Statement of Belize, para. 23; Written Statement of South Africa, para. 132.

²⁴ Basic Law: Israel – The Nation State of the Jewish People, 19 July 2018.

discriminatory practices, in the context of prolonged occupation of the Palestinian territories, violate the right of the Palestinian people to self-determination.

26. As other Participants have highlighted, these discriminatory policies and practices are directed at fragmenting the Palestinian people²⁵. These elaborate systems of administrative controls undermine group cohesiveness by dividing the Palestinian people into a number of administrative “domains” or groups, with varying degrees of rights. This *strategic* fragmentation of the Occupied Palestinian Territory into Bantustans²⁶ makes Palestinian life burdensome and in many cases unbearable, forcing them to leave their homes²⁷.

27. Perhaps the epitome of discriminatory laws negating the Palestinian right of self-determination is the 2018 Basic Law, passed with constitutional status, which boldly declares that Israel is the nation of the Jewish people and that Jewish settlement is a national value²⁸.

III. LEGAL CONSEQUENCES OF ISRAEL’S VIOLATIONS OF ITS OBLIGATIONS UNDER INTERNATIONAL LAW

28. I will now turn to the final part of my submission. I will *first* examine the legal consequences of Israel’s violations, irrespective of the status of the occupation. *Second*, I will examine the legal consequences arising out of the *illegal* status of the occupation.

A. Legal consequences of Israel’s violations of its obligations under international law

29. *First*, Israel must bear consequences for its violations. This is the most elementary requirement of the law on State responsibility. As others in these proceedings have highlighted, this includes the obligations of cessation and the duty to make reparation for more than five decades of harms inflicted on the Palestinian people.

30. The Government of Israel has a legal duty to dismantle all the vestiges of systematic racial discrimination and oppression that permeates all aspects of Palestinian life in the occupied territories.

²⁵ See e.g. CR 2024/5, p. 14, paras. 15-16 and 18 (Madonsela); CR 2024/6, p. 14, para. 7 (Webb).

²⁶ See e.g. CR 2024/4, p. 53, para. 12 (Malki). See also United Nations, OHCHR, “Israeli annexation of parts of the Palestinian West Bank would break international law – UN experts call on the international community to ensure accountability”, 16 June 2020.

²⁷ See also Written Statement of South Africa, para. 115.

²⁸ Basic Law: Israel – The Nation-State of the Jewish People, 19 July 2018.

31. As the State of Palestine itself said on Monday, Israel must bring to an end the annexation of Palestinian land, dismantle existing settlements and recognize the right of the Palestinian people to self-determination in a viable State of their own.

32. *Second*, States are under an obligation not to recognize Israel's breaches of peremptory norms of general international law vis-à-vis the Palestinian people²⁹. At the same time, the obligation of *non*-recognition is matched by a parallel and positive duty of *recognition* — of the Palestinian people's right to self-determination realized through a viable and independent State of Palestine³⁰.

33. Here we ask the Court to pay particular attention to the historical context of these proceedings. Admission to the United Nations, unlike the League of Nations, was not automatic. It was conditioned on the State accepting to uphold the values and principles contained in the Charter, including self-determination. The admission of Israel was no exception.

34. In the *Wall* Opinion, you observed that when Israel proclaimed its independence, it did so “on the strength of”³¹ the partition plan resolution of the General Assembly³². As is well known, that plan envisaged two States, one Arab and one Jewish. The Israeli Declaration of Independence makes this plain, by recognizing “the natural right of the Jewish people to be masters of their own fate, like all other nations, in their own sovereign State”³³. If that logic applied to the self-determination and statehood of the Jewish people, it must by the same token also apply to the self-determination and statehood of the Palestinian people.

35. We further ask the Court to consider whether there may be circumstances where political discretion in matters of recognition gives way to a positive duty of recognition, especially when it is necessary to safeguard a peremptory norm. And here, Namibia aligns itself with Jordan's Written Submission that all States are also under an obligation to recognize the right of the Palestinian people to self-determination, including by exercising that right within a viable and independent State of Palestine.

²⁹ See UN International Law Commission, *Responsibility of States for Internationally Wrongful Acts*, Report of the International Law Commission on the work of its fifty-third session (23 April-1 June and 2 July-10 August 2001), UN doc. A/56/10, arts. 40-42.

³⁰ See Written Statement of Jordan, p. 110; Written Comments of Jordan, p. 38.

³¹ *Wall* Advisory Opinion, p. 166, para. 71.

³² UNGA res. 181 (II) on the future government of Palestine, 29 Nov. 1947, UN doc. A/RES/181 (II).

³³ Declaration of the Establishment of the State of Israel, 14 May 1948.

B. Legal consequences of Israel's illegal occupation

36. Since Israel's policies and practices violate peremptory norms of international law, the occupation itself is unlawful. This entails consequences for Israel, for third States and, for the United Nations.

37. In the *Namibia* Opinion, you already set out the legal consequences of unlawful occupation. There, you said that, once the Court is faced with an illegal situation, "it would be failing in the discharge of its judicial functions if it did not declare that there is an obligation, especially upon Members of the United Nations, to bring that situation to an end."³⁴

38. In that Opinion, you recognized the clear obligation on South Africa to put an end to the illegal occupation and withdraw its administration from the territory³⁵. The same consequences must of necessity attach to the illegal occupation by Israel of the Palestinian territories.

39. Cessation cannot be contingent on external factors such as the successful outcome of negotiations, as pointed out by some participants in these proceedings. A withdrawal contingent on the outcome of political negotiations effectively gives Israel a veto over the future of the Palestinian people.

40. Namibia invites the Court to set a strict time-limit within which Israel must be asked by the General Assembly to bring the occupation to an end, without conditions. Failure to set a strict time-limit has the perverse effect of being treated as acquiescence in the present occupation, and permission for it to continue indefinitely.

41. Of course, Israel has defied this Court and ultimatums issued by the United Nations organs many times. But it is precisely for this kind of egregious violations of peremptory norms that a régime of countermeasures was contemplated in the now widely accepted International Law Commission's draft Articles on State Responsibility³⁶. Equality before the law is a cardinal principle of the Charter of the United Nations. No State — not Israel — should be exempt from the comprehensive régime of sanctions.

³⁴ *Namibia* Advisory Opinion, p. 54, para. 117.

³⁵ *Namibia* Advisory Opinion, p. 54, para. 118.

³⁶ ILC, *Responsibility of States for Internationally Wrongful Acts*, Report of the International Law Commission on the work of its fifty-third session (23 April-1 June and 2 July-10 August 2001), UN Doc. A/56/10, Arts. 41, 42 and 48.

42. Moreover, Namibia reaffirms the position held by the majority of participants that all States are under an obligation not to recognize, assist, support, or contribute to the continuation of the unlawful occupation³⁷. This is also in line with your own settled jurisprudence.

43. In the *Wall* Opinion, you confirmed that the obligations of third States include the “obligation not to render aid or assistance in maintaining the [illegal] situation”³⁸. That all States must refrain from all forms of assistance, including transfer of arms, and political support that *de facto* perpetuates the occupation³⁹.

44. In Namibia’s view, this means, in particular, that all States are under an obligation to ensure that companies under their jurisdiction or control do not trade in Israeli goods or with Israeli companies originating from or linked to Israel’s illegal occupation.

45. Mr President, Members of the Court, I thank you for your kind attention. This concludes Namibia’s oral submissions. Thank you.

The PRESIDENT: I thank the delegation of Namibia for its presentation. I invite the next participating delegation, Norway, to address the Court and call Mr Kristian Jervell to the podium.

Mr JERVELL:

**ISRAEL’S OCCUPATION OF THE OCCUPIED PALESTINIAN TERRITORY
AND THE QUESTION OF *DE FACTO* ANNEXATION**

PART I

I. Introduction

1. Mr President, distinguished Members of the Court, I have the honour to appear before you on behalf of the Government of Norway in the present proceedings.

2. Israel’s occupation of Palestinian Territory has continued since 1967. Recent developments give rise to the utmost concern. They include ongoing indiscriminate and disproportionate use of force and other measures in the Gaza Strip, as well as illegal settlements in the West Bank, including

³⁷ See also *ibid.*, Arts. 40-42.

³⁸ *Wall* Advisory Opinion, p. 200, para. 159.

³⁹ See *Namibia* Advisory Opinion, pp. 54-56, paras. 119-124.

East Jerusalem. House evictions, demolitions, forced displacement and settler violence against the Palestinian population are aspects of the Israeli occupation.

3. Such acts run counter to fundamental human rights, international humanitarian law and the right to self-determination of the Palestinian people. They threaten the foundations under international law for the vision of a region where two States, Israel and Palestine, live side by side within secure and recognized borders. Against this background, an advisory opinion will provide essential and timely guidance to the international community.

4. The atrocities committed by Hamas and directed from the Gaza Strip on 7 October 2023 constituted heinous and massive terrorist attacks. Repeated rocket attacks launched from Hamas and other groups in Gaza against Israel constitute violations of international humanitarian law, due to their obvious indiscriminate nature. Individuals responsible for atrocities and other crimes must be held accountable. Those constituting real and imminent threats to the Israeli population and territory expose themselves as lawful military targets, within the constraints of international law.

5. This does not, however, justify any breaches of international humanitarian law, including by inciting or taking measures directed against the civilian population. Norway takes due note of the provisional measures indicated by this Court on 26 January this year.

6. Mr President, the Israeli settlements in the West Bank and East Jerusalem constitute a chief obstacle to any prospect of settlement and peace in the area. In its Advisory Opinion of 2004 on the legality of the construction of a wall, this Court stated that “the Israeli settlements in the Occupied Palestinian Territory (including East Jerusalem) have been established in breach of international law”⁴⁰. The Security Council has in numerous resolutions, including 2334 of 2016, restated its determination that the settlements constitute “a flagrant violation of international law”⁴¹ and stressed the need to reverse the negative trends on the ground, which are steadily eroding the two-State solution and entrenching a one-State reality.

7. Against this background, I will first address administration and annexation of territory under occupation. I will then ask whether Israel’s continued occupation may still be seen as temporary administration of territory in accordance with international law on military occupation or whether

⁴⁰ *Wall* Advisory Opinion, p. 184, para. 120.

⁴¹ UNSC res. 2334 (2016), para. 1.

the Occupied Palestinian Territory is gradually being subject to illegal annexation. Drawing on the Court's Advisory Opinion in *Namibia*, I will pose the question whether Israel must end its occupation of the territory. Ambassador Fife will thereafter address specific elements which are part of the legal framework applicable, under international law, to the Occupied Palestinian Territory.

II. The notion of “the Palestinian territory occupied since 1967”

8. At the outset, we recall that the definition of “occupied territory” in Article 42 of the 1907 Hague Regulations relies on a factual assessment. A territory is considered occupied when it is “actually placed under the authority” of the hostile army. This triggers key legal rules, in particular out of humanitarian considerations, notably pursuant to the Fourth Geneva Convention.

9. The factual assessment made by this Court at the time of the *Wall* Opinion remains, in our view, entirely true today: both the Gaza Strip and the West Bank are integral parts of the territory occupied by Israel in 1967, irrespective of the Israeli military withdrawal from Gaza in 2005. The Security Council recently stressed in its resolution 2720 of 2023 “that the Gaza Strip constitutes an integral part of the territory occupied in 1967” and reiterated “the vision of the two-State solution, with the Gaza Strip as part of the Palestinian State”, echoing its resolution 1860 of 2009.

III. Legal consequences arising from the prolonged Israeli occupation

10. The protection given to the civilian population by the laws of occupation continue to apply. This does, however, not impede a consideration of the legality of the occupation as such. The occupation has now lasted for more than half a century. While international law does not set any specific time limit, military occupation is, in essence, *temporary*⁴². This is evident from provisions such as Articles 6 (3) and 47 of the Fourth Geneva Convention and was recalled by the General Assembly in its resolution 77/126 in 2022, emphasizing “that the occupation of a territory is to be a temporary, *de facto* situation, whereby the occupying Power can neither claim possession nor exert its sovereignty over the territory it occupies”. Recognized authorities have reminded us that “the law

⁴² C. Rousseau, *Le droit des conflits armés* (Pedone 1983), p. 134; E. Liebich & E. Benvenisti, *Occupation in International Law* (OUP 2022), p. 110.

on belligerent occupation is based on the assumption that occupation of foreign territory, being an extraordinary measure, may be justified for a limited time only”⁴³.

11. A military occupation cannot be permanent. If an occupation is allowed to be indefinite, then the distinction, under *jus ad bellum*, between occupation and annexation dissolves. Furthermore, risks are patent with regard to “deportations, transfers and evacuations” in breach of Article 49 of the Fourth Geneva Convention. Both this Court and the Security Council have found Israel to have violated this provision. Such developments give reason to ask whether the situation is turning into a *de facto* annexation.

IV. The legal consequences arising from the prolonged occupation with regard to the principle of self-determination of peoples

12. I now turn to the possible legal consequences arising from such prolonged occupation with regard to the Palestinian people’s right to self-determination.

13. In its Advisory Opinion on the *Wall*, the Court noted that

“the principle of self-determination of peoples has been enshrined in the United Nations Charter and reaffirmed by the General Assembly in resolution 2625 (XXV) . . . , pursuant to which ‘Every State has the duty to refrain from any forcible action which deprives peoples referred to . . . of their right to self-determination’”⁴⁴.

The Court notes in paragraph 149 that Israel is bound to comply with its obligation to respect the right of the Palestinian people to self-determination.

