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International Court of Justice

THE HAGUE

Cour internationale de Justice

LA HAYE

YEAR 2024

Public sitting

held on Monday 19 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 lundi 19 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

The Government of the State of Palestine is represented by:

HE Mr Riad Malki, Minister for Foreign Affairs and Expatriates of the State of Palestine,

as Head of Delegation;

HE Mr Riyad Mansour, Minister, Permanent Representative of the State of Palestine to the United Nations, New York,

HE Mr Ammar Hijazi, Assistant Minister for Multilateral Affairs, Ministry of Foreign Affairs and Expatriates of the State of Palestine,

HE Mr Ibrahim Khraishi, Permanent Representative of the State of Palestine to the United Nations, Geneva,

HE Ms Rawan Sulaiman, Permanent Representative of the State of Palestine to the International Organizations in the Kingdom of Netherlands,

HE Mr Omar Awadallah, Assistant Minister for International Law, the United Nations and its Specialized Agencies, Ministry for Foreign Affairs and Expatriates of the State of Palestine,

HE Ms Feda Abdelhady, Deputy Permanent Representative of the State of Palestine to the United Nations, New York,

HE Mr Majed Bamya, Deputy Permanent Representative of the State of Palestine to the United Nations, New York, Senior Legal Adviser,

as Representatives of the State of Palestine;

Mr John Dugard, SC, Advocate of the High Court of South Africa, Emeritus Professor, Leiden University and University of the Witwatersrand, former member of the International Law Commission, member of the Institut de droit international,

Mr Ardi Imseis, Professor of International Law, Faculty of Law, Queen's University, Canada,

Mr Michael Lynk, Professor Emeritus of Law, Western University, Canada,

as Counsel;

HE Ms Namira Negm, PhD, Ambassador,

Mr Alain Pellet, Emeritus Professor, University Paris Nanterre, former Chairperson of the International Law Commission; member and former President of the Institut de droit international,

Mr Paul S. Reichler, Attorney at Law, 11 King's Bench Walk, member of the Bar of the Supreme Court of the United States,

Mr Philippe Sands, KC, Professor of Law, University College London, Barrister, 11 King's Bench Walk,

Mr Andreas Zimmermann, LLM (Harvard), Professor, University of Potsdam, member of the Permanent Court of Arbitration,

as Counsel and Advocates;

Le Gouvernement de l'État de Palestine est représenté par :

S. Exc. M. Riad Malki, ministre des affaires étrangères et des expatriés de l'État de Palestine,

comme chef de délégation ;

S. Exc. M. Riyad Mansour, ministre, représentant permanent de l'État de Palestine auprès de l'Organisation des Nations Unies (New York),

S. Exc. M. Ammar Hijazi, ministre adjoint chargé des affaires multilatérales, ministère des affaires étrangères et des expatriés de l'État de Palestine,

S. Exc. M. Ibrahim Khraishi, représentant permanent de l'État de Palestine auprès de l'Office des Nations Unies (Genève),

S. Exc. M^me^ Rawan Sulaiman, représentante permanente de l'État de Palestine auprès des organisations internationales sises au Royaume des Pays-Bas,

S. Exc. M. Omar Awadallah, ministre adjoint chargé du droit international, de l'Organisation des Nations Unies et des institutions spécialisées des Nations Unies, ministère des affaires étrangères et des expatriés de l'État de Palestine,

S. Exc. M^me^ Feda Abdelhady, représentante permanente adjointe de l'État de Palestine auprès de l'Organisation des Nations Unies (New York),

S. Exc. M. Majed Bamya, représentant permanent adjoint de l'État de Palestine auprès de l'Organisation des Nations Unies (New York), conseiller juridique principal,

comme représentants de l'État de Palestine ;

M. John Dugard, SC, avocat auprès de la Haute Cour d'Afrique du Sud, professeur émérite à l'Université de Leyde et à l'Université de Witwatersrand, ancien membre de la Commission du droit international, membre de l'Institut de droit international,

M. Ardi Imseis, professeur de droit international à la faculté de droit de l'Université Queen's (Canada),

M. Michael Lynk, professeur émérite de droit à l'Université Western (Canada),

comme conseils ;

S. Exc. M^me^ Namira Negm, PhD, ambassadrice,

M. Alain Pellet, professeur émérite de l'Université Paris Nanterre, ancien président de la Commission du droit international, membre et ancien président de l'Institut de droit international,

M. Paul S. Reichler, avocat au cabinet 11 King's Bench Walk, membre du barreau de la Cour suprême des États-Unis d'Amérique,

M. Philippe Sands, KC, professeur de droit à l'University College London, avocat au cabinet 11 King's Bench Walk,

M. Andreas Zimmermann, LLM (Harvard), professeur à l'Université de Potsdam, membre de la Cour permanente d'arbitrage,

comme conseils et avocats ;

Ms Héloïse Bajer-Pellet, Founding Partner of FAR Avocats, member of the Paris Bar,

Mr Edward Craven, Barrister, Matrix Chambers, London,

Mr Matthew Craven, Professor of Law, School of Oriental and African Studies, University of London,

Ms Elise Ruggeri Abonnat, *maîtresse de conférences*, University of Lille,

Mr Zac Sammour, Barrister, 11 King's Bench Walk,

Ms Sophie Schuberth, Assistant and PhD candidate at Freie Universität Berlin,

Mr Ysam Soualhi, PhD candidate, Faculty of Law, University of Angers,

Ms Yusra Suedi, Lecturer in International Law, University of Manchester,

Ms Yasmeen Zuaiter, Legal Adviser,

as Assistants.

The Government of the Republic of South Africa is represented by:

HE Mr Vusimuzi Madonsela, Ambassador of the Republic of South Africa to the Kingdom of the Netherlands,

Mr Pieter Andreas Stemmet, Acting Chief State Law Adviser (International Law), Department of International Relations and Cooperation,

Mr Cornelius Scholtz, Legal Counsellor, Embassy of the Republic of South Africa in the Kingdom of the Netherlands.

The Government of the People's Democratic Republic of Algeria is represented by:

HE Ms Salima Abdelhak, Ambassador of the People's Democratic Republic of Algeria to the Kingdom of the Netherlands,

Mr Mohamed Sofiane Berrah, Director General of Multilateral Relations, Ministry of Foreign Affairs and the National Community Abroad,

Mr Ahmed Laraba, jurist, member of the International Law Commission,

Ms Maya Sahli Fadel, jurist, former Commissioner of the African Commission on Human and Peoples' Rights,

Ms Amina Bokreta, Minister Counsellor,

Mr Abdelmoumene Senoussaoui, Foreign Affairs Counsellor.

The Government of the Kingdom of Saudi Arabia is represented by:

HE Mr Ziad M. D. Al Atiyah, Ambassador of the Kingdom of Saudi Arabia to the Kingdom of the Netherlands,

Mr Abdulrahman H. Sheikh,

M^me^ Héloïse Bajer-Pellet, associée fondatrice du cabinet FAR Avocats, avocate au barreau de Paris,

M. Edward Craven, avocat au cabinet Matrix Chambers (Londres),

M. Matthew Craven, professeur de droit, École des études orientales et africaines de l'Université de Londres,

M^me^ Elise Ruggeri Abonnat, maîtresse de conférences à l'Université de Lille,

M. Zac Sammour, avocat au cabinet 11 King's Bench Walk,

M^me^ Sophie Schuberth, assistante et doctorante à la Freie Universität Berlin,

M. Ysam Soualhi, doctorant à la faculté de droit de l'Université d'Angers,

M^me^ Yusra Suedi, chargée d'enseignement en droit international à l'Université de Manchester,

M^me^ Yasmeen Zuaiter, conseillère juridique,

comme assistants.

Le Gouvernement de la République sud-africaine est représenté par :

S. Exc. M. Vusimuzi Madonsela, ambassadeur de la République sud-africaine auprès du Royaume des Pays-Bas,

M. Pieter Andreas Stemmet, conseiller juridique principal de l'État par intérim (droit international), ministère des relations et de la coopération internationales,

M. Cornelius Scholtz, conseiller juridique, ambassade de la République sud-africaine au Royaume des Pays-Bas.

Le Gouvernement de la République algérienne démocratique et populaire est représenté par :

S. Exc. M^me^ Salima Abdelhak, ambassadrice de la République algérienne démocratique et populaire auprès du Royaume des Pays-Bas,

M. Mohamed Sofiane Berrah, directeur général des relations multilatérales, ministère des affaires étrangères et de la communauté nationale à l'étranger,

M. Ahmed Laraba, juriste, membre de la Commission du droit international,

M^me^ Maya Sahli Fadel, juriste, commissaire sortante de la Commission africaine des droits de l'homme et des peuples,

M^me^ Amina Bokreta, ministre conseillère,

M. Abdelmoumene Senoussaoui, conseiller des affaires étrangères.

Le Gouvernement du Royaume d'Arabie saoudite est représenté par :

S. Exc. M. Ziad M.D. Al Atiyah, ambassadeur du Royaume d'Arabie saoudite auprès du Royaume des Pays-Bas,

M. Abdulrahman H. Sheikh,

Mr Waleed A. Alzahrani,

Mr Yazeed K. Aldhalaan,

Mr Adel S. Alsufyani,

Mr Charles L. O. Buderi.