14. It added that there was a risk of further alterations to the demographic composition of the territory, contributing to the departure of Palestinian populations from certain areas. On this basis, the Court concluded that the construction of the wall, along with measures taken previously, severely impeded the exercise by the Palestinian people to its right to self-determination and is therefore a breach of Israel’s obligation to respect that right.

15. In its 2019 Advisory Opinion on *Chagos*⁴⁵, paragraph 160, the Court emphasized the customary law character of the right to territorial integrity of a non-self-governing territory as a corollary of the right to self-determination. It follows that any detachment by the administering

⁴³ H. P. Gasser, *Notes on the Law on Belligerent Occupations* (2006), 45 Military Law and Law of War Review, pp. 231-232.

⁴⁴ *Wall* Advisory Opinion, pp. 171-172, para. 88.

⁴⁵ *Chagos* Advisory Opinion, p. 134, para. 60.

Power of part of a non-self-governing territory, unless based on the freely expressed and genuine will of the people of that territory, is contrary to the right to self-determination.

16. Norway believes that permanent or irreversible measures taken by Israel on Occupied Palestinian Territory would likewise be contrary to the Palestinian people's right to self-determination.

V. Annexation in international law

17. I turn now to annexation. Annexation is a unilateral act by which a State incorporates into its territory all or part of the territory of another. As a concomitant of the prohibition on the threat or use of force in Article 2 (4) of the United Nations Charter, annexation is prohibited under customary international law.

18. This prohibition is reflected in Security Council resolution 242 of 1967, referring to the “inadmissibility of the acquisition of territory by war”, repeated in its resolution 298 of 1971. It is on this basis that the Security Council in its resolution 469 of 1980 declared Israel's *de jure* annexation of East Jerusalem to be “invalid”.

19. What form annexation takes is irrelevant. To quote the Court: “With regard to the question of form, it should be observed that this is not a domain in which international law imposes any special or strict requirements”. This is why it must be reiterated that annexation under any form — whether *de jure* or *de facto* — is illegal under international law. The formal characterization is immaterial.

VI. Must indefinite occupation be seen as tantamount to *de facto* annexation?

20. Nevertheless, there are grounds for asking whether Israel's occupation may be seen as tantamount to *de facto* annexation, as the Court did in the *Wall* Opinion:

“the construction of the wall and its associated régime create a ‘fait accompli’ on the ground that could well become permanent, in which case, and *notwithstanding the formal characterization of the wall by Israel, it would be tantamount to de facto annexation*”⁴⁶.

21. In its September 2022 report, the Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, held that

⁴⁶ *Wall* Advisory Opinion, p. 184, para. 121, emphasis added.

“Israel treats the occupation as permanent and has — for all intents and purposes — annexed parts of the West Bank, while seeking to hide behind a fiction of temporariness. Actions by Israel constituting *de facto* annexation include expropriating land and natural resources, establishing settlements and outposts, maintaining a restrictive and discriminatory planning and building regime for Palestinians and extending Israeli law extraterritorially to Israeli settlers in the West Bank.”⁴⁷

22. The Commission considered the situation tantamount to a *de facto* annexation, as alluded to by the Court⁴⁸.

23. The Court may wish to consider the following aspects when determining whether Israel’s occupation may be tantamount to *de facto* annexation.

24. *First*, the establishment of settlements in the Occupied Palestinian Territory represents a transfer, over decades, of parts of the occupying Power’s own civilian population into the territory it occupies, in breach of Article 49 (6) of the Fourth Geneva Convention. The Security Council has repeatedly, including in resolution 2334 (2016), condemned all measures aimed at altering the demographic composition, character and status of the territory occupied since 1967.

25. *Second*, it could be asked whether the duration of the occupation, which has now lasted for more than half a century, in itself renders the occupation tantamount to *de facto* annexation.

26. *Third*, there are grounds for serious concerns regarding announced plans for further expansion of Israeli settlements in the West Bank, including East Jerusalem.

27. *Fourth*, Israel has appropriated natural resources of the West Bank, including water resources, and seized control of the physical infrastructure in order to bind the area closer to itself and, it seems, to render irreversible its presence in the territory⁴⁹. Of particular concern are the repeated demolitions of the local Palestinian Bedouin communities and plans for infrastructure constructions that will isolate Bethlehem and the southern West Bank from East Jerusalem.

28. *Fifth*, political leaders in Israel have stated that Israel’s aim is a *de facto* annexation of the territory. In 2019, Prime Minister Benjamin Netanyahu declared that Israel would “continue to build and develop” the West Bank; he said that “not one resident or community will be uprooted in a political agreement”; and “Israeli military and security forces will continue to rule the entire

⁴⁷ Report of the Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel, 14 Sept. 2022, UN doc. A/77/328, para. 76.

⁴⁸ *Ibid.*

⁴⁹ ECOSOC res. 2022/22, 22 July 2022 (referred to in Written Statement of Jordan, Part One, para. 4.22); Report of the Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel, 14 Sept. 2022, UN doc. A/77/328, para. 77.

territory”⁵⁰. He later pledged that his Government would be “applying Israeli sovereignty over all the communities” to which Israeli settlers had been transferred⁵¹.

29. Norway looks forward to the determination by the Court whether the occupation may have become tantamount to *de facto* annexation. Moreover, statements legitimizing extension of settlements may constitute direct and public incitements to commit further serious violations of international law. The State of Israel must take all measures within its power to prevent and punish such incitements. Norway believes that it would be useful to clearly set out the illegality of any measures tantamount to *de facto* annexation and underline the clear, continued legal obligations of the occupying Power as regards protected persons in the territory occupied since 1967.

VII. Possible legal consequences of a *de facto* annexation for Israel, the occupying Power

30. In the case that the Court reaches the conclusion that the situation in the occupied Palestinian territories must be seen as tantamount to *de facto* annexation, the next question is what would be the legal consequences for Israel.

31. In the 1971 *Namibia* Opinion⁵², this Court referred to an obligation on the part of the occupant to withdraw its administration of the territory immediately or as rapidly as possible. Analogous conclusions were drawn by the Court in the *Chagos* Opinion. Furthermore, the Security Council in resolution 476 (1980) “reaffirmed the overriding necessity for ending the prolonged occupation”.

32. Mr President, in the *Namibia* Opinion the Court was mindful of the fundamental consideration that it should not make any determination that would result in *adversely affecting the population of the territory in question*⁵³. This principle is codified in Article 47 of the Fourth Geneva Convention, as a cardinal safeguard.

⁵⁰ “At West Bank Event, Netanyahu Promises No More Settlers, Arabs Will Be Evicted”, *Haaretz*, 10 July 2019.

⁵¹ Israel Prime Minister’s Office, “Cabinet Approves PM Netanyahu’s Proposal to Establish the Community of Mevo’ot Yeriho & PM’s Remarks at the Start of the Cabinet Meeting”, 15 Sept. 2019.

⁵² *Namibia* Advisory Opinion

⁵³ *Namibia* Advisory Opinion, para. 122.

33. The provision clearly expresses the general principle that the Fourth Geneva Convention protects civilians “regardless of the status” of the territory in question⁵⁴. Moreover, the formal characterization of occupied territory cannot relieve the occupying Power of the obligation it owes to the population of that territory.

34. Clear legal obligations incumbent on Israel include access of humanitarian actors to the Occupied Palestinian Territory, including the Gaza Strip. In resolution 2720 (2023), the Security Council *reiterated* its demand that all parties to the conflict, including Israel, comply with their obligations including with regard to humanitarian access and the protection of humanitarian personnel and their freedom of movement⁵⁵.

35. I thank you for your attention. I will now ask Ambassador Rolf Einar Fife to come to the podium.

The PRESIDENT: I thank Mr Jervell. I now give the floor to Mr Fife. You have the floor, Sir.

Mr FIFE:

PART II

VIII. Certain issues related to the legal basis for the two-State solution

1. Mr President, distinguished Members of the Court, it is an honour for me to again appear before this Court on behalf of the Kingdom of Norway.

2. For completeness, I will now address certain elements which Norway considers to be part of the legal framework applicable to the Occupied Palestinian Territory. They constitute, in our views, solid foundations under international law for the “two-State solution”, to which Norway is fully committed.

⁵⁴ *Wall* Advisory Opinion, para. 95.

⁵⁵ UNSC res. 2720 (2023), para. 1.

3. Mr President, I would like to start by noting the statement before this Court on 12 January by the Co-Agent of Israel in a contentious case, when he recalled “the commitments made at the time the State was established, as reflected in our Declaration of Independence”⁵⁶

4. This reminder of “the commitments” made in the Declaration of Independence of the State of Israel of 14 May 1948 is indeed important.

5. The Declaration is the key constitutive document for the establishment of the State of Israel. It is based on “the strength of” resolution 181 (II) of 1947 of the United Nations General Assembly, concerning “the Plan of Partition with Economic Union”⁵⁷. It is indeed rare to find similar constitutional documents that are explicitly based on a specific United Nations resolution, as was done here. The Declaration added that the State of Israel was “prepared to cooperate with the agencies and representatives of the United Nations in implementing the resolution”⁵⁸.

6. Furthermore, the resolution was considered in the Declaration to constitute an “irrevocable” recognition by the United Nations of the right to establish a State. This ought to imply that the same applies to the Palestinian side.

7. An international legal framework has since been built — in a figurative sense, brick by brick — under the auspices of the United Nations with a view to achieving a two-State solution. And a point of departure here are “the commitments” made at the time the State of Israel was established — and their subsequent legal relevance.

8. On 15 May 1948, the Foreign Minister of the Provisional Government of Israel, Mr Moshe Sharett⁵⁹, transmitted the contents of the Declaration of Independence to the Secretary-General of the United Nations, Mr Trygve Lie⁶⁰.

9. On the day independence was declared, Arab neighbouring States attacked Israel. On 16 November that year, the Security Council demanded in resolution 62 the establishment of an armistice “in all sectors of Palestine”. The armistice demarcation lines later established, and since

⁵⁶ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)*, CR 2024/2, p. 72, para. 9 (Noam).

⁵⁷ Declaration of Independence, Provisional Government of Israel, Official Gazette: Number 1; Tel Aviv, 5 Iyar 5708 (14 May 1948), p. 1, English translation available on the Knesset website kneset.gov.il.

⁵⁸ *Ibid.*

⁵⁹ At the time known as and referred to as Foreign Secretary Moshe Shertok, see next note.

⁶⁰ *Official Records of the Security Council, Third Year, Suppl. for May 1948*, p. 88.

referred to as “the Green Line”, were without prejudice to future territorial settlements or boundary lines.

10. On 29 November that same year, Foreign Minister Sharett sent a formal application for membership to the United Nations to the Secretary-General. The letter stated that independence had been proclaimed “in pursuance of” resolution 181 of the General Assembly. It added that Israel “unreservedly accepts the obligations of the United Nations Charter and undertakes to honour them from the day when it becomes a Member of the United Nations”⁶¹.

11. Mr President, the subsequent decision-making process concerning United Nations membership in accordance with Article 4 of the Charter is significant.

12. Pursuant to Article 22 of the Covenant for the League of Nations and the adoption of a class A mandate, Palestine had been provisionally recognized in 1922 as “an independent nation”, subject to the rendering of administrative advice and assistance by a mandate until such time as it was able to stand alone. By virtue of Article 80 of the Charter, rights of self-determination were not altered in 1945, they were continued. The announced notice of termination of the Palestine mandate by the United Kingdom in 1947 provided the background for the adoption of resolution 181 already referred to.

13. Norway voted in favour of that resolution. The two-State solution formed the context of the vote on admission of Israel to United Nations membership. On 4 March 1949, as a Member of the Security Council, Norway voted in favour of such admission, stating, in its explanation of vote, that it was “confident that Israel will cooperate fully and loyally with all decisions by organs of the United Nations”. Subsequently, on 11 May that same year, Norway also voted in favour of resolution 273 on admission to the General Assembly.

14. This decisive resolution referred to resolution 181 of 1947, but also to “the declarations and explanations made by the representatives of the Government of Israel before the Ad Hoc Political Committee in respect to the implementation of the said resolutions”⁶².

⁶¹ UNSC, doc. S/1093, NL481093.pdf (un.org).

⁶² UNGA res. 273 (III), 11 May 1949, preamble.

15. Indeed, from 5 to 9 May 1949, Israel's representative in that Committee, Mr Abba Eban, had fielded questions from Member States⁶³. His assurances became an integral part of assessments made by the relevant United Nations organs as regards membership.

16. For instance, on 5 May 1949, Mr Eban recalled that resolution 181 recommended that “when either State envisaged by that Resolution had made its independence effective”, sympathetic consideration should be given to membership to the United Nations⁶⁴. He added that “[t]he time had come for the United Nations, if it wished Israel to bear the heavy burden of Charter obligations, to confer upon Israel the protection and status of the Charter”⁶⁵.

17. After the decisive vote in the General Assembly, Foreign Minister Sharett stated that the aftermath of the war had “changed some elements” in the pattern envisaged in the 1947 resolution, and that “modifications” were therefore called for. However, these do not vacate the continued relevance of the framework⁶⁶. The Foreign Minister noted that “Israel’s organic connection with the United Nations had combined with its own compelling interest in dictating its course of action in international affairs — a course of undivided loyalty to the Charter of the United Nations and of consecration of the cause of peace”.

18. Mr President, such declarations, such explanations were instrumental in securing a majority of votes in the relevant organs of the United Nations. To a Norwegian, they may, moreover, invite a recollection of the so-called Ihlen declaration. Assurances given by a foreign minister may under certain circumstances give rise to legal consequences as unilateral acts⁶⁷.

19. After exercise of the right of self-determination had led to the establishment of the States of Jordan and Israel, the legal framework, just described, continues to be applicable today.