The Government of the Kingdom of the Netherlands is represented by:

Mr René J. M. Lefeber, Legal Adviser, Ministry of Foreign Affairs of the Kingdom of the Netherlands, Representative of the Government of the Kingdom of the Netherlands,

Ms Mireille Hector, Deputy Legal Adviser, Ministry of Foreign Affairs of the Kingdom of the Netherlands,

Mr David Raïc, Legal Counsel, Ministry of Foreign Affairs of the Kingdom of the Netherlands,

Mr Jeroen van den Boogaard, Legal Counsel, Ministry of Foreign Affairs of the Kingdom of the Netherlands,

Mr Floris Tan, Legal Officer, Ministry of Foreign Affairs of the Kingdom of the Netherlands,

Ms Lotte Kagenaar, Legal Officer, Ministry of Foreign Affairs of the Kingdom of the Netherlands,

Ms Charlotte van der Werf, Policy Officer, Ministry of Foreign Affairs of the Kingdom of the Netherlands,

Ms Khatera Shaghasi, Policy Officer, Ministry of Foreign Affairs of the Kingdom of the Netherlands.

The Government of the People's Republic of Bangladesh is represented by:

HE Mr M. Riaz Hamidullah, Ambassador of the People's Republic of Bangladesh to the Kingdom of the Netherlands,

as Agent;

Mr Shabab Bin Ahmed, Minister, Embassy of the People's Republic of Bangladesh in the Kingdom of the Netherlands,

Mr Md. Jannatul Habib, First Secretary, Embassy of the People's Republic of Bangladesh in the Kingdom of the Netherlands,

Mr Zikrul Hasan Fahad, First Secretary, Embassy of the People's Republic of Bangladesh in the Kingdom of the Netherlands,

as Advisers.

M. Waleed A. Alzahrani,

M. Yazeed K. Aldhalaan,

M. Adel S. Alsufyani,

M. Charles L.O. Buderi.

Le Gouvernement du Royaume des Pays-Bas est représenté par :

M. René J.M. Lefeber, conseiller juridique, ministère des affaires étrangères du Royaume des Pays-Bas, représentant du Gouvernement du Royaume des Pays-Bas,

M^me^ Mireille Hector, conseillère juridique adjointe, ministère des affaires étrangères du Royaume des Pays-Bas,

M. David Raïc, conseiller juridique, ministère des affaires étrangères du Royaume des Pays-Bas,

M. Jeroen van den Boogaard, conseiller juridique, ministère des affaires étrangères du Royaume des Pays-Bas,

M. Floris Tan, conseiller juridique, ministère des affaires étrangères du Royaume des Pays-Bas,

M^me^ Lotte Kagenaar, conseillère juridique, ministère des affaires étrangères du Royaume des Pays-Bas,

M^me^ Charlotte van der Werf, spécialiste des politiques, ministère des affaires étrangères du Royaume des Pays-Bas,

M^me^ Khatera Shaghasi, spécialiste des politiques, ministère des affaires étrangères du Royaume des Pays-Bas.

Le Gouvernement de la République populaire du Bangladesh est représenté par :

S. Exc. M. M. Riaz Hamidullah, ambassadeur de la République populaire du Bangladesh auprès du Royaume des Pays-Bas,

comme agent ;

M. Shabab Bin Ahmed, ministre, ambassade de la République populaire du Bangladesh au Royaume des Pays-Bas,

M. Md. Jannatul Habib, premier secrétaire, ambassade de la République populaire du Bangladesh au Royaume des Pays-Bas,

M. Zikrul Hasan Fahad, premier secrétaire, ambassade de la République populaire du Bangladesh au Royaume des Pays-Bas,

comme conseillers.

The Government of the Kingdom of Belgium is represented by:

Mr Piet Heirbaut, Jurisconsult, Director-General of Legal Affairs, Federal Public Service for Foreign Affairs, Foreign Trade and Development Co-operation of the Kingdom of Belgium,

as Agent;

HE Mr Olivier Belle, Permanent Representative of the Kingdom of Belgium to the international institutions in the Kingdom of the Netherlands,

as Co-Agent;

Ms Sabrina Heyvaert, General Counsel, Directorate for Public International Law, Federal Public Service for Foreign Affairs, Foreign Trade and Development Co-operation of the Kingdom of Belgium,

Ms Pauline De Decker, Attaché, Permanent Representation of the Kingdom of Belgium to the international institutions in the Kingdom of the Netherlands,

Ms Aurélie Debuisson, Attaché, Directorate for Public International Law, Federal Public Service for Foreign Affairs, Foreign Trade and Development Co-operation of the Kingdom of Belgium,

Mr Vaios Koutroulis, Professor of International Law, Université Libre de Bruxelles,

Mr Martin Paul, intern, Permanent Representation of the Kingdom of Belgium to the international institutions in the Kingdom of the Netherlands,

Ms Ainhoa López Uclés, intern, Permanent Representation of the Kingdom of Belgium to the international institutions in the Kingdom of the Netherlands.

The Government of Belize is represented by:

HE Mr Assad Shoman, Ambassador, Special Envoy of the Prime Minister of Belize responsible for sovereignty matters,

as Agent;

Mr Ben Juratowitch, KC, member of the Bars of Belize, Paris, and England and Wales, Essex Court Chambers,

Ms Philippa Webb, Professor of Public International Law, King's College London, member of the Bars of Belize, England and Wales, and the State of New York, Twenty Essex,

as Counsel and Advocates;

Ms Callista Harris, member of the Bar of New South Wales, Australia, 7 Wentworth Selborne Chambers,

Ms Catherine Drummond, legal practitioner admitted in Queensland, Australia,

as Counsel;

Le Gouvernement du Royaume de Belgique est représenté par :

M. Piet Heirbaut, jurisconsulte, directeur général des affaires juridiques, service public fédéral affaires étrangères, commerce extérieur et coopération au développement du Royaume de Belgique,

comme agent ;

S. Exc. M. Olivier Belle, représentant permanent du Royaume de Belgique auprès des institutions internationales au Royaume des Pays-Bas,

comme coagent ;

M^me^ Sabrina Heyvaert, conseillère générale, direction du droit international public, service public fédéral affaires étrangères, commerce extérieur et coopération au développement du Royaume de Belgique,

M^me^ Pauline De Decker, attachée, représentation permanente du Royaume de Belgique auprès des institutions internationales au Royaume des Pays-Bas,

M^me^ Aurélie Debuisson, attachée, direction du droit international public, service public fédéral affaires étrangères, commerce extérieur et coopération au développement du Royaume de Belgique,

M. Vaios Koutroulis, professeur de droit international, Université libre de Bruxelles,

M. Martin Paul, stagiaire, représentation permanente du Royaume de Belgique auprès des institutions internationales au Royaume des Pays-Bas,

M^me^ Ainhoa López Uclés , stagiaire, représentation permanente du Royaume de Belgique auprès des institutions internationales au Royaume des Pays-Bas.

Le Gouvernement du Belize est représenté par :

S. Exc. M. Assad Shoman, ambassadeur, envoyé spécial du premier ministre du Belize chargé des questions de souveraineté,

comme agent ;

M. Ben Juratowitch, KC, membre des barreaux du Belize et de Paris ainsi que du barreau d'Angleterre et du pays de Galles, Essex Court Chambers,

M^me^ Philippa Webb, professeure de droit international public au King's College London, membre des barreaux du Belize et de l'État de New York ainsi que du barreau d'Angleterre et du pays de Galles, cabinet Twenty Essex,

comme conseils et avocats ;

M^me^ Callista Harris, membre du barreau de Nouvelle-Galles du Sud (Australie), 7 Wentworth Selborne Chambers,

M^me^ Catherine Drummond, avocate, Queensland (Australie),

comme conseils ;

Ms Mariana Verde, Chief Operations Officer, Office of Belize's Agent to the International Court of Justice, Ministry of Foreign Affairs, Foreign Trade and Immigration of Belize,

as Adviser.