20. Returning to the current situation, the illegality, under international law, of certain measures described has already been, authoritatively and abundantly, made clear. As an example, the

⁶³ Docs. A/AC.24/SR., 45-48, 50 and 51.

⁶⁴ *Ad hoc Political Committee*, Item 54, Application of Israel for admission to membership in the United Nations (A/818) (continued), Forty-fifth meeting, 5 May 1949, doc. A/AC.24/SR.45, p. 227, NL491613.pdf (un.org).

⁶⁵ *Ibid.*, p. 247.

⁶⁶ Document PV, 207th plenary meeting, 11 May 1949, p. 332.

⁶⁷ *Legal Status of Eastern Greenland, Judgment, 1933, P.C.I.J., Series A/B, No. 53*, p. 71; *Nuclear Tests (Australia v. France), Judgment, I.C.J. Reports 1974*, p. 267, paras. 43-46; International Law Commission, “Guiding Principles Applicable to Unilateral Declarations of States Capable of Creating Legal Obligations”, *Yearbook of the International Law Commission*, 2006, Vol. II (Part Two).

unanimously adopted Security Council resolution 465 of 1980 determined that all measures taken by Israel to change the character, composition, structure or status of Arab-occupied territories since 1967 have no legal validity⁶⁸.

21. For the sake of good order, it should be noted that nothing in the later peace process, including instruments often collectively referred to as the “Oslo Accords”, impairs this assessment. These instruments are based on an explicit recognition of the “legitimate rights of the Palestinian people and their just requirements”⁶⁹. Neither side shall, according to these instruments, initiate or take any step that will change the status of the West Bank and the Gaza Strip, pending the outcome of the permanent status negotiations⁷⁰.

22. It is the view of Norway that a permanent settlement based on Security Council resolutions 242 and 338 must build on a confirmation of the role of international law and of the international legal framework that we have attempted to briefly describe here.

23. Mr President, our observations do not imply any lack of legitimacy of the establishment or of the rights of the State of Israel. On the contrary, they build on it. However, they also recall the clear obligations, of a legal and not merely of a political nature, incumbent on Israel. These rights and obligations correlate. They require fully contributing to the realization of a viable State of Palestine. The permanent and irreversible nature of measures described under the prolonged occupation, with illegal settlements and conduct in relation to the Gaza Strip, run counter to the Charter, and also to the very commitments made by Israel.

IX. Concluding remarks

24. It is against this background, Mr President, Members of the Court, that we invite the Court to pronounce itself on the legality of the measures described and of the continued occupation.

25. I have come to the end of my presentation and I thank you for your attention.

⁶⁸ UNSC res. 465 (1980), para. 5.

⁶⁹ Art. III (3) (cf. Preamble) of “Declaration of Principles on Interim Self-Government Arrangements”, signed at Washington, DC, on 13 September 1993, annexed to UN doc. A/48/486 and S/26560, p. 5.

⁷⁰ Art. XXXI (7) of “Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip”, signed at Washington, DC, on 28 September 1995, annexed to UN doc. A/51/889 and S/1997/357, p. 30.

The PRESIDENT: I thank the delegation of Norway for its presentation. I call upon the next participating delegation, Oman, to address the Court and invite His Excellency Mr Abdullah bin Salim bin Hamad Al Harthi to take the floor.

Mr AL HARTHI:

1. Mr President, distinguished honourable Members of the Court, it is an honour and privilege to appear in front of the Court to present a statement on behalf of the Government of the Sultanate of Oman in the oral proceedings concerning the advisory opinion on the *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*.

2. For more than 75 years, the Palestinians have been living under occupation, oppression, injustice and daily humiliation committed against them by Israelis. Meanwhile, the international community and the international organizations have failed to assist the people of Palestine to realize their aspirations by having their own independent State.

3. Today in Gaza, the world for four months is witnessing one of the worst atrocities and acts of genocide in modern times, where more than 25,000 have been killed and 69,000 wounded, in addition to 2.2 million living under unbearable conditions; being driven from one place to another in a clear violation of international norms.

THE ADVISORY OPINION REQUEST

4. Oman supports United Nations General Assembly resolution 77/247 of 30 December 2022 in which the Assembly requested the Court to render an advisory opinion in relation to two specific issues namely:

- (a) The legal consequences arising from Israel's ongoing violation of the right of the Palestinian people to self-determination, from its prolonged occupation of the Palestinian territory occupied since 1967, including the Holy City of Jerusalem, from its measures aimed at altering the demographic composition, character and status of the Palestinian territories — and from its adoption of related discriminatory legislation and measures.
- (b) Israel's policies and practices referred to in paragraph (a) affect the legal status of the occupation and the legal consequences that arise for all States and the United Nations from this status.

The Sultanate of Oman requests that the following issues are taken into account.

1. VIOLATION OF THE RIGHT TO SELF-DETERMINATION

5. That the occupation, settlement and annexation of Palestinian territory occupied since 1967 by Israel obstructs the realization of the Palestinian people's inalienable rights, including their right to self-determination and right to return.

6. There is an overwhelming international agreement on the existence of the right to self-determination and its continued denial in the Occupied Palestinian Territory.

7. The right to self-determination is enshrined, *inter alia*, in Article 1 (2) of the Charter of the United Nations. The United Nations General Assembly has consistently reaffirmed the right of the Palestinian people to self-determination. The United Nations Security Council has called for an end to the Israeli occupation and the establishment of two States based on the 1967 lines. The Human Rights Council consistently recognizes the "inalienable, permanent and unqualified right to self-determination of the Palestinian people".

8. Arising from these clear and consistent breaches of the international law in maintaining a 75-year occupation, the Court should determine that the Government of Israel should bring an immediate and unconditional end to all activities, policies and laws that prevent and impede Palestinian self-determination principally by ending the occupation of the Palestinian territory. The Court should recognize the clear responsibility on all States to support the establishment of Palestinian self-determination in line with United Nations resolutions and the United Nations Charter.

2. PROLONGED OCCUPATION, SETTLEMENT AND ANNEXATION OF PALESTINIAN TERRITORY

9. The consistent and systematic unlawful transfer of Israeli citizens to settlements in the Occupied Palestinian Territory over decades is designed to perpetuate the occupation and make it permanent.

10. Related to this policy is the displacement of Palestinians and the establishment of a coercive system of discriminations, zoning, planning, unlawful land appropriation, arbitrary arrest and arbitrary violence since 1967.

11. This forcible displacement of the occupied people and the transfer of citizens of the occupying Power to occupied territory is prohibited under Article 49 of the Fourth Geneva Convention on the Protection of Civilian Persons in Time of War. Article 1 of that Convention stipulates that every High Contracting Party to the Convention is under an obligation to ensure compliance in all circumstances. The United Nations General Assembly, United Nations Security Council and United Nations Human Rights Council have consistently and repeatedly condemned Israel's efforts to alter the demographic character and status of the occupied Palestinian territories.

3. STATES' OBLIGATIONS

12. The international community has an obligation to prevent unlawful annexation of Palestinian land. A fundamental principle of international law as reflected in the Charter of the United Nations is that the use of force in any form is prohibited. Consequently, acquisition of territory by use of force is illegal. The 75-year occupation and settlement policy of the State of Israel is preventing the establishment of a contiguous, viable Palestinian State and is an affront to international law.

13. The Court should find that the legal consequences for the Government of Israel in this regard should include the immediate cessation of all illegal acts including settlements and associated legal and administrative frameworks. Clearly, reparations for, and dismantling of, illegal structures and legal frameworks is also an imperative.

14. Third States are under a clear obligation not to recognize or assist the illegal situation present in the Occupied Palestinian Territory. State parties to the Geneva Convention relative to the Protection of Civilian Persons in Time of War are under obligation to ensure Israeli compliance with international humanitarian law as embodied in the convention, including the unlawful transfer of citizens to occupied territories.

15. United Nations General Assembly resolution 77/25 called upon all States consistent with their obligations under the Charter and relevant Security Council resolutions to a policy of non-recognition, non-co-operation, non-assistance to the Israeli occupation and to ensure respect for international law in this regard.

CONCLUSION

16. I would like to conclude that the primary legal consequences arising from Israel's behaviour is that there is now a *de facto* annexation by Israel of the Palestinian territories. There is no legal justification for continuing the Israeli occupation and denying the Palestinian people the right to self-determination.

17. The Sultanate of Oman requests that the following issues are to be taken into account:

- (a) The conduct and practices of an occupying Power are well documented and strictly regulated in international law. The fourth Geneva Convention is clear that an occupying Power may not transfer its civilian population to occupied territories. In addition, international law does not provide for permanent occupation or occupation legitimized through the establishment of demographic change through settlement. The 75-year duration of Israeli presence in the occupied Palestinian territories and the persistent policy of settlement renders the Israeli occupation illegal and in breach of the United Nations Charter.
- (b) The Court should determine that Israel should bring to an immediate and unconditional end to this unlawful situation. Third States should support these efforts. Thank you very much.

The PRESIDENT: I thank the delegation of Oman for its presentation. Before I invite the next delegation to make its oral statement, the Court will observe a break for 10 minutes. The sitting is suspended.

The Court adjourned from 11.20 a.m. to 11.40 a.m.

The PRESIDENT: Please be seated. The sitting is resumed. I now call upon the delegation of Pakistan to address the Court and invite His Excellency Mr Ahmed Irfan Aslam to take the floor.

Mr ASLAM:

PART I

1. INTRODUCTION

1. Mr President, Members of the Court, it is an honour to appear before you on behalf of the Islamic Republic of Pakistan in these most important of proceedings. These proceedings take place as a whole people struggle to survive through relentless bombardment, the very people who have

endured daily persecution for over half a century. And yet, these proceedings inspire hope. They inspire hope because they present an opportunity. They afford this Court an opportunity to develop jurisprudence to advance essential principles of international law that preserves and advances the very basic human right of liberty and dignity.

2. Pakistan has always been a defender of the Palestinian people and their right to self-determination. It was Pakistan that proposed the General Assembly's first resolution, on the first day of the Six-Day War, relating to Israel's invasion of Jerusalem and the measures taken by Israel to change the status of the city⁷¹. Since then, Pakistan has continued to engage on these important questions of international justice⁷² and it remains committed to contribute and play its part.

3. Against this background, I will deal initially with five points and then make some technical legal arguments that Pakistan considers to be of particular importance in these proceedings. First, the question of self-determination. Second, the question of occupation and annexation. Third, systematic racial discrimination and apartheid. Fourth, the question of the City of Jerusalem and its holy places, and finally, the two-State solution.

2. SELF-DETERMINATION

4. Mr President, Members of the Court, I come to my first point. The Palestinian people have, as the Court itself has recognized, the right to self-determination⁷³. This right, which is codified in the two United Nations Human Rights Conventions, is "one of the essential principles of contemporary international law"⁷⁴. All States have a legal interest in protecting that right⁷⁵, which has the status of *jus cogens*⁷⁶. Israeli measures that severely impede the exercise by the Palestinian people of the right to self-determination are in breach of Israel's obligations to respect that right⁷⁷.

⁷¹ UNGA res. 2253 (ES-V), 4 July 1967; see E. Lauterpacht, *Jerusalem and the Holy Places* (1968), p. 34.

⁷² See e.g. "General Assembly adopts resolution calling for immediate, sustained humanitarian truce leading to cessation of hostilities between Israel, Hamas", 27 Oct. 2023, available at <https://press.un.org/en/2023/ga12548.doc.htm>; "UN General Assembly votes by large majority for immediate humanitarian ceasefire during emergency sessions", 12 Dec. 2023, available at: <https://news.un.org/en/story/2023/12/1144717>.

⁷³ *Wall Advisory Opinion*, p. 183, para. 118.

⁷⁴ *East Timor (Portugal v. Australia)*, *Judgment*, *I.C.J. Reports 1995*, p. 102, para. 29.

⁷⁵ *Chagos Advisory Opinion*, p. 139, para. 180.

⁷⁶ Written Comments of Pakistan, para. 7.

⁷⁷ *Wall Advisory Opinion*, p. 184, para. 122.

Pakistan strongly believes in the inherent right of people to live freely and in the justice of struggle for freedom from alien subjugation under the right of self-determination.

3. OCCUPATION AND ANNEXATION

5. I turn to my second point: the question of Israel's occupation and annexation. It has always been the position of the United Nations that it

“cannot condone a change in the *status juris* resulting from military action contrary to the provisions of the Charter. The Organization must, therefore, maintain that the *status juris* existing prior to such military action be re-established by a withdrawal of troops, and by the relinquishment or nullification of rights asserted in territories covered by the military action”⁷⁸.

6. Thus, after the Six-Day War, the Security Council determined in resolution 242 (1967) that Israel must withdraw its armed forces from territories occupied in the recent conflict⁷⁹. In resolution 476 (1980), the Security Council reaffirmed “the overriding necessity for ending the prolonged occupation of Arab territories occupied by Israel since 1967”⁸⁰.

7. Israel's occupation is no longer, if it ever was, a military occupation; it is annexation. In East Jerusalem, the annexation is *de jure*; in the rest of the territory, it is *de facto*. But the formal characterization matters little⁸¹. To use the words of the Court in the *Wall* case, the occupation is today, “notwithstanding the formal characterization . . . tantamount to *de facto* annexation”⁸². This now applies to the entire territory. This may have been the intention all along. Prime Minister Ben-Gurion affirmed in 1950 that “the Israeli Empire must comprise all the territories between the Nile and the Euphrates”, and this was to be achieved as much by invasion as by diplomacy. More recently, Prime Minister Netanyahu has declared that his Government will be “applying Israeli sovereignty over all the communities formed through the transfer of Israeli settlers and not one residential community will be uprooted”.