The Plurinational State of Bolivia is represented by:

HE Mr Roberto Calzadilla Sarmiento, Ambassador of the Plurinational State of Bolivia to the Kingdom of the Netherlands,

Ms Fabiola Cruz Moreno, Second Secretary, Embassy of the Plurinational State of Bolivia to the Kingdom of the Netherlands.

The Government of the Federative Republic of Brazil is represented by:

HE Mr Fernando Simas Magalhães, Ambassador of the Federative Republic of Brazil to the Kingdom of the Netherlands,

a*s Head of Delegation;*

Mr Emerson Novais Lopes, Counsellor,

Mr Frederico Bauer, Counsellor,

Ms Maria Clara de Paula Tusco, Counsellor,

Mr Gaétan Isaac Maria Spielmann Moura, Secretary,

Mr Pedro Muniz Pinto Sloboda, Secretary,

Ms Ana Beatriz Schwanck Fernandes, Attaché.

The Government of the Republic of Chile is represented by:

Ms Ximena Fuentes Torrijo, Special Representative of the Republic of Chile,

HE Mr Jaime Moscoso Valenzuela, Ambassador of the Republic of Chile to the Kingdom of the Netherlands,

Mr José Juan Hernández Chávez, Counsellor of the Permanent Mission of Chile to the United Nations,

Ms Paula Monsalve Espinoza, First Secretary of the Embassy of the Republic of Chile in the Kingdom of the Netherlands,

Ms María Catalina Fernández Carter, Head of the Department of the Universal Human Rights System, Ministry of Foreign Affairs of Chile.

The Government of the Republic of Colombia is represented by:

Ms Andrea Jiménez Herrera, Minister Counsellor, Head of the Group of Affairs before the International Court of Justice at the Ministry of Foreign Affairs of the Republic of Colombia,

M^me^ Mariana Verde, directrice des opérations, bureau de l'agent du Belize devant la Cour internationale de Justice, ministère des affaires étrangères, du commerce extérieur et de l'immigration du Belize,

comme conseillère.

Le Gouvernement de l'État plurinational de Bolivie est représenté par:

S. Exc. M. Roberto Calzadilla Sarmiento, ambassadeur de l'État plurinational de Bolivie auprès du Royaume des Pays-Bas.

M^me^ Fabiola Cruz Moreno, deuxième secrétaire, ambassade de l'État plurinational de Bolivie au Royaume des Pays-Bas.

Le Gouvernement de la République fédérative du Brésil est représenté par :

S. Exc. M. Fernando Simas Magalhães, ambassadeur de la République fédérative du Brésil auprès du Royaume des Pays-Bas,

comme chef de délégation ;

M. Emerson Novais Lopes, conseiller,

M. Frederico Bauer, conseiller,

M^me^ Maria Clara de Paula Tusco, conseillère,

M. Gaétan Isaac Maria Spielmann Moura, secrétaire,

M. Pedro Muniz Pinto Sloboda, secrétaire,

M^me^ Ana Beatriz Schwanck Fernandes, attachée.

Le Gouvernement de la République du Chili est représenté par :

M^me^ Ximena Fuentes Torrijo, représentante spéciale de la République du Chili,

S. Exc. M. Jaime Moscoso Valenzuela, ambassadeur de la République du Chili auprès du Royaume des Pays-Bas,

M. José Juan Hernández Chávez, conseiller de la mission permanente du Chili auprès de l'Organisation des Nations Unies,

M^me^ Paula Monsalve Espinoza, première secrétaire de l'ambassade de la République du Chili au Royaume des Pays-Bas,

M^me^ María Catalina Fernández Carter, cheffe du département du système universel des droits de l'homme, ministère des affaires étrangères du Chili.

Le Gouvernement de la République de Colombie est représenté par :

M^me^ Andrea Jiménez Herrera, ministre conseillère, cheffe du groupe chargé des affaires portées devant la Cour internationale de Justice, ministère des affaires étrangères de la République de Colombie,

HE Ms Carolina Olarte Bácares, Ambassador of the Republic of Colombia to the Kingdom of the Netherlands,

Mr Marco Alberto Velásquez Ruiz, Counsellor, Embassy of the Republic of Colombia in the Kingdom of the Netherlands,

Mr Raúl Alfonso Simancas Gómez, Second Secretary, Embassy of the Republic of Colombia in the Kingdom of the Netherlands.

The Government of the Republic of Cuba is represented by:

HE Ms Anayansi Rodríguez Camejo, Deputy Minister for Foreign Affairs,

HE Ms Anet Pino Rivero, Ambassador of the Republic of Cuba to the Kingdom of the Netherlands,

Mr Lester Delgado Sánchez, Counsellor, Ministry of Foreign Affairs,

Mr Reynier del Calvo Matos, First Secretary, Ministry of Foreign Affairs,

Ms Ana María Ortega Báez, Third Secretary, Embassy of the Republic of Cuba in the Kingdom of the Netherlands.

The Government of the Arab Republic of Egypt is represented by:

HE Mr Hatem Kamaleldin, Ambassador of the Arab Republic of Egypt to the Kingdom of the Netherlands,

as Agent and Head of Delegation;

Ms Jasmine Moussa, Legal Counsellor, Cabinet of the Minister for Foreign Affairs, Ministry of Foreign Affairs of the Arab Republic of Egypt,

as Counsel;

Mr Sherif Abdelaziz, First Secretary, Embassy of the Arab Republic of Egypt in the Kingdom of the Netherlands,

Ms Mariham Youssef, First Secretary, Embassy of the Arab Republic of Egypt in the Kingdom of the Netherlands,

Mr Mohamed Samir Salem, Second Secretary, Embassy of the Arab Republic of Egypt in the Kingdom of the Netherlands.

The Government of the United Arab Emirates is represented by:

HE Ms Lana Nusseibeh, Assistant Minister for Political Affairs, Permanent Representative of the United Arab Emirates to the United Nations,

as Head of Delegation;

Mr Abdulla Aljasmi, Deputy Director, International Law Department, Ministry of Foreign Affairs,

S. Exc. M^me^ Carolina Olarte Bácares, ambassadrice de la République de Colombie auprès du Royaume des Pays-Bas,

M. Marco Alberto Velásquez Ruiz, conseiller, ambassade de la République de Colombie au Royaume des Pays-Bas,

M. Raúl Alfonso Simancas Gómez, deuxième secrétaire, ambassade de la République de Colombie au Royaume des Pays-Bas.

Le Gouvernement de la République de Cuba est représenté par :

S. Exc. M^me^ Anayansi Rodríguez Camejo, vice-ministre des affaires étrangères,

S. Exc. M^me^ Anet Pino Rivero, ambassadrice de la République de Cuba auprès du Royaume des Pays-Bas,

M. Lester Delgado Sánchez, conseiller, ministère des affaires étrangères,

M. Reynier del Calvo Matos, premier secrétaire, ministère des affaires étrangères,

M^me^ Ana María Ortega Báez, troisième secrétaire de l'ambassade de la République de Cuba au Royaume des Pays-Bas.

Le Gouvernement de la République arabe d'Égypte est représenté par :

S. Exc. M. Hatem Kamaleldin, ambassadeur de la République arabe d'Égypte auprès du Royaume des Pays-Bas,

comme agent et chef de délégation ;

M^me^ Jasmine Moussa, conseillère juridique, cabinet du ministre des affaires étrangères, ministère des affaires étrangères de la République arabe d'Égypte,

comme conseil ;

M. Sherif Abdelaziz, premier secrétaire, ambassade de la République arabe d'Égypte au Royaume des Pays-Bas,

M^me^ Mariham Youssef, première secrétaire, ambassade de la République arabe d'Égypte au Royaume des Pays-Bas,

M. Mohamed Samir Salem, deuxième secrétaire, ambassade de la République arabe d'Égypte au Royaume des Pays-Bas.

Le Gouvernement des Émirats arabes unis est représenté par :

S. Exc. M^me^ Lana Nusseibeh, ministre déléguée aux affaires politiques, représentante permanente des Émirats arabes unis auprès de l'Organisation des Nations Unies,

comme cheffe de délégation ;

M. Abdulla Aljasmi, directeur adjoint, département du droit international, ministère des affaires étrangères,

Mr Ali Alshehhi, Chargé d'affaires a.i., Embassy of the United Arab Emirates in the Kingdom of the Netherlands,

Ms Majd Abdalla, Head of the International Organizations and Courts Section, Embassy of the United Arab Emirates in the Kingdom of the Netherlands,

Ms Myan Tantawy, Second Secretary, Permanent Mission of the United Arab Emirates to the United Nations,

Mr Rashed Azzam, Third Secretary, Permanent Mission of the United Arab Emirates to the United Nations,

Mr Varin Singh, Legal Adviser,

Mr Brian Abrams, Legal Adviser,

Ms Patricia Kwast, Legal Adviser.