⁷⁸ Report by the Secretary-General in pursuance of the resolution of the General Assembly of 19 January 1957 (A/RES/453), A/3512, 24 Jan. 1957, Part Two, p. 2.

⁷⁹ UNSC res. 242 (1967), 22 Nov. 1967; see also UNSC res. 338 (1973), 22 Oct. 1973.

⁸⁰ UNSC res. 476 (1980), 30 June 1980; see also Lord Caradon, *U.N. Security Council Resolution 242: A Case Study in Diplomatic Ambiguity* (1981) p. 11.

⁸¹ See e.g. P. Reuter, “Principes de droit international public” (1961), Vol. 103, *Recueil des Cours*, p. 538; also *Nuclear Tests (New Zealand v. France)*, Judgment, *I.C.J. Reports 1974*, p. 473, para. 48; *Temple of Preah Vihear (Cambodia v. Thailand)*, Preliminary Objections, Judgment, *I.C.J. Reports 1961*, p. 31.

⁸² *Wall* Advisory Opinion, p. 184, para. 121.

8. Through its settlement policy, Israel has sought to create “irreversible facts on the ground”⁸³. It has aimed to create physical facts which in practical terms make it as difficult as possible to bring an end to its prolonged occupation of the West Bank and East Jerusalem. Notwithstanding, the Security Council has reaffirmed that the settlements constitute “a flagrant violation under international law”⁸⁴.

9. As this Court said in the *Namibia* case: “A binding determination made by a competent organ of the United Nations to the effect that a situation is illegal cannot remain without consequence.”⁸⁵ As in that case, in answering the legal questions now referred to it, the Court is not concerned with the question of what practical steps would be required to cease the occupation.

10. It is worth recalling, however, that even greater practical issues have been overcome in other contexts, such as when the French Government withdrew a million settlers from Algeria in 1962⁸⁶. The French settlers were more numerous than the Israeli settlers in the West Bank and East Jerusalem taken together. France’s settlements in Algeria were not only more numerous: they were also “far older and better established than Israel’s West Bank colonies”⁸⁷.

4. SYSTEMATIC RACIAL DISCRIMINATION AND APARTHEID

11. I come to my third point, regarding systematic racial discrimination. Israel’s policies and practices amount to systematic racial discrimination and apartheid. Israel has imposed a system of racial discrimination against the Palestinian people since 1967. It is a system that distinguishes — deliberately and systematically — along ethnic and religious lines between the Palestinian population and Jewish Israeli settlers illegally transferred into the territory⁸⁸. The purpose of domination and oppression may be inferred from Israel’s pattern of conduct against the Palestinians⁸⁹.

⁸³ Report of the Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel, 14 Sept. 2022, A/77/328, para. 75.

⁸⁴ UNSC res. 2334 (2016), 23 Dec. 2016, para. 1.

⁸⁵ *Namibia* Advisory Opinion, p. 54, para. 117.

⁸⁶ B. Stora, *Histoire de la guerre d’Algérie (1954-1962)* (1993), pp. 73-85; B. Stora, *Rapport sur les questions mémorielles portant sur la colonisation* (2021).

⁸⁷ T. Judt, *Reappraisals: Reflections on the Forgotten Twentieth Century* (2008), p. 294.

⁸⁸ Geneva Convention IV, 12 Aug. 1949, 75 UNTS 287, Art. 49, para. 6.

⁸⁹ Written Comments of Pakistan, para. 16.

5. THE HOLY CITY OF JERUSALEM AND ITS HOLY PLACES

12. I turn to my fourth point: Jerusalem and its holy places. The Holy City of Jerusalem is unique in that it is sacred to all three Abrahamic religions. Under the historic status quo, it is the right of Christian, Jewish and Muslim communities freely to access and worship at their holy places in the city. Ottoman decrees set out these rights in the nineteenth century⁹⁰. The régime was later confirmed in multilateral and bilateral instruments⁹¹. The historic status quo has today developed into a so-called “objective régime”⁹², which captures the point that it is characterized by a permanence which the instruments that established it do not themselves necessarily enjoy⁹³. Every State interested therefore has the right to insist upon compliance with this régime⁹⁴.

13. Under Israel’s prolonged occupation, Christians have not been free to access or worship in the Church of the Holy Sepulchre and Muslims have not been free to access or worship at Haram al-Sharif and in the Al Aqsa Mosque, to name only some prominent sites. The rights under the historic status quo must immediately be restored. This issue is of great importance to Pakistan, which is home to the second largest Muslim population in the world.

6. THE TWO-STATE SOLUTION

14. And now I come to my final point of the first part of my statement. Pakistan believes that the two-State solution must be the basis for peace⁹⁵. In the *Wall* case, this Court observed that the two-State solution was to be encouraged

“with a view to achieving as soon as possible, on the basis of international law, a negotiated solution to the outstanding problems and the establishment of a Palestinian State, existing side by side with Israel and its other neighbours, with peace and security for all in the region”⁹⁶.

⁹⁰ E.g. *firman* of 8 February 1852, *Recueil de documents concernant Jérusalem et les lieux saints* (1982), p. 93.

⁹¹ E.g. Treaty of Paris of 1856, 30 March 1856, Martens, *Nouveau Recueil des Traités*, vol. XV, p. 770, Art. IX; Treaty of Berlin of 13 July 1878 for the Settlement of the Affairs of the East, 153 *CTS* 171, Art. 63; Mandate for Palestine, 24 July 1922, *CPM* 566., Art. 13; Israel–Jordan General Armistice Agreement, 3 April 1949, 656 *UNTS* 194, Art. VIII; Treaty of Peace between the State of Israel and the Hashemite Kingdom of Jordan, 26 October 1994, 2042 *UNTS* 393, Art. 9.

⁹² See e.g. *Dispute regarding Navigational and Related Rights (Costa Rica v. Nicaragua)*, Judgment, *I.C.J. Reports* 2009, p. 243, para. 68; B. Simma, “From bilateralism to community interest in international law” (1994), Vol. 250, *Recueil des Cours*, p. 358.

⁹³ Written Comments of Pakistan, para. 28.

⁹⁴ *Aaland Islands* (1920), *LNOJ*, Spec. Supp. No. 3, p. 19.

⁹⁵ See also e.g. CR 2024/7, pp. 39–41, paras. 8–14 (Nusseibeh); *ibid.*, p. 52, para. 13 (Visek).

⁹⁶ *Wall* Advisory Opinion, p. 201, para. 162.

Pakistan supports this call.

15. On 26 October 2023, Pakistan was pleased to vote in favour of the General Assembly resolution which reaffirmed that: “a just and lasting solution to the Israeli-Palestinian conflict can only be achieved . . . in accordance with international law, and on the basis of the two-State solution”⁹⁷. Two months later, on 22 December 2023, the Security Council reiterated its unwavering commitment to the vision of the two States, consistent with international law and relevant United Nations resolutions.

16. And these — and numerous other — resolutions by the political organs of the United Nations make clear, a two-State solution, and negotiations leading to it, must be consistent with international law. “Negotiations”, Judge Al-Khasawneh of this Court observed in the *Wall* case, “are a means to an end and cannot in themselves replace that end”⁹⁸. He continued to say that the discharge of fundamental international obligations cannot be made conditional upon negotiations⁹⁹.

17. In this regard, the Court’s advisory opinion in these proceedings will be most important. Far from impeding negotiations and the achievement of a just and lasting two States, the Court’s advisory opinion will further assist such efforts, by making it possible for the parties to make progress on the sound basis of international law and international legitimacy¹⁰⁰.

PART II

ISRAEL CANNOT BE ALLOWED TO BENEFIT FROM ITS OWN WRONGS

18. Mr President, Members of the Court, I now turn to more technical legal arguments of my submissions.

19. The Court has heard various competing submissions this week with respect to question (b) of the request, but there can be little doubt as to the central importance of three matters:

(a) First, the role of the rules on the use of force in governing the unlawfulness of a given occupation itself.

⁹⁷ UNGA res. A/ES-10/L.25, 26 October 2023; see also UNSC res. 2720 (2023), 22 Dec. 2023, para. 12.

⁹⁸ *Wall* Advisory Opinion, separate opinion of Judge Al-Khasawneh, p. 238, para. 13.

⁹⁹ *Ibid*; see also CR 2024/7 p. 40, para. 12 (Nusseibeh).

¹⁰⁰ CR 2024/5, p. 35, para. 16 (Al Atiyah).

(b) Second, the series of General Assembly and Security Council resolutions that have consistently and expressly called for Israel's withdrawal¹⁰¹ and referred to "the inadmissibility of the acquisition of territory by war"¹⁰², which is a corollary of those rules¹⁰³.

(c) Third, the Court's Advisory Opinion on *Namibia* is a helpful reference point for the Court.

20. Pakistan hopes to assist the Court by suggesting a slightly different way of looking at things, which leads to the conclusion that Israel's occupation is unlawful and unlawfulness must have consequences.

A. The principle that no State can profit from its own wrong

21. In this respect, Pakistan considers that a useful touchstone for the Court is the general principle that no State can benefit from its own wrong¹⁰⁴.

22. As Sir Gerald Fitzmaurice explained:

"The general principle is that States cannot profit from their own wrong . . . and similarly that rights and benefits cannot be derived from wrong-doing. This admits of no doubt. It is a wide general principle having many diverse applications under international law . . . of course these principles apply not merely as regards treaty obligations but to general international law obligations also."¹⁰⁵

23. Notably, in the *Wall* case, Israel accepted that this principle is "as relevant in advisory opinions as it is in contentious cases"¹⁰⁶. The principle is particularly important where, as here, the wrongs at issue are of the most serious kind.

B. The principle in the context of the applicable law

24. Second, the principle in the context of applicable law. This principle is one of the underpinnings of the prohibition on the acquisition of territory either by force or through the denial

¹⁰¹ See e.g. UNSC resolutions 242 (1967), 22 Nov. 1967; 252 (1968), 21 May 1968; 258 (1968); 476 (1980), 30 June 1980; 681 (1990), 20 Dec. 1990; 2334 (2016), 23 Dec. 2016, preamble, para. 1. See also e.g. UNGA resolutions 2799 (XXVI), 13 Dec. 1971; 37/123, 20 Dec. 1982; 44/40, 4 Dec. 1989; ES-10/13, 21 Oct. 2003; ES-10/15, 20 July 2004; ES-10/18, 16 Jan. 2009; 67/19, 29 Nov. 2012; 77/25 (2022), 30 Nov. 2022, para. 12 (a).

¹⁰² *Wall* Advisory Opinion, p. 182, para. 117; see also p. 166, para. 74. See further Written Statement of Palestine, paras. 2.28-2.30.

¹⁰³ *Wall* Advisory Opinion, p. 171, para. 87.

¹⁰⁴ See also CR 2024/4, p. 111, para. 25 (Mansour).

¹⁰⁵ G. Fitzmaurice, "The General Principles of International Law Considered from the Standpoint of the Rule of Law", (1957) 92 *Recueil des Cours*, pp. 117-118. See also H. Lauterpacht, (1937) 62 *Recueil des Cours*, "Règles générales du droit de la paix", p. 184.

¹⁰⁶ *Wall* Advisory Opinion, p. 163, para. 63.

of self-determination. The wrongs are obvious and no benefit in terms of lawful possession or a legal entitlement to administer the territory could be derived.

25. As to this case, if the Court agrees with Pakistan and with many other States that Israel is in continued breach of these fundamental primary obligations, it cannot allow Israel to benefit from its own ongoing wrongs by somehow avoiding the natural consequences that must follow under this law of State responsibility. These include the obligations of cessation and non-repetition which require immediate and unconditional withdrawal¹⁰⁷, as well as the obligations of non-recognition and non-assistance for all other States.

26. As to the applicable primary rules, it is customary international law and the Charter that govern the illegality of a given occupation at any point in time. As a separate matter, international humanitarian law governs the conduct of an occupying Power with respect to the occupied population.

27. But if the occupation itself is unlawful, that carries legal consequences for Israel and for all States under the secondary rules of State responsibility. Those legal consequences are in no way displaced by separate consideration of the lawfulness under international humanitarian law of particular conduct in the course of the occupation, much less by hope for a negotiated solution. Any other approach would effectively permit Israel to benefit from its own wrongdoing.

28. For the same reason, there is no scope for an argument that other States, in their dealings with respect to Israel or the Occupied Palestinian Territory, could somehow put to one side the question of the unlawfulness of the occupation itself. They could not, for example, elect instead to focus exclusively on the different questions of whether specific Israeli measures were absolutely necessary to meet legitimate security requirements such that those measures are not unlawful under international humanitarian law.

C. The principle in the context of the *Namibia* Advisory Opinion

29. Mr President, Members of the Court, any conclusion could not be reconciled with the Court's Opinion on *Namibia*. There are certain clear parallels with the present case¹⁰⁸. The General

¹⁰⁷ Cf. CR 2024/5, p. 56, para. 34 (Visak).

¹⁰⁸ See also CR 2024/5, p. 57, para. 23 (Hamidullah); CR 2024/6, p. 30, para. 14 (Jallow).

Assembly had condemned South Africa's occupation of Namibia, characterizing this as an "occupation" that engaged the Geneva Conventions¹⁰⁹, and the Security Council had expressly called for South Africa's withdrawal¹¹⁰.

30. In a later resolution, after condemning South Africa's non-compliance with the earlier resolutions, the Security Council had also declared that "the continued presence of the South African authorities in Namibia is illegal"¹¹¹. This is to be understood as a reference to illegality under the rules on the use of force. Notably, the United States voted in favour of this resolution. With respect to Palestine, however, it now appears to wish to limit those rules to governing the lawfulness of the "the initial resort to force" "leading to an occupation" only¹¹². Of course, that could not be correct, including because it would allow an aggressor to benefit from an ongoing attempt to acquire territory through annexation.