The Government of the United States of America is represented by:

Mr Richard C. Visek, Acting Legal Adviser, United States Department of State,

as Counsel and Advocate;

Mr Steven F. Fabry, Deputy Legal Adviser, United States Department of State,

Ms Maegan L. Conklin, Assistant Legal Adviser, United States Department of State,

Ms Mary T. Mitchell, Assistant Legal Adviser, United States Department of State,

Mr Sean L. Carlesimo, Attorney Adviser, United States Department of State,

Ms Jessica K. Thibodeau, Attorney Adviser, United States Department of State,

Mr Niels Von Deuten, Attorney Adviser, United States Department of State,

Ms Emily J. Kimball, Legal Counselor, Embassy of the United States of America in the Kingdom of the Netherlands,

Ms Jennifer E. Marcovitz, Deputy Legal Counselor, Embassy of the United States of America in the Kingdom of the Netherlands,

as Counsel;

Ms Kelly A. Molloy, Administrative Assistant, Embassy of the United States of America in the Kingdom of the Netherlands,

as Assistant.

M. Ali Alshehhi, chargé d'affaires par intérim, ambassade des Émirats arabes unis au Royaume des Pays-Bas,

M^me^ Majd Abdalla, cheffe de la section des organisations et juridictions internationales, ambassade des Émirats arabes unis au Royaume des Pays-Bas,

M^me^ Myan Tantawy, deuxième secrétaire, mission permanente des Émirats arabes unis auprès de l'Organisation des Nations Unies,

M. Rashed Azzam, troisième secrétaire, mission permanente des Émirats arabes unis auprès de l'Organisation des Nations Unies,

M. Varin Singh, conseiller juridique,

M. Brian Abrams, conseiller juridique,

M^me^ Patricia Kwast, conseillère juridique.

Le Gouvernement des États-Unis d'Amérique est représenté par :

M. Richard C. Visek, conseiller juridique par intérim, département d'État des États-Unis d'Amérique,

comme conseil et avocat ;

M. Steven F. Fabry, conseiller juridique adjoint, département d'État des États-Unis d'Amérique,

M^me^ Maegan L. Conklin, conseillère juridique adjointe, département d'État des États-Unis d'Amérique,

M^me^ Mary T. Mitchell, conseillère juridique adjointe, département d'État des États-Unis d'Amérique,

M. Sean L. Carlesimo, avocat-conseil, département d'État des États-Unis d'Amérique,

M^me^ Jessica K. Thibodeau, avocate-conseil, département d'État des États-Unis d'Amérique,

M. Niels Von Deuten, avocat-conseil, département d'État des États-Unis d'Amérique,

M^me^ Emily J. Kimball, conseillère juridique, ambassade des États-Unis d'Amérique au Royaume des Pays-Bas,

M^me^ Jennifer E. Marcovitz, conseillère juridique adjointe, ambassade des États-Unis d'Amérique au Royaume des Pays-Bas,

comme conseils ;

M^me^ Kelly A. Molloy, assistante administrative, ambassade des États-Unis d'Amérique au Royaume des Pays-Bas,

comme assistante.

The Government of the Russian Federation is represented by:

HE Mr Vladimir Tarabrin, Ambassador of the Russian Federation to the Kingdom of the Netherlands,

Mr Ivan Volodin, Deputy Director, Legal Department, Ministry of Foreign Affairs of the Russian Federation,

Mr Ruslan A. Kantur, Legal Adviser, Permanent Representation of the Russian Federation to the Organisation for the Prohibition of Chemical Weapons,

Mr Nikolai Timofeev, Expert, Department of International Organizations, Ministry of Foreign Affairs of the Russian Federation.

The Government of the French Republic is represented by:

Mr Diégo Colas, Legal Adviser, Director of Legal Affairs at the Ministry for Europe and Foreign Affairs,

as Agent;

HE Mr François Alabrune, Ambassador of the French Republic to the Kingdom of the Netherlands,

as Co-Agent;

Mr Hervé Ascensio, Professor at the University Paris 1 Panthéon-Sorbonne,

Mr Pierre Bodeau-Livinec, Professor at the University Paris Nanterre,

Ms Marion Esnault, Legal Consultant, Directorate of Legal Affairs, Ministry for Europe and Foreign Affairs,

Mr Jean-Marc Sorel, Professor at the University Paris 1 Panthéon-Sorbonne,

as Counsel.

The Government of the Republic of The Gambia is represented by:

Hon. Dawda A. Jallow, Attorney General and Minister of Justice,

HE Mr Pa Musa Jobarteh, Ambassador of the Republic of The Gambia to the Kingdom of Belgium, the Federal Republic of Germany, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Poland, the Czech Republic, the Slovak Republic, the European Union and the ACP (African, Caribbean, and Pacific Group of States),

Mr Mohammad Arsalan Suleman, Counsel,

Ms Fatou L. Njie, State Counsel.

The Government of the Co-operative Republic of Guyana is represented by:

Mr Lloyd Gunraj, Chargé d'affaires, Embassy of the Co-operative Republic of Guyana to the Kingdom of Belgium and the European Union,

as Representative;

Le Gouvernement de la Fédération de Russie est représenté par :

S. Exc. M. Vladimir Tarabrin, ambassadeur de la Fédération de Russie auprès du Royaume des Pays-Bas,

M. Ivan Volodin, directeur adjoint du département juridique, ministère des affaires étrangères de la Fédération de Russie,

M. Ruslan A. Kantur, conseiller juridique à la représentation permanente de la Fédération de Russie auprès de l'Organisation pour l'interdiction des armes chimiques,

M. Nikolai Timofeev, expert au département des organisations internationales, ministère des affaires étrangères de la Fédération de Russie.

Le Gouvernement de la République française est représenté par :

M. Diégo Colas, jurisconsulte, directeur des affaires juridiques, ministère de l'Europe et des affaires étrangères,

comme agent ;

S. Exc. M. François Alabrune, ambassadeur de la République française auprès du Royaume des Pays-Bas,

comme coagent ;

M. Hervé Ascensio, professeur à l'Université Paris 1 Panthéon-Sorbonne,

M. Pierre Bodeau-Livinec, professeur à l'Université Paris Nanterre,

M[me] Marion Esnault, consultante juridique, direction des affaires juridiques, ministère de l'Europe et des affaires étrangères,

M. Jean-Marc Sorel, professeur à l'Université Paris 1 Panthéon-Sorbonne,

comme conseils.

Le Gouvernement de la République de Gambie est représenté par :

l'honorable Dawda A. Jallow, *Attorney General* et ministre de la justice,

S. Exc. M. Pa Musa Jobarteh, ambassadeur de la République de Gambie auprès du Royaume de Belgique, de la République fédérale d'Allemagne, du Grand-Duché de Luxembourg, du Royaume des Pays-Bas, de la République de Pologne, de la République tchèque, de la République slovaque, de l'Union européenne et de l'ACP (groupe des États d'Afrique, des Caraïbes et du Pacifique),

M. Mohammad Arsalan Suleman, conseil,

M[me] Fatou L. Njie, *State Counsel*.

Le Gouvernement de la République coopérative du Guyana est représenté par :

M. Lloyd Gunraj, chargé d'affaires, ambassade de la République coopérative du Guyana au Royaume de Belgique et auprès de l'Union européenne,

comme représentant ;

Mr Edward Craven, Barrister, Matrix Chambers, London,

as Counsel and Advocate;

Ms Jill Tansley, London, Ontario,

as Assistant.

The Government of Hungary is represented by:

Mr Attila Hidegh, Deputy State Secretary for International Cooperation, Ministry of Foreign Affairs and Trade of Hungary,

as Head of Delegation;

Mr Gergő Kocsis, Head of the United Nations Department,

Mr Örs Czenczer, Head of the Secretariat of the Deputy State Secretary for International Cooperation, Ministry of Foreign Affairs and Trade of Hungary,

Ms Krisztina Gosztonyi, Chargé d'affaires a.i., Deputy Head of Mission of the Embassy of Hungary in the Kingdom of the Netherlands,

Ms Enikő Petőházi, Second Counsellor, diplomat responsible for multilateral affairs, Embassy of Hungary in the Kingdom of the Netherlands,

Ms Eda Kaya, Political Adviser, Embassy of Hungary in the Kingdom of the Netherlands,

as Members of the Delegation.