31. Indeed, in its 1971 Advisory Opinion, the Court itself concluded that, "the *continued* presence of South Africa in Namibia [is] illegal"¹¹³. The Court held that South Africa was under an obligation to withdraw immediately and that all States were under an obligation to recognize the illegality of the occupation¹¹⁴.

32. In reaching this conclusion, the Court found that South Africa's application of the apartheid régime to occupied territories amounted to disowning the Mandate. In this connection, the Court relied on a context specific expression of the general principle that no State can benefit from its own wrong, stating "[o]ne of the fundamental principles governing the international relationship thus established is that a party which disowns or does not fulfil its own obligations cannot be recognized as retaining the rights which it claims to derive from the relationship"¹¹⁵.

¹⁰⁹ See UNGA resolutions 2871 (XXVI), 20 Dec. 1971, para. 8; 2678 (XXV), 9 Dec. 1970, para. 11; and 2396 (XXIII), 2 Dec. 1968, para. 8 (c). See also R. Kolb and S. Vité, *Le droit de l'occupation militaire* (2009), pp. 79-80; M. Sassòli, "The Concept and Beginning of Occupation" in *The 1949 Geneva Conventions: A Commentary* (2015), pp. 1413-1414.

¹¹⁰ *Namibia* Advisory Opinion, p. 51, para. 108, referring to UNSC resolutions 264 (1969), 269 (1969). Cf. with respect to Palestine, UNSC resolutions 242 (1967), 22 Nov. 1967 and 476 (1980), 30 June 1980.

¹¹¹ *Namibia* Advisory Opinion, p. 51, para. 108, referring to UNSC res. 276 (1970).

¹¹² Cf. Written Statement of the United States of America, Ch. IV and fn. 74; Written Comments of the United States of America, para. 13 and fn. 37. See also Written Statement of Fiji, p. 5 (fourth and sixth paras).

¹¹³ *Namibia* Advisory Opinion, p. 58, para. 133, emphasis added.

¹¹⁴ *Namibia* Advisory Opinion, p. 58, para. 133.

¹¹⁵ *Namibia* Advisory Opinion, p. 46, para. 91.

33. South Africa had claimed it had an independent right to administer the territory by reason of its “long occupation”¹¹⁶. Evidently, the Court disagreed. Three points follow from this.

34. First, the Court in *Namibia* case implicitly recognized that neither the fact of an occupation nor the law of occupation confer upon the occupying Power any legal entitlement to administer the territory¹¹⁷. Any contrary view would allow an occupying Power to benefit from its unlawful use of force.

35. Second, the Court made a positive finding that South Africa’s occupation was unlawful¹¹⁸. In *Namibia*, there was a binding Security Council decision to that effect. The Security Council has made no such Security Council decision with respect to Palestine. But this in no way displaces or impedes the Court’s judicial function in determining this legal question for itself.

36. Third, the Court plainly did not consider that South Africa’s continued status as an occupying Power made any difference¹¹⁹.

37. As Judge Greenwood has explained, the basic position under the law of occupation is that an occupying Power has the “liberty to govern within certain limits without being guilty of a violation of the *ius in bello*”¹²⁰. The occupying Power is required to administer the territory as a temporary conservator or trustee for the benefit of the occupied population. Acting in that capacity, the occupying Power has certain liberties to take measures in good faith in the best interests of the occupied population or, where absolutely necessary, to meet its own legitimate security interests. This, of course, is a separate question to the unlawfulness of the occupation itself.

38. As to the position under the law of occupation, again, it is helpful to recall the *Namibia* case. The Court’s context specific expression of the principle was that “a party which disowns or does not fulfil its own obligations cannot be recognized as retaining the rights which it claims to

¹¹⁶ *I.C.J. Pleadings, Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970)*, Vol. II, p. 550.

¹¹⁷ See also *International Status of South-West Africa, Advisory Opinion, I.C.J. Reports 1950*, p. 133. Cf. Written Statement of Fiji, p. 5, fourth and sixth paras.

¹¹⁸ Cf. Written Comments of the United States of America, para. 13.

¹¹⁹ *Namibia Advisory Opinion*, p. 46, para. 119.

¹²⁰ C. Greenwood, ‘The relationship between the *ius ad bellum* and the *ius in bello*’, (1983) 9 *Review of International Studies* 221, 228.

derive from the relationship”. Pakistan considers that this has relevance when considering whether an occupying Power should be recognized as retaining liberties to administer the occupied territory.

39. In this case, if one were to zoom in exclusively on Israel’s conduct as an occupying Power, the only conclusion could be that Israel has disowned its basic duties. Its policies and practices of occupation deny the right of the Palestinian people to self-determination and amount to systematic racial discrimination and serious violations of international humanitarian law and human rights¹²¹. Plainly, they cannot be said to be absolutely necessary to meet Israel’s own security interests. They serve Israel’s other interests, including its goal of acquiring the territory.

D. Conclusion

40. Mr President, Members of the Court. I conclude. With the general principle that no State can be benefit from its own wrong firmly in mind, it cannot be right that, as some States have suggested, the Court should refrain from finding that the occupation itself is unlawful or that there is no obligation to withdraw. This would be to allow Israel to profit from its own continued grave wrongs. And, to adopt the Court’s words in *Namibia*, the Court “would be failing in the discharge of its judicial functions”¹²². Such abdication of responsibility would not encourage or facilitate the achievement of a negotiated solution on the basis of international law¹²³. More generally, the Court would be sending out a clear signal to other States that they too might be allowed to benefit through the prolonged unlawful occupation of the territory of another State.

41. Mr President, Members of the Court, these proceedings are a great moment in law, they are a great moment in history. We all have a collective opportunity to develop jurisprudence in a way that advances the cause of humanity. I wish you good luck in your deliberations. Thank you.

The PRESIDENT: I thank the delegation of Pakistan for its presentation. I invite the next participating delegation, Indonesia, to address the Court and I call Her Excellency Ms Retno Marsudi to the podium.

¹²¹ See Written Comments of Pakistan, paras. 46-50.

¹²² *Namibia* Advisory Opinion, p. 46, para. 117.

¹²³ See also CR 2024/7, p. 38, para. 3 (Nusseibeh).

Ms MARSUDI: Bismillahirrahmanirrahim.

1. Mr President, distinguished Members of the Court, I left my G20 meeting in Rio de Janeiro to stand before you today, on behalf of the Government of the Republic of Indonesia, to express the solidarity of the Indonesian people on a matter of supreme and grave importance.

2. A matter that strikes at our fragile humanity.

3. I stand before you today to defend justice against the blatant violations of international law that has been committed by Israel.

4. We have all witnessed the ongoing humanitarian catastrophe in Gaza and the following escalation throughout the region, which have emboldened a global call to address the root cause, the illegal Israeli occupation on Palestine.

5. Israel's unlawful occupation and its atrocities must stop, and neither should it be normalized, nor recognized.

6. Mr President, Members of the Court, it is clear that Israel has zero intention to respect let alone abide by its international legal obligations.

7. The Prime Minister Benjamin Netanyahu even said: "nobody will stop us — not The Hague . . . not anybody else".

8. This is also evident in Israel's actions in Gaza as it is continuing its indiscriminate campaign of annihilation against civilians in Gaza.

9. Apparently, the death of almost 30,000 lives is not enough for Israel as it is close to launching another strike on Rafah, once the only gateway for lifesaving humanitarian assistance to Gaza.

10. No State should be granted a free rein to do anything they want against a weaker State.

11. This is why we have international law. That is why we need to uphold it.

12. The role of the International Court of Justice is central to safeguarding the so-called "rules-based international order".

13. There is a big hope from the international community. I repeat, a big hope that the International Court of Justice delivers a favourable advisory opinion in the interest of justice and humanity.

14. Mr President, Members of the Court, the hope is on this Court.

15. Against this backdrop, we all assume a collective moral duty to furnish information on the questions submitted to the Court.

16. Mr President, Members of the Court, my statement today will be divided into two parts. First, on jurisdiction and second, on the merits of the case.

17. On jurisdiction: Indonesia maintains that the Court has jurisdiction to render the advisory opinion and there is no ground for declining to exercise such jurisdiction.

18. This has been clearly elaborated in Indonesia's Written Statement and Written Comments.

19. Now, I will focus on rebuffing the arguments of some States suggesting that rendering an advisory opinion would somehow undermine the peace process.

20. While the Court has made their opinion clear on this matter, allow me to further stress three arguments.

21. First, there is no viable peace process to be undermined.

22. Israel has been consistently obstructing a negotiated two-State solution that is in line with international law and relevant United Nations resolutions.

23. Israel has even been circumventing negotiations through numerous strategic pretexts.

24. With such strong resistance from Israel to stop its colonial project and its fait-accompli unilateral actions, no peace process will viably bring a just, lasting and comprehensive solution. After all, negotiation with someone holding a gun against your head is not a negotiation at all.

25. Despite Israel's rhetoric on peace, its successive governments have openly expressed their abandonment of the peace process, including by declaring the Oslo Accord "null and void".

26. Just last November, Prime Minister Netanyahu even boasted that "I'm proud that I prevented the establishment of a Palestinian State".

27. It is no wonder that Israeli officials of all levels have been openly ignoring the calls from the United Nations Security Council to settle this issue peacefully and abide by its international obligations.

28. Along with these attitudes, Israel has only been pursuing a one-sided "solution" without engaging Palestinians, let alone addressing their interest.

29. Indonesia submits that these confirm that Israel has never been interested in any peace process.

30. Second, the request for the advisory opinion is not intended to decide on a final solution to the conflict.

31. A comprehensive, just and lasting solution should only be achieved through direct negotiations between the parties to the conflict, not one imposed from outside or by one party.

32. Rather, the request is intended to seek the Court's opinion on legal questions asked by the United Nations General Assembly within its competence.

33. The Court should only render its opinion on the legal consequences arising from the ongoing violations by Israel and how they should affect the legal status of the occupation.

34. The questions should be understood as a request for advice to facilitate the General Assembly in devising necessary actions within its functions.

35. Third, the Court's opinion will positively contribute to the peace process by presenting additional elements of the law for a comprehensive resolution of the dispute.

36. A genuine and lasting peace process can only be achieved if it is consistent with international law. Thus, the Court's opinion is very much needed.

37. By clarifying the relevant legal rules, the Court's opinion will help in resolving the stalemate that had impeded the peace process.

38. In addition to this positive impact, the Court's opinion would be useful to guide the future steps to be taken by the United Nations and all States.

39. Thus, Indonesia submits that there are no grounds to dismiss this request on the basis that it would risk fundamentally delegitimizing any future prospect of peace process.

40. Mr President, Members of the Court, my second part is on the merits of the case. Indonesia has made clear its legal arguments on the questions posed to the Court as appeared in our Written Statement.

41. I will begin with the continued denial of the inalienable right of Palestinians to self-determination.

42. In its 2004 Advisory Opinion on the *Wall*, the Court reasserted the Palestinians' right to self-determination is no longer in issue.

43. This confirms the long-held belief of the international community, including as expressed through various United Nations Security Council and General Assembly resolutions that the Palestinian people are entitled to self-determination.

44. Let me reconfirm Indonesia's position, in line with the Court's view, that the fulfilment of such right is an *erga omnes* obligation.

45. In other words, all countries — I repeat — all countries have a legal obligation to respect that right and to contribute to its realization.

46. Consequently, any endorsement or recognition of Israel's policies or practices that obstructs the right to self-determination of the Palestinians shall be unlawful.

47. Mr President, Members of the Court, in addressing the issue of the right to self-determination of the Palestinians, it is also important to remind ourselves that the occupation has become an instrument to suppress such a fundamental right.

48. This Court, in its Opinion on the *Wall*, as well as the United Nations Security Council and General Assembly, in their resolutions, have reaffirmed from time to time the status of Israel an occupying Power.

49. The occupation has been prolonged and enabled by Israel's series of breaches of its obligations under international law, including international humanitarian law and international human rights law.

50. Now, allow me to elaborate the following.

51. First, the Israeli occupation is a result of an unjustified use of force.

52. Therefore, the occupation should be unlawful from the beginning and continues to be so.

53. The use of force by Israel could not be justified under the guise of self-defence. It is also in breach of the principles of necessity and proportionality.

54. It is indeed against the prohibition of aggression, a peremptory norm of international law, from which no derogation is permitted.

55. Second, the illegal annexation of the Occupied Palestinian Territory.

56. As an occupying Power, Israel is legally obliged to keep its occupation temporary.

57. This has been violated by Israel as it has been attempting to make its occupation permanent and also to annex parts of the occupied territory.

58. As a matter of law, under no circumstances shall Israel be allowed to annex any part of the occupied territory.

59. The United Nations Security Council, in its various resolutions, has reaffirmed the established principle that acquisition of territory by war is inadmissible.

60. It is an absolute principle that applies even in circumstances where war has been resorted to lawfully, such as in self-defence, which is certainly not the case for Israel.

61. Israel's transgression to international law does not stop there as it has declared that Jerusalem is the "eternal undivided capital" of Israel.

62. Not only are these actions unlawful, they are also highly prejudicial to the prospect of a two-State solution.

63. Third, continued expansion of illegal settlement.

64. The policy of Israel in transferring its own population and forcibly displacing Palestinians from the occupied territory contravenes the fundamental rules of international humanitarian law.

65. This policy is a clear violation of the Article 49 of the Fourth Geneva Convention to which Israel is a State party.

66. It is worsened by Israel's pursuit to change the demographic composition of the West Bank.

67. This policy demonstrates Israel's complete disregard of international law and also shows the intention to make the situation irreversible.

68. Fourth, the apartheid policy against the Palestinians.

69. As an occupying Power, Israel is legally obliged to act in the best interest of the Palestinians.

70. Instead, Israel has been reinforcing its prolonged occupation by imposing military orders on the Palestinian population which are not applied to Jewish Israeli settlers.

71. The existence of separate legal régimes that are applied exclusively on different groups of people is a textbook apartheid policy that constitutes a grave violation of human rights, particularly crimes against humanity.

72. Having said that, it is clear that the continuation of such apartheid régime is paramount to another breach of a peremptory norm of international law.

73. Mr President, distinguished Members of the Court, I wish to elaborate on the legal consequences arising from these policies and practices by Israel.

74. This should begin with respect to the fundamental rights of the Palestinian people, particularly the right to self-determination which has been systematically denied by Israel.

75. The Court must pronounce that Israeli occupation is illegal as a whole.

76. It follows that we must bring this illegal situation to an end.

77. Israel must cease completely, unconditionally and immediately all of its unlawful actions and policies in the Occupied Palestinian Territory.

78. With the continued presence of Israeli forces in the West Bank and Gaza, it is impossible to see Israeli compliance with its obligations. Thus, it is imperative that Israel must withdraw its forces.

79. Given the illegal nature of the occupation, Israel's withdrawal must neither be done with pre-conditions nor subject to any negotiations. They must withdraw now! I repeat: they must withdraw now!

80. Israel should also be obliged to make reparations both to the State of Palestine as well as to the Palestinian people.

81. Mr President, please allow me to recall a legal maxim which states that no one may enjoy legal benefits from illegal actions.

82. Therefore, Israel's attempt to make its occupation permanent shall never be a valid ground to claim a legitimate title over the Palestinian territory.

83. In line with this, all States and the United Nations must not recognize the illegal situation arising from the violation of international law by Israel.

84. All States must not render any assistance to the maintenance of such violation.

85. Moreover, all States and the United Nations should also ensure Israel's compliance with its obligations under international law.

86. Mr President, distinguished Members of the Court, I would like to conclude by underlining that no country is above the law — that *no* country is above the law — and the sanctity of this Court must be upheld.

87. Indonesia believes that this legal motion is also a motion of global conscience. It should not be another item on the list, another proceeding to dismiss, another call to go unheeded, ignored blatantly by Israel.

88. Never again means never again.

89. We founded our current international system with the conviction that every single human being — I repeat, every single human being — without exception, is protected by law. *Every single human being, without exception, is protected by law.*

90. Thus, let us all contemplate upon this question: should the international community continue allowing Israel to manipulate the use of international law to justify its illegal actions against the fundamental rights of the Palestinians? For Indonesia, we shall not — and once again: the hope is on this Court, as the Court is the guardian of justice.

91. I thank you very much.

The PRESIDENT: I thank the delegation of Indonesia for its presentation. I invite the next participating delegation, Qatar, to address the Court and call upon His Excellency Mr Mutlaq Al-Qahtani to take the floor.

Mr AL-QAHTANI:

I. INTRODUCTION

1. Mr President, Members of the Court: it is a great honour to appear before you as the representative of the State of Qatar in these historic proceedings.

2. Qatar believes firmly that it is only through full respect for international law that peace and justice can be achieved. Recent events have underscored that the international legal order is under threat. Unprecedented violence, hatred and cruelty risk undoing decades of progress in the fields of human rights, humanitarian law and the peaceful settlement of disputes.

3. Indeed, there is a growing perception in some quarters that international law applies to some, but not to others. That some peoples are seen as deserving of security, freedom and self-determination, but others are not. Some children are deemed worthy of the law's protection, but others are killed in their thousands.

4. Qatar rejects such double standards. International law must be upheld in all circumstances. It must be applied equally to all and there must be accountability for all violations. Yet, for more than 75 years, the plight of the Palestinian people has been treated as an exception to the international rule of law.

5. Mr President, Members of the Court: you have the clear mandate, and indeed the responsibility, to remedy this unacceptable situation. The credibility of the international legal order depends on your opinion¹²⁴, and the stakes cannot be higher.

6. Indeed, Israel's genocidal war on the people of Gaza has shown that the situation in Palestine is the most pressing threat to international peace and security. As Secretary-General Guterres emphasized, recent events did not occur in a vacuum. Rather, they grew out of Israel's illegal 57-year occupation of the Palestinian territories. Israel has denied the Palestinian people's right to self-determination. It has ethnically cleansed and colonized Palestinians' lands. Furthermore, it has implemented an apartheid régime, that is to say, a régime of systematic racial oppression and discrimination, established with the intent to maintain the domination of Jewish Israelis over Palestinians¹²⁵. To maintain that régime¹²⁶, it has killed, maimed and imprisoned tens of thousands of men, women and children. These are the root causes of the situation we face today.

7. These same causes are the subject of the General Assembly's request for an advisory opinion. Twenty years after its historic *Wall* Opinion, the Court now has the entire Question of Palestine squarely before it. The General Assembly did not mince its words when it posed two clear and complementary questions.

8. Question (a) calls upon the Court to assess the legality of Israel's individual policies and practices in its occupation of the Palestinian territories. Question (a) further calls upon the Court to state the corresponding legal consequences of each of these policies and practices.

9. Question (b) in turn asks the Court to answer a simple but historic question: in light of the numerous illegalities in the conduct of the occupation, has the occupation itself become illegal? If

¹²⁴ The Elders, "Elders warn of consequences of "one-state reality" in Israel and Palestine" (22 June 2023), available at <https://theelders.org/news/elders-warn-consequences-one-state-reality-israel-and-palestine> (emphasis added).

¹²⁵ See International Convention on the Suppression and Punishment of the Crime of Apartheid (18 July 1976), *UNTS*, Vol. 1015, p. 245, Art. II; CERD, 660 *UNTS* 195, Art. III. See also Written Statement of Qatar, Chap. 4, Sect. II, paras. 4.58-4.70, 4.80-4.100; CR 2024/9, p. 10, para. 2 (Ma).

¹²⁶ Written Statement of Qatar, Chap. 4, Sect. II, paras. 4.101-104.

the answer to that question is “yes”— which is Qatar’s submission — then the consequence is obvious. The occupation must be brought to an end.

10. Mr President, Members of the Court: Qatar’s intervention will cover three topics.

11. *First*, I will briefly explain why the Court should give the advisory opinion requested by the General Assembly.

12. *Second*, with reference to question (a), I will recall Israel’s main illegal policies and practices in the Occupied Palestinian Territory, and explain that they are not isolated or accidental, but they are part of Israel’s long-standing settler-colonial project in Palestine.

13. *Third*, and *finally*, I will set forth Qatar’s position on question (b) concerning the legal status of the occupation.

II. THE PROPRIETY OF THE COURT RENDERING THE ADVISORY OPINION

14. I turn now to my first topic, the propriety of the Court rendering the advisory opinion.

15. Mr President: I need not repeat what you have already heard from numerous Participants this week¹²⁷. The Court unequivocally has jurisdiction and there is no “compelling reason” for it to refuse to give its opinion¹²⁸.

16. In particular, the Court’s opinion would *not* undermine the possibility of a negotiated solution to the conflict. Qatar explained why in its Written Comments¹²⁹. The so-called peace process is dead¹³⁰.

17. To provide the Court with relevant historical context, Qatar engaged the two most prominent historians of the Israeli-Palestinian conflict alive today. One Palestinian, Professor Rashid Khalidi of Columbia University, and one Israeli, Professor Avi Shlaim of Oxford University. Professors Khalidi and Shlaim prepared two comprehensive reports covering a century of histories, from 1917 to 2023. You can find those reports at tabs 1 and 2 of your folders.

¹²⁷ See e.g. CR 2024/5, p. 23, paras. 14-15 (Laraba); *ibid.*, pp. 31-36, paras. 7-19 (Al Atiyah); CR 2024/6, pp. 34-35, paras. 5, 10 (De Tusco); CR 2024/7, pp. 11-15, paras. 9-25 (Jiménez Herrera); *ibid.*, pp. 27-29, paras. 7-12 (Moussa); *ibid.*, pp. 38-39, para. 3 (Nusseibeh).

¹²⁸ *Chagos* Advisory Opinion, p. 113, para. 65. See also *Kosovo* Advisory Opinion, p. 403, para. 30; *Wall* Advisory Opinion, p. 156, para. 44.

¹²⁹ Written Comments of Qatar, Chap. 2, paras. 2.1-2.6.

¹³⁰ *Ibid.*, Chap. 2, Sect. II, paras. 2.37-2.48.

18. Professor Shlaim's report is devoted to the history and diplomacy of the Israeli-Palestinian conflict from 1967 until today. He explains how, during this time, Israel has consistently obstructed a negotiated solution¹³¹. Rather than pursuing a genuine peace, Israel used the so-called peace process as a diplomatic cover for its colonization of Palestine¹³².

19. In this context, it is difficult to see what harm the Court's advisory opinion could possibly have on a non-existent peace process. On the contrary, the absence of a viable peace process only underscores the necessities of the Court's advisory opinion and a solution based on international law¹³³.

III. ISRAEL'S ILLEGAL POLICIES AND PRACTICES IN THE OCCUPIED PALESTINIAN TERRITORY

20. I turn now to my second topic, concerning question (a) and Israel's illegal policies and practices in the Occupied Palestinian Territory.

21. Mr President, Members of the Court: Israel's illegal and discriminatory policies and practices are the tools of a long-standing settler-colonial project. As Qatar explained in its Written Statement, these policies are *designed* to promote a single goal: the permanent colonization of the Occupied Palestinian Territory for the exclusive benefit of Israel and the Jewish Israeli settlers¹³⁴. This goal is essentially linked to Israel's oppressive and discriminatory practices in the Occupied Palestinian Territory and is the root cause of the cycles of violence there.

22. In Chapter 2 of its Written Statement, Qatar described in detail the eight main categories of discriminatory policies and practices that Israel employs in furtherance of its settler-colonial project. In Chapter 3 of its Written Statement, Qatar explained that these policies and practices entail

¹³¹ See e.g. Prof. Avi Shlaim, *The Diplomacy of the Israeli-Palestinian Conflict (1967-2023)* (20 July 2023), Written Statement of Qatar, Vol. II, Annex 2 (judges' folder, tab 2), pp. 2, 4-5, 7, 10-11, 14, 20, 23, 26, 31-33, 35, 37, 43-45, 53-54.

¹³² *Ibid.*, pp. 31-33.

¹³³ See e.g. CR 2024/6, pp. 39-41, paras. 6, 9-11, 13 (Fuentes Torrijo); CR 2024/8, p. 36, paras. 6-8 and p. 38, paras. 14-17 (Craven); CR 2024/9, p. 36, para. 11 (Fanning).

¹³⁴ See e.g. Prof. Avi Shlaim, *The Diplomacy of the Israeli-Palestinian Conflict (1967-2023)* (20 July 2023), Written Statement of Qatar, Vol. II, Annex 2 (judges' folder, tab 2), p. 53 (emphasis added). See also CR 2024/5, pp. 16-17, para. 8 and pp. 20-21, para. 26 (Stemmet); *ibid.*, paras. 10, 12, 14, 19, 21 (Hamidullah); *ibid.*, p. 60, para. 3 (Heirbaut), and pp. 65-67, paras. 4-5, 8, 11-14 (Koutroulis); CR 2024/6, pp. 21-22, paras. 20-27 (Juratowitch); CR 2024/7, p. 16, para. 31 (Jiménez Herrera).

flagrant violations of international human rights law¹³⁵, international humanitarian law¹³⁶, and constitutes a crime against humanity¹³⁷, war crimes, genocide and ethnic cleansing.

23. It is Qatar's position that, in order to fully respond to question (a), the Court should assess the legality of each of Israel's main policies and practices through these lenses. A fulsome response to question (a) is no less than a clear answer to question (b). The Court should not underestimate the impact that findings of fact and law will have in bringing Israel's specific policies and practices to an end, to encouraging accountability and to provide victims with a sense of justice.

24. In the limited time I have today, I will briefly recall some specific points about the eight main categories of policies and practices carried out by Israel in the Occupied Palestinian Territory.

25. The *first* central feature of Israel's settler-colonial project is, of course, settlement¹³⁸.

26. The establishment and development of Jewish Israeli settlements in the Occupied Palestinian Territory began immediately after Israel occupied it in 1967. Israel establishes Jewish Israeli settlements on seized Palestinian lands, finances and facilitates the construction of housing and infrastructure, and incentivizes Jews from around the world to settle there¹³⁹.

27. By 2023, over 700,000 settlers, or approximately 11 per cent of Jewish Israelis, were living in the Occupied Palestinian Territory¹⁴⁰.

28. The settlement activity is relentless. In a January 2024 report, which you can find at tab 3 of your folders, the Israeli human rights group Peace Now explained how the war in Gaza has been exploited as cover for an unprecedented surge in settlement activities¹⁴¹.

¹³⁵ See Written Statement of the State of Qatar, Chap. 3, Sect. II, paras. 3.24-3.125.

¹³⁶ *Ibid.*, Chap. 3, Sect. III, paras. 3.126-3.163.

¹³⁷ *Ibid.*, Chap. 3, Sect. IV, paras. 3.164-3.189.

¹³⁸ See *ibid.*, Chap. 2, Sect. I.

¹³⁹ *Ibid.*, Chap. 2, Sect. I.