The Government of the People's Republic of China is represented by:

HE Mr Ma Xinmin, Legal Adviser of the Ministry of Foreign Affairs, Director General, Department of Treaty and Law, Ministry of Foreign Affairs,

as Head of Delegation;

Ms Tian Ni, Counsellor, Embassy of the People's Republic of China in the Kingdom of the Netherlands,

Mr He Liang, Division Director, Department of Treaty and Law, Ministry of Foreign Affairs,

Mr Xu Chi, Deputy Division Director, Department of Treaty and Law, Ministry of Foreign Affairs,

Mr Huang Hao, Third Secretary, Embassy of the People's Republic of China in the Kingdom of the Netherlands,

Ms Xie Weixi, Attaché, Department of Treaty and Law, Ministry of Foreign Affairs,

as Members of the Delegation.

M. Edward Craven, avocat au cabinet Matrix Chambers (Londres),

comme conseil et avocat ;

M^me^ Jill Tansley (London, Ontario),

comme assistante.

Le Gouvernement de la Hongrie est représenté par :

M. Attila Hidegh, secrétaire d'État adjoint à la coopération internationale, ministère des affaires étrangères et du commerce extérieur de la Hongrie,

comme chef de délégation ;

M. Gergő Kocsis, chef du département des Nations Unies,

M. Örs Czenczer, chef de cabinet du secrétaire d'État adjoint à la coopération internationale, ministère des affaires étrangères et du commerce extérieur de la Hongrie,

M^me^ Krisztina Gosztonyi, chargée d'affaires par intérim, cheffe adjointe de mission, ambassade de Hongrie au Royaume des Pays-Bas,

M^me^ Enikő Petőházi, deuxième conseillère, diplomate responsable des affaires multilatérales, ambassade de Hongrie au Royaume des Pays-Bas,

M^me^ Eda Kaya, conseillère politique, ambassade de Hongrie au Royaume des Pays-Bas,

comme membres de la délégation.

Le Gouvernement de la République populaire de Chine est représenté par :

S. Exc. M. Ma Xinmin, conseiller juridique du ministère des affaires étrangères, directeur général, département des traités et du droit, ministère des affaires étrangères,

comme chef de délégation ;

M^me^ Tian Ni, conseillère, ambassade de la République populaire de Chine au Royaume des Pays-Bas,

M. He Liang, directeur de division, département des traités et du droit, ministère des affaires étrangères,

M. Xu Chi, directeur adjoint de division, département des traités et du droit, ministère des affaires étrangères,

M. Huang Hao, troisième secrétaire, ambassade de la République populaire de Chine au Royaume des Pays-Bas,

M^me^ Xie Weixi, attachée, département des traités et du droit, ministère des affaires étrangères,

comme membres de la délégation.

The Government of the Islamic Republic of Iran is represented by:

HE Mr Reza Najafi, Deputy Foreign Minister for Legal and International Affairs, Ministry of Foreign Affairs,

as Head of Delegation;

HE Mr Hadi Farajvand, Ambassador of the Islamic Republic of Iran to the Kingdom of the Netherlands,

HE Mr Seyed Ali Mousavi, Director General for International Legal Affairs, Ministry of Foreign Affairs,

Mr Yousef Nourikia, First Counsellor, Embassy of the Islamic Republic of Iran in the Kingdom of the Netherlands,

Mr Amirmohammad Shahriari, Legal Expert, Department of Treaties and Public International Law, Ministry of Foreign Affairs,

Mr Hamid Ebrahimi, Legal Expert on Border Affairs, Ministry of Foreign Affairs.

The Government of the Republic of Iraq is represented by:

HE Mr Hayder Albarrak, Head of the Legal Department of the Ministry of Foreign Affairs,

as Head of Delegation;

HE Mr Fadhul Alraheem, Minister Plenipotentiary,

HE Mr Ali Alhadi, Minister Plenipotentiary,

Mr Yassine Al-Mashhadani, Counsellor,

Mr Ahmed Al-Dulaimi, First Secretary,

Mr Al-Hussein Ashaban, Official, Ministry of Foreign Affairs.

The Government of Ireland is represented by:

Mr Rossa Fanning, SC, Attorney General,

Mr Declan Smyth, Legal Adviser, Department of Foreign Affairs,

HE Mr Brendan Rogers, Ambassador of Ireland to the Kingdom of the Netherlands,

Ms Lynn O'Sullivan, Advisory Counsel, Office of the Attorney General,

Ms Michelle Ryan, Department of Foreign Affairs,

Ms Aoife Ní Chearbhaill, Department of Foreign Affairs,

Ms Louise Hartigan, Embassy of Ireland in the Kingdom of the Netherlands,

Ms Hana Efendic, Embassy of Ireland in the Kingdom of the Netherlands,

Ms Eliza Walsh, Embassy of Ireland in the Kingdom of the Netherlands.

Le Gouvernement de la République islamique d'Iran est représenté par :

S. Exc. M. Reza Najafi, vice-ministre des affaires étrangères chargé des affaires juridiques et internationales, ministère des affaires étrangères,

comme chef de délégation ;

S. Exc. M. Hadi Farajvand, ambassadeur de la République islamique d'Iran auprès du Royaume des Pays-Bas,

S. Exc. M. Seyed Ali Mousavi, directeur général des affaires juridiques internationales, ministère des affaires étrangères,

M. Yousef Nourikia, premier conseiller à l'ambassade de la République islamique d'Iran au Royaume des Pays-Bas,

M. Amirmohammad Shahriari, expert juridique au département des traités et du droit international public, ministère des affaires étrangères,

M. Hamid Ebrahimi, expert juridique aux affaires frontalières, ministère des affaires étrangères.

Le Gouvernement de la République d'Iraq est représenté par :

S. Exc. M. Hayder Albarrak, chef du département juridique, ministère des affaires étrangères,

comme chef de délégation ;

S. Exc. M. Fadhul Alraheem, ministre plénipotentiaire,

S. Exc. M. Ali Alhadi, ministre plénipotentiaire,

M. Yassine Al-Mashhadani, conseiller,

M. Ahmed Al-Dulaimi, premier secrétaire,

M. Al-Hussein Ashaban, fonctionnaire du ministère des affaires étrangères.

Le Gouvernement de l'Irlande est représenté par :

M. Rossa Fanning, SC, *Attorney General*,

M. Declan Smyth, conseiller juridique, ministère des affaires étrangères,

S. Exc. M. Brendan Rogers, ambassadeur d'Irlande auprès du Royaume des Pays-Bas,

M^me^ Lynn O'Sullivan, avocate-conseil, bureau de l'*Attorney General*,

M^me^ Michelle Ryan, ministère des affaires étrangères,

M^me^ Aoife Ní Chearbhaill, ministère des affaires étrangères,

M^me^ Louise Hartigan, ambassade d'Irlande au Royaume des Pays-Bas,

M^me^ Hana Efendic, ambassade d'Irlande au Royaume des Pays-Bas,

M^me^ Eliza Walsh, ambassade d'Irlande au Royaume des Pays-Bas.

The Government of Japan is represented by:

HE Mr Hiroshi Minami, Ambassador of Japan to the Kingdom of the Netherlands,

Mr Tomohiro Mikanagi, Director General, International Legal Affairs Bureau/Legal Adviser, Ministry of Foreign Affairs,

Mr Dapo Akande, Professor of Public International Law, University of Oxford,

Mr Masatsugu Odaira, Director, International Legal Affairs Division/Assistant Legal Adviser, Ministry of Foreign Affairs,

Mr Kimihiko Okano, Deputy Director, International Legal Affairs Division, Ministry of Foreign Affairs,

Ms Misaki Fukuda, Official, First Middle East Division, Ministry of Foreign Affairs,

Ms Sakura Hagiwara, First Secretary, Embassy of Japan in the Kingdom of the Netherlands,

Ms Mio Takanashi, First Secretary, Embassy of Japan in the Kingdom of the Netherlands,

Ms Izumi Fujiwara, researcher, Embassy of Japan in the Kingdom of the Netherlands.

The Government of the Hashemite Kingdom of Jordan is represented by:

HE Mr Ayman Safadi, Deputy Prime Minister and Minister of Foreign Affairs and Expatriates of the Hashemite Kingdom of Jordan,

as Representative and Head of Delegation;

HE Mr Ahmad Ziadat, Minister of Justice of the Hashemite Kingdom of Jordan,

HE Mr Daifallah Ali Daifallah Alfayez, Ambassador of the Hashemite Kingdom of Jordan to the Kingdom of the Netherlands,

as Deputy Heads of Delegation;

Ms Laurence Boisson de Chazournes, Professor of International Law at the University of Geneva School of Law and member of the Institut de droit international,

Ms Anne Coulon, member of the Bar of the State of New York, Temple Garden Chambers, The Hague,

Mr Alfredo Crosato Neumann, Assistant Professor of International Law, Kadir Has University, Istanbul, member of the Lima Bar,

Mr Guy Goodwin-Gill, Emeritus Fellow of All Souls College, Oxford, Honorary Professor, Faculty of Law & Justice, University of New South Wales Sydney, member of the Bar of England and Wales,

Mr Khawar Qureshi, KC, member of the Bar of England and Wales, Head of McNair International, London,

Le Gouvernement du Japon est représenté par :

S. Exc. M. Hiroshi Minami, ambassadeur du Japon auprès du Royaume des Pays-Bas,

M. Tomohiro Mikanagi, directeur général du bureau des affaires juridiques internationales et conseiller juridique, ministère des affaires étrangères,

M. Dapo Akande, professeur de droit international public, Université d'Oxford,

M. Masatsugu Odaira, directeur de la division des affaires juridiques internationales et conseiller juridique adjoint, ministère des affaires étrangères,

M. Kimihiko Okano, directeur adjoint de la division des affaires juridiques internationales, ministère des affaires étrangères,

M^me^ Misaki Fukuda, fonctionnaire, première division du Moyen-Orient, ministère des affaires étrangères,

M^me^ Sakura Hagiwara, première secrétaire, ambassade du Japon au Royaume des Pays-Bas,

M^me^ Mio Takanashi, première secrétaire, ambassade du Japon au Royaume des Pays-Bas,

M^me^ Izumi Fujiwara, chercheuse, ambassade du Japon au Royaume des Pays-Bas.

Le Gouvernement du Royaume hachémite de Jordanie est représenté par :

S. Exc. M. Ayman Safadi, vice-premier ministre et ministre des affaires étrangères et des expatriés du Royaume hachémite de Jordanie,

comme représentant et chef de délégation ;

S. Exc. M. Ahmad Ziadat, ministre de la justice du Royaume hachémite de Jordanie,

S. Exc. M. Daifallah Ali Daifallah Alfayez, ambassadeur du Royaume hachémite de Jordanie auprès du Royaume des Pays-Bas,

comme chefs adjoints de délégation ;

M^me^ Laurence Boisson de Chazournes, professeure de droit international à la faculté de droit de l'Université de Genève, membre de l'Institut de droit international,

M^me^ Anne Coulon, membre du barreau de l'État de New York, Temple Garden Chambers (La Haye),

M. Alfredo Crosato Neumann, professeur adjoint de droit international, Université Kadir Has (Istanbul), membre du barreau de Lima,

M. Guy Goodwin-Gill, membre émérite du All Souls College (Oxford), professeur honoraire à la faculté droit et justice de l'Université de Nouvelle-Galles du Sud (Sydney), membre du barreau d'Angleterre et du pays de Galles,

M. Khawar Qureshi, KC, membre du barreau d'Angleterre et du pays de Galles, directeur du cabinet McNair International (Londres),

Sir Michael Wood, KCMG, KC, member of the Bar of England and Wales, Twenty Essex, London,

as Counsel;

Mr Joseph Dyke, Senior Associate, McNair International, London,

as Legal Assistant;

Mr Wasfi Kailani, Director of the Hashemite Fund for the Restoration of Al-Aqsa Mosque and the Dome of the Rock,

Mr Odai Abdel Wahab Al Qaralleh, Ministry of Foreign Affairs and Expatriates,

Mr Haitham Ali Al Khaldi, Ministry of Foreign Affairs and Expatriates,

Mr Almuatasembellah Khalaf Alsalahin, Ministry of Justice,

as Advisers.

The Government of the State of Kuwait is represented by:

HE Mr Ali Ahmad Ebraheem S. Al-Dafiri, Ambassador of the State of Kuwait to the Kingdom of the Netherlands, Agent of the State of Kuwait,

as Head of Delegation;

HE Mr Tareq M. A. M. Al-Banai, Permanent Representative of the State of Kuwait to the United Nations,

HE Ms Tahani R. F. Al-Naser, Assistant Foreign Minister of Legal Affairs, State of Kuwait,

Ms Lateefah S. M. Al-Azran, Second Secretary, Ministry of Foreign Affairs of the State of Kuwait,

Mr Jaber S. H. Al-Sabah, Third Secretary, Embassy of the State of Kuwait in the Kingdom of the Netherlands.

The Government of the Lebanese Republic is represented by:

HE Mr Abdel Sattar Issa, Ambassador of the Lebanese Republic to the Kingdom of the Netherlands,

as Head of Delegation;

Ms Jennifer El Hayek, First Secretary at the Embassy of Lebanon in the Kingdom of the Netherlands.

The Government of the State of Libya is represented by:

Mr Ahmed El Gehani, Libyan representative to the International Criminal Court,

HE Mr Zeiad Daghim, Ambassador of the State of Libya to the Kingdom of the Netherlands,

Mr Assad Aljerbi, Deputy Chief of Mission, Embassy of the State of Libya in the Kingdom of the Netherlands,

Sir Michael Wood, KCMG, KC, membre du barreau d'Angleterre et du pays de Galles, cabinet Twenty Essex (Londres),

comme conseils ;

M. Joseph Dyke, collaborateur senior, cabinet McNair International (Londres),

comme assistant juridique ;

M. Wasfi Kailani, directeur du fonds hachémite pour la restauration de la mosquée al-Aqsa et du dôme du Rocher,

M. Odai Abdel Wahab Al Qaralleh, ministère des affaires étrangères et des expatriés,

M. Haitham Ali Al Khaldi, ministère des affaires étrangères et des expatriés,

M. Almuatasembellah Khalaf Alsalahin, ministère de la justice,

comme conseillers.

Le Gouvernement de l'État du Koweït est représenté par :

S. Exc. M. Ali Ahmad Ebraheem S. Al-Dafiri, ambassadeur de l'État du Koweït auprès du Royaume des Pays-Bas, agent de l'État du Koweït,

comme chef de délégation ;

S. Exc. M. Tareq M. A. M. Al-Banai, représentant permanent de l'État du Koweït auprès de l'Organisation des Nations Unies,

S. Exc. M^me^ Tahani R. F. Al-Naser, ministre déléguée aux affaires étrangères de l'État du Koweït chargée des affaires juridiques,

M^me^ Lateefah S. M. Al-Azran, deuxième secrétaire, ministère des affaires étrangères de l'État du Koweït,

M. Jaber S. H. Al-Sabah, troisième secrétaire, ambassade de l'État du Koweït au Royaume des Pays-Bas.

Le Gouvernement de la République libanaise est représenté par :

S. Exc. M. Abdel Sattar Issa, ambassadeur de la République libanaise auprès du Royaume des Pays-Bas,

comme chef de délégation ;

M^me^ Jennifer El Hayek, première secrétaire de l'ambassade de la République libanaise au Royaume des Pays-Bas.

Le Gouvernement de l'État de Libye est représenté par :

M. Ahmed El Gehani, représentant de l'État de Libye auprès de la Cour pénale internationale,

S. Exc. M. Zeiad Daghim, ambassadeur de l'État de Libye auprès du Royaume des Pays-Bas,

M. Assad Aljerbi, chef adjoint de mission, ambassade de l'État de Libye au Royaume des Pays-Bas,

Mr Nasser F. O. Algheitta, Legal counsellor at the Permanent Mission of the State of Libya to the United Nations Office at Geneva,

Mr Saifeddin Sharif, First Secretary, Embassy of the State of Libya in the Kingdom of the Netherlands,

Ms Mofida Albanoni, Administrative Attaché, Mission of the State of Libya to the International Criminal Court.

The Government of the Grand Duchy of Luxembourg is represented by:

Mr Alain Germeaux, Director of Legal Affairs, Ministry for Foreign and European Affairs of the Grand Duchy of Luxembourg,

as Agent;

HE Mr Mike Hentges, Ambassador of the Grand Duchy of Luxembourg to the Kingdom of the Netherlands,

as Co-Agent;

Ms Cathy Wagener, Deputy Head of Mission, Embassy of the Grand Duchy of Luxembourg in the Kingdom of the Netherlands,

Ms Elma Bakovic, *Attachée de légation*, Ministry of Foreign and European Affairs,

Ms Léa Siffert, Legal Adviser, Embassy of the Grand Duchy of Luxembourg in the Kingdom of the Netherlands,

Ms Janet Corcelli, intern, Ministry of Foreign and European Affairs.