¹⁴⁰ United Nations, "Press Release: Human Rights Council Hears that the Current Israeli Plan to Double the Settler Population in the Occupied Syrian Golan by 2027 is Unprecedented, and that 700,000 Israeli Settlers are Living Illegally in the Occupied West Bank", 28 Mar. 2023, available at <https://www.ungeneva.org/en/news-media/meeting-summary/2023/03/afternoon-human-rights-council-hears-current-israeli-plan-double>.

¹⁴¹ Peace Now, "Special Report – Settlement Watch Team: Unmatched Surge in Settlement Activity in the West Bank Since the Onset of the Gaza War" (Jan. 2024), available at <https://peacenow.org.il/wp-content/uploads/2024/01/Report-Settlement-Watch-Peace-Now-January-2024-Unmatched-Surge-in-Settlement-Activity-in-the-West-Bank-Since-the-Onset-of-the-Gaza-War-1-1.pdf> (judges' folder, tab 3), p. 2.

29. The same is happening in East Jerusalem¹⁴².

30. And even Gaza is now at risk. The Israeli Security Minister recently stated that “[n]ot only do I not rule out Jewish settlement [in Gaza], I believe it is also an important thing”¹⁴³. On 28 January 2024, a conference dedicated to the resettlement of Gaza was held in occupied Jerusalem, which was attended by 12 Israeli government ministers¹⁴⁴.

31. Mr President, Members of the Court: let me pause here to make a brief remark about the situation in Gaza as it relates to the advisory proceedings. The contentious proceedings instituted by South Africa against Israel under the Genocide Convention do not mean that the recent situation in Gaza should not be addressed here. Gaza is part of the Occupied Palestinian Territory. It was occupied before 7 October and it is occupied today¹⁴⁵. Israel’s policies and practices referred to in question (a) include its policies and practices in Gaza¹⁴⁶. The Court will examine the situation in Gaza through the lens of the Genocide Convention in the case brought by South Africa. Here, the Court can, and indeed *must*, apply all aspects of international law to the situation in Gaza, including well before 7 October¹⁴⁷.

32. This brings me to Israel’s *second* central policy and practice in the Occupied Palestinian Territory, which is displacement¹⁴⁸. In order to establish its settlements in the Occupied Palestinian Territory, Israel seizes public and private land, and forcibly displaces Palestinians. It does so through home demolitions, evictions, building restrictions and by establishing buffer or military zones¹⁴⁹.

¹⁴² N. Hasson, “Under the Cover of War, Israel Plans to Build a New Neighborhood for Jews in East Jerusalem”, Haaretz (11 Feb. 2024), available at <https://www.haaretz.com/israel-news/2024-02-11/ty-article/.premium/under-the-cover-of-war-israel-is-moving-to-build-a-new-jewish-neighborhood-in-east-jlem/0000018d-9786-d9cc-a5cd-f7be43b10000?ts=1707784012100>.

¹⁴³ S. Sokol, “Far-right ministers call to ‘resettle’ Gaza’s Palestinians, build settlements in Strip”, *The Times of Israel* (1 Jan. 2024), available at <https://www.timesofisrael.com/ministers-call-for-resettling-gazas-palestinians-building-settlements-in-strip/>.

¹⁴⁴ “Israeli settlers hold conference on resettlement in Gaza”, Reuters, 28 Jan. 2024, available at <https://www.reuters.com/world/middle-east/israeli-settlers-hold-conference-resettlement-gaza-2024-01-28/>. See also CR 2024/8, p. 12, para. 18 (Tarabrin).

¹⁴⁵ See CR 2024/6, p. 18, paras. 6-7 (Juratowitch).

¹⁴⁶ Written Statement of Qatar, p. 2, note 2.

¹⁴⁷ CR 2024/7, p. 14, para. 22 (Jiménez Herrera).

¹⁴⁸ See Written Statement of Qatar (25 July 2023), Chap. 2, Sect. II.

¹⁴⁹ *Ibid.*, Chap. 2, Sect. II(C), paras. 2.47-2.62. See also CR 2024/5, p. 13, para. 13 (Madonsela); CR 2024/6, p. 9, paras. 9-10 (Shoman).

33. Again, the situation has only grown worse since 7 October 2023. As is well established, Israel has forcibly displaced at least 75 per cent of the population of Gaza¹⁵⁰.

34. This policy is promoted by Israeli leaders as a solution to their Palestinian “demographic problem”¹⁵¹. Israeli Minister of Culture stated that the Palestinians “can go to Ireland or [to the] deserts, the monsters in Gaza should find a solution by themselves”¹⁵².

35. While all eyes may be on Gaza, the situation in the West Bank is rapidly deteriorating. At least 13 different communities in the West Bank have faced forced displacement since 7 October. That has resulted in a north-south stretch of 20 km east of Ramallah being cleared of nearly all Palestinians¹⁵³.

36. The *third* Israeli practice is fragmentation¹⁵⁴.

37. In order to implement the demographic and physical control necessary to perpetuate the occupation and establish further settlements, Israel divides and isolates Palestinians. It relegates them to fragmented enclaves, restricts their movement and renders their daily lives all but unlivable¹⁵⁵. This is what Namibia and Belize aptly refer to as “strategic fragmentation”¹⁵⁶.

38. Israel has imposed a full blockade on Gaza since 2007, entirely cutting its population off from the rest of the world¹⁵⁷. On 7 October, Gaza had already been described by the United Nations Secretary General as “hell on earth”¹⁵⁸. Today it is indescribable.

¹⁵⁰ UNWRA, *Situation Report #76 on the Situation in the Gaza Strip and the West Bank, Including East Jerusalem* (12 Feb. 2024), available at <https://www.unrwa.org/resources/reports/unrwa-situation-report-76-situation-gaza-strip-and-west-bank-including-east-jerusalem>.

¹⁵¹ See Written Statement of Qatar (25 July 2023), Chap. 4, Sect. II(B), paras. 4.93-4.96.

¹⁵² M. Belam & A. Fulton, “Palestinians should ‘go to Ireland or deserts’ and using nuclear bomb on Gaza an option, says Israeli minister”, *The Irish Times* (5 Nov. 2023), available at <https://www.irishtimes.com/world/middle-east/2023/11/05/palestinians-should-go-to-ireland-or-deserts-and-using-nuclear-bomb-on-gaza-an-option-says-israeli-minister/>.

¹⁵³ “‘Silent annexation’: Settlers dispossess West Bank Bedouins amid Israel war”, *Al Jazeera* (20 Oct. 2023), available at <https://www.aljazeera.com/news/2023/10/20/silent-annexation-settlers-dispossess-west-bank-bedouins-amid-israel-war>.

¹⁵⁴ See Written Statement of Qatar (25 July 2023), Chap. 2, Sect. III.

¹⁵⁵ *Ibid.*

¹⁵⁶ CR 2024/6, p. 14, para. 7 (Webb), citing Written Statement of Namibia, para. 66.

¹⁵⁷ Written Statement of Qatar (25 July 2023), Chap. 2, Sect. III(B), paras. 2.86-2.106.

¹⁵⁸ “Gaza children living in ‘hell on earth’, UN chief says, urging immediate end to fighting”, *UN News* (20 May 2021), available at <https://news.un.org/en/story/2021/05/1092332>.

39. In the West Bank, Israel has for decades implemented a system of draconian checkpoints, subjecting millions of Palestinians to daily indignities¹⁵⁹. Human Rights Watch has documented “more than 40 kilometers of West Bank roads that authorities prohibit Palestinians from traveling on”¹⁶⁰.

40. Since 7 October, Israel has implemented an unprecedented lockdown on the entire civilian territory of the West Bank. It has closed much of its vast network of checkpoints, completely cutting off cities, towns and villages from each other¹⁶¹.

41. The *fourth* practice that characterizes Israel’s occupation is its discriminatory and unlawful violence¹⁶².

42. Israeli forces and Jewish Israeli settlers¹⁶³ — often with the support of the State — use violence to crush even non-violent resistance to the occupation and to perpetuate a climate of fear and repression¹⁶⁴.

43. Israeli violence has been part of the fabric of life for Palestinians even before the beginning of the occupation in 1967¹⁶⁵. And Gaza has always paid the highest price¹⁶⁶. In the 15 years before 7 October, Israeli military campaigns killed 5,365 Palestinians in Gaza, the majority of whom were undisputedly civilians¹⁶⁷. Of course, this shocking statistic pales in comparison to what we have seen in the past four months.

¹⁵⁹ See Written Statement of Qatar (25 July 2023), Chap. 2, Sect. III(A), paras. 2.69-2.85.

¹⁶⁰ Human Rights Watch, *A Threshold Crossed: Israeli Authorities and the Crimes of Apartheid and Persecution* (2021), available at https://www.hrw.org/sites/default/files/media_2021/04/israel_palestine0421_web_0.pdf, p. 93. See also Written Statement of Qatar (25 July 2023), Chap. 2, Sect. III(A), paras. 2.73, 2.75, 2.79, 2.82-2.85.

¹⁶¹ I. Kottasova & A. Koplewitz, “West Bank Palestinians face increasing restrictions and settler violence as Gaza war escalates”, *CNN* (11 Nov. 2023), available at <https://www.cnn.com/2023/11/11/middleeast/west-bank-restrictions-violence-intl-cmd/index.html>; H. Shezaf, “Checkpoints, Closed Shops, Not Enough Medicine: Hawara Has Become a Ghost Town”, *Haaretz* (2 Nov. 2023), available at <https://www.haaretz.com/middle-east-news/palestinians/2023-11-02/ty-article-magazine/.premium/checkpoints-closed-shops-not-enough-medicine-hawara-has-become-a-ghost-town/0000018b-8abc-dce3-afaf-affe3c450000>.

¹⁶² Written Statement of Qatar (25 July 2023), Chap. 2, Sect. IV.

¹⁶³ *Ibid.*, Chap. 2, Sect. IV(C), paras. 2.179-2.185.

¹⁶⁴ *Ibid.*, Chap. 2, Sect. IV(C), paras. 2.154-2.159.

¹⁶⁵ Prof. Rashid Khalidi, *Settler Colonialism in Palestine (1917-1967)* (20 July 2023), Written Statement of Qatar (25 July 2023), Vol. II, Annex 1 (judges’ folder, tab 1), pp. 26-46.

¹⁶⁶ *Ibid.*, pp. 39-40; Prof. Avi Shlaim, *The Diplomacy of the Israeli-Palestinian Conflict (1967-2023)* (20 July 2023), Written Statement of Qatar (25 July 2023), Vol. II, Annex 2 (judges’ folder, tab 2), pp. 34-36.

¹⁶⁷ OCHA, “Data on Casualties” (last accessed: 13 Feb. 2024), available at <https://www.ochaopt.org/data/casualties>. See also Written Statement of Qatar (25 July 2023), Chap. 2, Sect. IV(A), paras. 2.108-2.109.

44. At the same time, the Court cannot ignore the ever-worsening situation in the West Bank.

45. Since 7 October, 397 Palestinians have been killed across the West Bank, and 453 have been injured¹⁶⁸. Even before 7 October, 234 Palestinians had been killed in 2023, which was the highest number on record¹⁶⁹.

46. Civilian casualties are not just collateral damage in Israeli attacks, they are the main target¹⁷⁰. The use of warplanes, armed drones, attack helicopters and missiles was once unprecedented in the West Bank. Now it is routine¹⁷¹.

47. Mr President, Members of the Court: Israel's victims are often children. They include five-year-old Ruqaya, who was shot in the back by Israeli forces on 7 January at a military checkpoint in the West Bank¹⁷². Her body was withheld from her family by Israeli forces for 10 days¹⁷³. Just last week, Israeli forces also shot 16-year-old Neehel in the head, killing him as he was leaving school¹⁷⁴. Neehel was the one hundredth Palestinian child killed by Israeli forces in the West Bank since 7 October¹⁷⁵.

48. This brings me to the *fifth* practice implemented by Israel, which is its discriminatory military legal system in the Occupied Palestinian Territory¹⁷⁶. This system privileges Jewish Israeli settlers while depriving Palestinians of the most basic legal protections. A pillar of this system is the

¹⁶⁸ OCHA, "Hostilities in the Gaza Strip and Israel—Flash Update #124" (22 Feb. 2024), available at <https://www.ochaopt.org/content/hostilities-gaza-strip-and-israel-flash-update-124>.

¹⁶⁹ Médecins Sans Frontières, *Press Release: For Palestinians in the West Bank, 2023 was the deadliest year on record* (15 Dec. 2023), available at <https://reliefweb.int/report/occupied-palestinian-territory/palestinians-west-bank-2023-was-deadliest-year-record>.

¹⁷⁰ See e.g. Written Statement of Qatar (25 July 2023), Chap. 2, Sect. IV(C), paras. 2.141-2.173.

¹⁷¹ See e.g. L. Williamson, "West Bank strike: Israel accused of targeting civilians in deadly attack", *BBC* (17 Jan. 2024), available at <https://www.bbc.com/news/world-middle-east-68006126> (judges' folder, tab 4); Defense for Children International Palestine, "Israeli forces kill three Palestinian boys in a drone strike in Tulkarem" (18 Jan. 2024), available at https://www.dci-palestine.org/israeli_forces_kill_three_palestinian_boys_in_a_drone_strike_in_tulkarem.

¹⁷² G. Levy & A. Levac, "Israeli Border Police Killed a 4-year-old Palestinian Girl, Then Took 10 Days to Return Her Body", *Haaretz* (10 Feb. 2024), available at <https://www.haaretz.com/israel-news/twilight-zone/2024-02-10/ty-article-magazine/.highlight/israeli-cops-killed-a-4-year-old-palestinian-girl-then-took-10-days-to-return-her-body/0000018d-90dd-d443-a19f-fcdd3cf20000>.

¹⁷³ *Ibid.*

¹⁷⁴ Defense for Children International Palestine, "Israeli forces shoot and kill 16-year-old Palestinian boy in Beit Ummar" (14 Feb. 2024), available at https://www.dci-palestine.org/israeli_forces_shoot_and_kill_16_year_old_palestinian_boy_in_beit_ummar.

¹⁷⁵ *Ibid.*, "Palestinian child shot and killed leaving school in the occupied West Bank", *Middle East Eye* (15 Feb. 2024), available at <https://www.middleeasteye.net/live-blog/live-blog-update/palestinian-child-shot-and-killed-leaving-school-occupied-west-bank>.

¹⁷⁶ Written Statement of Qatar (25 July 2023), Chap. 2, Sect. V.

practice of indefinite administrative detention of Palestinians without charges. As we detailed in our Written Statement, this practice was widespread before 7 October¹⁷⁷. Its use has increased excessively since then, in what some rights groups have characterized as mass enforced disappearances¹⁷⁸. In the past four months alone, thousands of Palestinians have been placed in administrative detention¹⁷⁹. In Gaza, they are rounded up, blindfolded, disrobed, humiliated and detained en masse in makeshift outdoor prisons¹⁸⁰. You can find detailed reporting at tabs 5 and 6 of your folders.

49. In the interest of time, I will not detail the three remaining policies and practices that characterize Israel's occupation, which are discussed in Chapter 2 of Qatar's Written Statement¹⁸¹. These practices are, *sixth*, the eradication and suppression of all manifestations of Palestinian culture and religion in the Occupied Palestinian Territory¹⁸²; *seventh*, the economic oppression of Palestinians and the exploitation of the Occupied Palestinian Territory's natural resources; and *eighth* the systematic persecution and suppression of all those who attempt to document or pursue accountability for the occupation, such as human rights organizations and journalists. This includes *Al Jazeera* reporter Shireen Abu Akleh, who was murdered by Israeli forces on 11 May 2022¹⁸³.

50. Mr President, Members of the Court: these eight discriminatory practices and policies are among those that the Court is called upon to assess in answering question (a). Viewed jointly, they reveal the true nature of the occupation as an illegal settler-colonial régime.

¹⁷⁷ *Ibid.*, Chap. 2, Sect. V(B), paras. 2.201-2.209.

¹⁷⁸ Amnesty International, "Urgently investigate inhumane treatment and enforced disappearance of Palestinians detainees from Gaza" (20 Dec. 2023), available at <https://www.amnesty.org/en/latest/news/2023/12/urgently-investigate-inhumane-treatment-and-enforced-disappearance-of-palestinians-detainees-from-gaza/>.

¹⁷⁹ "'We don't know where he is': Israel's administrative detention rates soar after October 7", *France 24* (17 Jan. 2024), available at <https://www.france24.com/en/middle-east/20240117-israel-administrative-detention-rates-soar-after-october-7> (judges' folder, tab 5).

¹⁸⁰ See R. Abdulrahim, "Stripped, Beaten or Vanished: Israel's Treatment of Gaza Detainees Raises Alarm", *The New York Times* (23 Jan. 2023), available at <https://www.nytimes.com/2024/01/23/world/middleeast/israel-gaza-palestinian-detainees.html> (judges' folder, tab 6); I. Debre & W. Shurafa, "Hungry, thirsty and humiliated: Israel's mass arrest campaign sows fear in northern Gaza", *Associated Press* (14 Dec. 2023), available at <https://apnews.com/article/palestinians-detained-israel-hamas-gaza-war-0ecbc338e4024add059b87b38022086d>.

¹⁸¹ Written Statement of Qatar (25 July 2023), Chap. 2, Sect. VI-VIII, pp. 143-179.

¹⁸² See CR 2024/6, p. 11, para. 14 (Shoman); CR 2024/7, p. 34, para. 41 (Moussa); CR 2024/9 (Najafi), p. 23, para. 23.

¹⁸³ "Shireen Abu Akleh: Al Jazeera reporter killed by Israeli forces", *Al Jazeera* (11 May 2022), available at <https://www.aljazeera.com/news/2022/5/11/shireen-abu-akleh-israeli-forces-kill-al-jazeera-journalist>.

IV. THE LEGAL STATUS OF THE OCCUPATION

51. I will turn now to the final portion of Qatar's presentations, concerning the legal status of the occupation, and the response to question (b).

52. Mr President, Members of the Court, the Written Statements and Comments that addressed question (b) overwhelmingly endorse a finding by the Court that Israel's occupation of the Occupied Palestinian Territory is illegal. This was the express conclusion of at least 38 Participants in these proceedings¹⁸⁴, with at most two States reaching the opposite conclusion.

53. Those Participants finding that the occupation is illegal offered a number of lines of analysis to support their shared conclusion. This is unsurprising. Israel's occupation has violated so many fundamental principles of international law that it would be hard to point to just one reason for its illegality.

54. In Chapter 3 of Qatar's Written Comments, we identified five main reasons as to why Israel's occupation of the Occupied Palestinian Territory is illegal¹⁸⁵. With its Written Comments, Qatar also submitted a detailed appendix, compiling relevant statements by participating States and international organizations¹⁸⁶. These can be found at tabs 7 to 15 of your folders. We hope that Qatar's analysis will be helpful for the Court's work.

55. I shall briefly walk the Court through five reasons for the illegality of the occupation.

56. *First*, the occupation contravenes the *jus cogens* obligation to respect the right of self-determination of the Palestinian people. Thirty-nine States and international organizations found that the occupation violates the right of self-determination¹⁸⁷. Twenty-eight of those Participants underscored that the occupation has become illegal for this reason¹⁸⁸.

¹⁸⁴ Written Comments of Qatar (25 Oct. 2023), Appendix 1 (judges' folder, tab 7). See also Written Comments of Algeria (25 Oct. 2023), p. 2, para. 5; CR 2024/7, p. 46, para. 43 (Nusseibeh); CR 2024/8, p. 11, para. 15 and p. 15, para. 37 (Tarabrin); CR 2024/9, p. 15, para. 24 and p. 17, para. 36 (Ma); p. 19, para. 6 (Najafi); p. 33, para. 15 (Albarrak).

¹⁸⁵ Written Comments of Qatar (25 Oct. 2023), Chap. 3, Sect. I, paras. 3.7-3.37.

¹⁸⁶ *Ibid.*, Appendices 1-9.

¹⁸⁷ *Ibid.*, Appendix 7 (judges' folder, tab 8). See also CR 2024/5, pp. 66-67, paras. 9-12 (Koutroulis); CR 2024/7, p. 16, para. 30 (Jiménez Herrera); CR 2024/9, pp. 20-21, paras. 11, 15-16 (Najafi); *ibid.*, p. 33, para. 15 (Albarrak).

¹⁸⁸ Written Comments of Qatar, Appendix 2 (judges' folder, tab 9). See also Written Comments of the Government of Algeria (25 Oct. 2023), p. 2, para. 5; Written Comments of the Republic of Chile (25 Oct. 2023), paras. 35-39; CR 2024/7, p. 16, para. 30 (Jiménez Herrera); *ibid.*, p. 46, para. 43 (Nusseibeh); CR 2024/8, p. 15, paras. 35, 37 (Tarabrin); CR 2024/9, pp. 20-21, paras. 11, 15-16 (Najafi); *ibid.*, p. 33, para. 15 (Albarrak).

57. *Second*, Israel's occupation also violates the *jus cogens* prohibition of apartheid. Twenty-five Participants endorsed a finding of apartheid¹⁸⁹. Among those reaching this conclusion, 16 Participants underscored that the situation of apartheid renders the occupation itself illegal¹⁹⁰.

58. *Third*, Israel's occupation is illegal because it violates the *jus cogens* prohibition on the use of force. This was the conclusion of 18 Participants¹⁹¹.

59. *Fourth*, by virtue of its illegal annexation of portions of the Occupied Palestinian Territory, Israel has breached yet another *jus cogens* norm, the prohibition on the acquisition of territory through the use of force. At least 41 Participants in the proceedings have pointed this out¹⁹², with 31 of them underscoring that the occupation is illegal as a whole because Israel's annexation of the Occupied Palestinian Territory is an integral feature of the occupation¹⁹³.

60. *Fifth and finally*, Israel's occupation is illegal due to the fact that it is not of a temporary character, not being carried out in good faith or not being administered in the best interests of the occupied population. Seventeen States reached such conclusions¹⁹⁴.

61. Mr President, Members of the Court, the State of Qatar endorses all of these arguments for the illegality of the occupation. While it is of course for the Court to decide how best to answer the General Assembly's question (*b*), it is Qatar's respectful submission that the Court should not limit itself to choosing only one of these grounds for illegality. Unlike contentious cases, judicial economy does not support the adoption of only the narrowest reasoning possible in these proceedings. To the

¹⁸⁹ Written Comments of Qatar, Appendix 8 (judges' folder, tab 10). See also Written Comments of the Hashemite Kingdom of Jordan (25 Oct. 2023), p. 35, note 162; CR 2024/7, p. 16, para. 31 (Jiménez Herrera); CR 2024/9, p. 24, paras. 26-27 (Najafi); *ibid.*, p. 32, para. 14 (4) (Albarrak).

¹⁹⁰ Written Comments of Qatar, Appendix 3 (judges' folder, tab 11). See also Written Comments of the Organisation of Islamic Cooperation (25 Oct. 2023), Sect. II (1); CR 2024/7, p. 16, para. 31 (Jiménez Herrera).

¹⁹¹ Written Comments of Qatar, Appendix 4 (judges' folder, tab 12). See also *ibid.*, Chapter 3, Sect. I (C), para. 3.17; Written Comments of the State of Palestine (25 Oct. 2023), Chapter 2, Sect. V; CR 2024/6, p. 28, para. 18 (Calzadilla Sarmiento); CR 2024/7, p. 33, paras. 33-34 (Moussa).

¹⁹² Written Comments of Qatar, Appendix 9 (judges' folder, tab 13). See also CR 2024/5, Oral Statement of Belgium, pp. 65-66, paras. 6-8 (Koutroulis); CR 2024/7, pp. 15-16, paras. 29-30 (Jiménez Herrera); *ibid.*, p. 45, para. 39 (Nusseibeh); CR 2024/9, p. 21, para. 14 (Najafi).

¹⁹³ Written Comments of Qatar, Appendix 5 (judges' folder, tab 14). See also *ibid.*, Chapter 3, Sect. I (D), para. 3.32; Written Comments of the Government of Algeria (25 Oct. 2023), p. 6; Written Comments of the Organisation of Islamic Cooperation (25 Oct. 2023), Sect. II (2); CR 2024/5, pp. 16-17, paras. 5-9 and p. 19, para. 19 (Stemmet); CR 2024/7, p. 16, para. 30 (Jiménez Herrera); *ibid.*, p. 46, para. 43 (Nusseibeh); *ibid.*, p. 33, para. 31 (Jallow).

¹⁹⁴ Written Comments of Qatar, Appendix 6 (judges' folder, tab 15). See also *ibid.*, Chapter 3, Sect. I (E), para. 3.37; Written Comments of the Government of Algeria, p. 7, para. 6; Written Comments of the State of Palestine, Chapter 2, Sect. I; Written Comments of the Organisation of Islamic Cooperation, paras. 32, 38; CR 2024/5, p. 57, paras. 22-24 (Hamidullah); CR 2024/6, p. 28, para. 21 (Calzadilla Sarmiento); CR 2024/7, p. 46, para. 43 (Nusseibeh); CR 2024/8, p. 39, paras. 21-23 (Craven); CR 2024/9, p. 40, para. 23 (Fanning).

contrary, in the context of an advisory opinion, the Court's function is to provide legal advice to the organ requesting the opinion. There are multiple relevant legal régimes applicable to the situation, and the Court's advice on each of these frameworks will be of immense value to the General Assembly and to the international community at large.

62. In this connection, Qatar and many other States attach particular importance to a finding that Israel's occupation, by its nature, amounts to a régime of apartheid¹⁹⁵.

63. A finding of apartheid is not just the most accurate label for what the occupation has become. It also provides a tangible but flexible roadmap for what must come next. What ending apartheid requires is achieving a situation in which all people — Israelis and Palestinians — equally enjoy their fundamental human rights and dignity. With the requisite finding of apartheid by the Court, the international community, including the General Assembly, can activate similar mechanisms for bringing about an end of the occupation as it did with the apartheid régime in South Africa¹⁹⁶. This is the surest path to truth, justice, and yes, reconciliation.

64. Mr President, Members of the Court: the people of the world are looking at you. We are confident that you will seize this historic opportunity to finally bring to an end a century of injustice against the Palestinian people. I thank you for your kind attention.

The PRESIDENT: I thank the delegation of Qatar for its presentation, which brings to a close this morning's hearing. The Court will meet again this afternoon at 3 p.m. to hear the United Kingdom, Slovenia, Sudan, Switzerland, the Syrian Arab Republic and Tunisia. The sitting is adjourned.

The Court rose at 12.55 p.m.

¹⁹⁵ Written Statement of the State of Qatar (25 July 2023), Chapter 4, Sect. II(B), paras. 4.71-4.104. See also CR 2024/5, p. 12, paras. 9-10 (Madonsela) and p. 18, paras. 15-17 (Stemmet); CR 2024/6, pp. 13-16, paras. 1-14 (Shoman).

¹⁹⁶ Written Statement of Qatar, para. 5.91. See also CR 2024/5, pp. 19-20, paras. 19, 24 (Stemmet).