The Government of Malaysia is represented by:

HE Dato' Seri Utama Haji Mohamad Haji Hasan, Minister for Foreign Affairs of Malaysia,

HE Mr Roseli Abdul, Ambassador of Malaysia to the Kingdom of the Netherlands,

Mr Alfian Yang Amri, Head of the International Affairs Division, Attorney General's Chambers of Malaysia,

Mr Mohd Hasril Abdul Hamid, Undersecretary for the OIC and Regional Cooperation Division, Ministry of Foreign Affairs of Malaysia,

Dato' Rahmat Mohamad, Professor of Law, Universiti Teknologi MARA,

Mr Antonios Tzanakopoulos, Professor of Public International Law, University of Oxford,

Mr Amri Mohamad, Office of the Minister for Foreign Affairs of Malaysia,

Mr Eikmar Rizal Mohd Ripin, Office of the Minister for Foreign Affairs of Malaysia,

Mr Ahmad Amiri Abu Bakar, Office of the Minister for Foreign Affairs of Malaysia,

Mr Mohd Ishrin Mohd Ishak, Minister-Counsellor, Embassy of Malaysia in the Kingdom of the Netherlands,

M. Nasser F. O. Algheitta, conseiller juridique, mission permanente de l'État de Libye auprès de l'Office des Nations Unies à Genève,

M. Saifeddin Sharif, premier secrétaire, ambassade de l'État de Libye au Royaume des Pays-Bas,

M^me^ Mofida Albanoni, attachée d'administration, mission de l'État de Libye auprès de la Cour pénale internationale.

Le Gouvernement du Grand-Duché de Luxembourg est représenté par :

M. Alain Germeaux, directeur des affaires juridiques, ministère des affaires étrangères et européennes du Grand-Duché de Luxembourg,

comme agent ;

S. Exc. M. Mike Hentges, ambassadeur du Grand-Duché de Luxembourg auprès du Royaume des Pays-Bas,

comme coagent ;

M^me^ Cathy Wagener, cheffe de mission adjointe, ambassade du Grand-Duché de Luxembourg au Royaume des Pays-Bas,

M^me^ Elma Bakovic, attachée de légation, ministère des affaires étrangères et européennes,

M^me^ Léa Siffert, conseillère juridique, ambassade du Grand-Duché de Luxembourg au Royaume des Pays-Bas,

M^me^ Janet Corcelli, stagiaire, ministère des affaires étrangères et européennes.

Le Gouvernement de la Malaisie est représenté par :

S. Exc. Dato' Seri Utama Haji Mohamad Haji Hasan, ministre des affaires étrangères de la Malaisie,

S. Exc. M. Roseli Abdul, ambassadeur de Malaisie auprès du Royaume des Pays-Bas,

M. Alfian Yang Amri, chef de la division des affaires internationales, bureau de l'*Attorney General* de la Malaisie,

M. Mohd Hasril Abdul Hamid, sous-secrétaire chargé de la division de l'OCI et de la coopération régionale, ministère des affaires étrangères de la Malaisie,

Dato' Rahmat Mohamad, professeur de droit à l'Universiti Teknologi MARA,

M. Antonios Tzanakopoulos, professeur de droit international public à l'Université d'Oxford,

M. Amri Mohamad, cabinet du ministre des affaires étrangères de Malaisie,

M. Eikmar Rizal Mohd Ripin, cabinet du ministre des affaires étrangères de la Malaisie,

M. Ahmad Amiri Abu Bakar, cabinet du ministre des affaires étrangères de la Malaisie,

M. Mohd Ishrin Mohd Ishak, ministre conseiller, ambassade de la Malaisie au Royaume des Pays-Bas,

Ms Adlina Nujumudin, Federal Counsel, International Affairs Division, Attorney General's Chambers of Malaysia,

Ms Wan Maisarah Mohamed Idrus, First Secretary, Embassy of Malaysia in the Kingdom of the Netherlands,

Mr Azril Mohd Amin, Legal Fellow.

The Government of the Republic of Mauritius is represented by:

HE Mr Jagdish D. Koonjul, Permanent Representative of the Republic of Mauritius to the United Nations, New York,

as Representative;

Mr Pierre Klein, Professor of International Law at the Université Libre de Bruxelles,

as Counsel and Advocate;

Mr Paul S. Reichler, 11 King's Bench Walk,

Mr Remi Reichhold, 11 King's Bench Walk,

Mr Edward Craven, Barrister, Matrix Chambers, London,

as Counsel.

The Government of the Republic of Namibia is represented by:

Hon. Yvonne Dausab, Minister of Justice,

as Head of Delegation;

Ms Gladice Pickering, Executive Director, Ministry of Justice,

HE Ms Mekondjo Kaapanda-Girnus, Ambassador of the Republic of Namibia to the Kingdom of Belgium, the Kingdom of the Netherlands and the Grand Duchy of Luxembourg,

Ms Helena Kuzee, Deputy Permanent Representative of the Republic of Namibia to the United Nations, New York,

Ms Anna-Lethu Haitembu-Sihengo, Attorney General's Office,

Ms Phoebe Okowa, Professor of Public International Law, University of London, Legal Counsel of Namibia,

Mr Icarus Chan, Research Assistant to Legal Counsel,

Ms Tangi Shikongo, Senior Legal Officer, Ministry of Justice,

Ms Brona Okwara, Chief Foreign Relations Officer, Ministry of International Relations and Cooperation,

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

M^me^ Adlina Nujumudin, conseillère fédérale, division des affaires internationales, bureau de l'*Attorney General* de la Malaisie,

M^me^ Wan Maisarah Mohamed Idrus, première secrétaire, ambassade de Malaisie au Royaume des Pays-Bas,

M. Azril Mohd Amin, *Legal Fellow*.

Le Gouvernement de la République de Maurice est représenté par :

S. Exc. M. Jagdish D. Koonjul, représentant permanent de la République de Maurice auprès de l'Organisation des Nations Unies à New York,

comme représentant ;

M. Pierre Klein, professeur de droit international à l'Université libre de Bruxelles,

comme conseil et avocat ;

M. Paul S. Reichler, avocat au cabinet 11 King's Bench Walk,

M. Remi Reichhold, avocat au cabinet 11 King's Bench Walk,

M. Edward Craven, avocat au cabinet Matrix Chambers (Londres),

comme conseils.

Le Gouvernement de la République de Namibie est représenté par :

l'honorable Yvonne Dausab, ministre de la justice,

comme cheffe de délégation ;

M^me^ Gladice Pickering, directrice exécutive, ministère de la justice,

S. Exc. M^me^ Mekondjo Kaapanda-Girnus, ambassadrice de la République de Namibie auprès du Royaume de Belgique, du Royaume des Pays-Bas et du Grand-Duché de Luxembourg,

M^me^ Helena Kuzee, représentante permanente adjointe de la République de Namibie auprès de l'Organisation des Nations Unies (New York),

M^me^ Anna-Lethu Haitembu-Sihengo, bureau de l'*Attorney General*,

M^me^ Phoebe Okowa, professeure de droit international public à l'Université de Londres, conseillère juridique de la Namibie,

M. Icarus Chan, assistant de recherche de la conseillère juridique,

M^me^ Tangi Shikongo, conseillère juridique principale, ministère de la justice,

M^me^ Brona Okwara, chargée des relations extérieures, ministère des relations internationales et de la coopération,

M. Paulus Namukwambi, chargé des relations extérieures, ministère des relations internationales et de la coopération,

Ms Johanna Shilumbu, Office of the Minister, Ministry of Justice,

Ms Blanche Engelbrecht, Political Secretary, Embassy of the Republic of Namibia in the Kingdom of Belgium.

The Government of the Kingdom of Norway is represented by:

Mr Kristian Jervell, Director General, Legal Department, Ministry of Foreign Affairs,

HE Mr Rolf Einar Fife, *ambassadeur en mission spéciale*, Ministry of Foreign Affairs,

HE Mr Bård Ivar Svendsen, Ambassador of the Kingdom of Norway to the Kingdom of the Netherlands and the Grand Duchy of Luxembourg,

Ms Kristin Hefre, Minister Counsellor for Legal Affairs, Royal Norwegian Embassy in the Kingdom of the Netherlands,

Ms Annette Seiergren Bjørseth, International Law Adviser, Legal Department, Ministry of Foreign Affairs,

Ms Hilda Baevre Bergseth, intern, Legal Affairs, Royal Norwegian Embassy in the Kingdom of the Netherlands.

The Government of the Sultanate of Oman is represented by:

HE Sheikh Abdullah Al Harthi, Ambassador of the Sultanate of Oman to the Kingdom of the Netherlands,

Mr Faisal O. Al Marhoon,

Mr Ali A. Al Najaar,

Ms Rawan Al Busaidi,

Mr Waleed H. Al Jahawari,

Mr Hamed K. Al Busaidi.

The Government of the Islamic Republic of Pakistan is represented by:

HE Mr Ahmed Irfan Aslam, Federal Minister for Law and Justice of the Islamic Republic of Pakistan,

as Head of Delegation;

HE Mr Suljuk Mustansar Tarar, Ambassador of the Islamic Republic of Pakistan to the Kingdom of the Netherlands,

Mr Jawad Ali, Director General, Ministry of Foreign Affairs,

Mr Asad Burki, Legal Adviser, Ministry of Foreign Affairs,

Mr Someir Siraj, Head of the International Dispute Unit, Office of the Attorney General of the Islamic Republic of Pakistan,

M^me^ Johanna Shilumbu, cabinet de la ministre, ministère de la justice,

M^me^ Blanche Engelbrecht, secrétaire politique, ambassade de la République de Namibie au Royaume de Belgique.

Le Gouvernement du Royaume de Norvège est représenté par :

M. Kristian Jervell, directeur général du département des affaires juridiques, ministère des affaires étrangères,

S. Exc. M. Rolf Einar Fife, ambassadeur en mission spéciale, ministère des affaires étrangères,

S. Exc. M. Bård Ivar Svendsen, ambassadeur du Royaume de Norvège auprès du Royaume des Pays-Bas et du Grand-Duché de Luxembourg,

M^me^ Kristin Hefre, ministre conseillère aux affaires juridiques, ambassade royale de Norvège au Royaume des Pays-Bas,

M^me^ Annette Seiergren Bjørseth, conseillère en droit international, département des affaires juridiques, ministère des affaires étrangères,

M^me^ Hilda Baevre Bergseth, stagiaire aux affaires juridiques, ambassade royale de Norvège au Royaume des Pays-Bas.

Le Gouvernement du Sultanat d'Oman est représenté par :

S. Exc. le cheikh Abdullah Al Harthi, ambassadeur du Sultanat d'Oman auprès du Royaume des Pays-Bas,

M. Faisal O. Al Marhoon,

M. Ali A. Al Najaar,

M^me^ Rawan Al Busaidi,

M. Waleed H. Al Jahawari,

M. Hamed K. Al Busaidi.

Le Gouvernement de la République islamique du Pakistan est représenté par :

S. Exc. M. Ahmed Irfan Aslam, ministre fédéral du droit et de la justice de la République islamique du Pakistan,

comme chef de délégation ;

S. Exc. M. Suljuk Mustansar Tarar, ambassadeur de la République islamique du Pakistan auprès du Royaume des Pays-Bas,

M. Jawad Ali, directeur général, ministère des affaires étrangères,

M. Asad Burki, conseiller juridique, ministère des affaires étrangères,

M. Someir Siraj, chef du département des différends internationaux, bureau de l'*Attorney General* de la République islamique du Pakistan,

Mr Syed Shahroz Bakhtiyar, Assistant Consultant, Ministry of Law and Justice.

The Government of the Republic of Indonesia is represented by:

HE Ms Retno L. P. Marsudi, Minister for Foreign Affairs of the Republic of Indonesia,

HE Mr Mayerfas, Ambassador of the Republic of Indonesia to the Kingdom of the Netherlands,

HE Mr Laurentius Amrih Jinangkung, Director General for Legal Affairs and International Treaties, Ministry of Foreign Affairs of the Republic of Indonesia,

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,

Mr Rolliansyah Soemirat, Acting Chief of Staff of the Office of the Minister for Foreign Affairs, Ministry of Foreign Affairs of the Republic of Indonesia,

Mr Febrizki Bagja Mukti, Minister Counsellor, Political Affairs, Embassy of the Republic of Indonesia in the Kingdom of the Netherlands,

Ms Yvonne Elizabeth Mewengkang, Office of the Minister for Foreign Affairs, Ministry of Foreign Affairs of the Republic of Indonesia,

Mr Riando Sembiring, Office of the Minister for Foreign Affairs, Ministry of Foreign Affairs of the Republic of Indonesia,

Mr Andrea Albert Stefanus, First Secretary, Political Affairs, Embassy of the Republic of Indonesia in the Kingdom of the Netherlands,

Mr Aloysius Selwas Taborat, Legal Counsel and Coordinator for Politics of International Law, Ministry of Foreign Affairs of the Republic of Indonesia,

Ms Svetlana Anggita Prasasthi, Office of the Minister for Foreign Affairs, Ministry of Foreign Affairs of the Republic of Indonesia,

Mr Rahmat Kurniawan, Legal Counsel, Ministry of Foreign Affairs of the Republic of Indonesia,

Mr Ignatius Randy Kasasih, Office of the Director General for Asia-Pacific and African Affairs, Ministry of Foreign Affairs of the Republic of Indonesia,

Mr Achmad Kautsar Prasetio, Office of the Minister for Foreign Affairs, Ministry of Foreign Affairs of the Republic of Indonesia.

The Government of the State of Qatar is represented by:

HE Mr Mutlaq Bin Majed Al-Qahtani, Ambassador of the State of Qatar to the Kingdom of the Netherlands,

as Head of Delegation;

M. Syed Shahroz Bakhtiyar, consultant assistant, ministère du droit et de la justice.

Le Gouvernement de la République d'Indonésie est représenté par :

S. Exc. M^me^ Retno L. P. Marsudi, ministre des affaires étrangères de la République d'Indonésie,

S. Exc. M. Mayerfas, ambassadeur de la République d'Indonésie auprès du Royaume des Pays-Bas,

S. Exc. M. Laurentius Amrih Jinangkung, directeur général des affaires juridiques et des traités internationaux, ministère des affaires étrangères de la République d'Indonésie,

S. Exc. M. Abdul Kadir Jailani, directeur général Asie-Pacifique et Afrique, ministère des affaires étrangères de la République d'Indonésie,

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,

M. Rolliansyah Soemirat, directeur de cabinet par intérim de la ministre des affaires étrangères, ministère des affaires étrangères de la République d'Indonésie,

M. Febrizki Bagja Mukti, ministre conseiller, affaires politiques, ambassade de la République d'Indonésie au Royaume des Pays-Bas,

M^me^ Yvonne Elizabeth Mewengkang, cabinet de la ministre des affaires étrangères, ministère des affaires étrangères de la République d'Indonésie,

M. Riando Sembiring, cabinet de la ministre des affaires étrangères, ministère des affaires étrangères de la République d'Indonésie,

M. Andrea Albert Stefanus, premier secrétaire, affaires politiques, ambassade de la République d'Indonésie au Royaume des Pays-Bas,

M. Aloysius Selwas Taborat, conseiller juridique et coordonnateur chargé des questions de droit international, ministère des affaires étrangères de la République d'Indonésie,

M^me^ Svetlana Anggita Prasasthi, cabinet de la ministre des affaires étrangères, ministère des affaires étrangères de la République d'Indonésie,

M. Rahmat Kurniawan, conseiller juridique, ministère des affaires étrangères de la République d'Indonésie,

M. Ignatius Randy Kasasih, bureau du directeur général Asie-Pacifique et Afrique, ministère des affaires étrangères de la République d'Indonésie,

M. Achmad Kautsar Prasetio, cabinet de la ministre des affaires étrangères, ministère des affaires étrangères de la République d'Indonésie.

Le Gouvernement de l'État du Qatar est représenté par :

S. Exc. M. Mutlaq Bin Majed Al-Qahtani, ambassadeur de l'État du Qatar auprès du Royaume des Pays-Bas,

comme chef de délégation ;

HE Ms Lolwah Rashid Al-Khater, Minister of State for International Cooperation, Ministry of Foreign Affairs of the State of Qatar,

Ms Hanadi Nedham Al-Shafai, Counsellor, Embassy of the State of Qatar in the Kingdom of the Netherlands,

Ms Sara Abdullah Al-Saadi, First Secretary, Ministry of Foreign Affairs of the State of Qatar,

Ms Nofe Khalid Al-Suwaidi, First Secretary, Ministry of Foreign Affairs of the State of Qatar,

Mr Hassan Ahmad Al-Hammadi, Second Secretary, Embassy of the State of Qatar in the Kingdom of the Netherlands,

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.

The Government of the United Kingdom of Great Britain and Northern Ireland is represented by:

Ms Sally Langrish, Representative of the United Kingdom of Great Britain and Northern Ireland before the International Court of Justice, Legal Adviser and Director General, Legal, Foreign, Commonwealth & Development Office,

HE Ms Joanna Roper, CMG, Ambassador of the United Kingdom of Great Britain and Northern Ireland to the Kingdom of the Netherlands,

Mr Dan Sarooshi, KC, Professor of Public International Law, University of Oxford, Barrister and member of the Bar of England and Wales, Essex Court Chambers,

Mr Paul Berman, Legal Director, Foreign, Commonwealth & Development Office,

Mr Edward Haxton, Legal Counsellor, Embassy of the United Kingdom of Great Britain and Northern Ireland to the Kingdom of the Netherlands,

Ms Belinda McRae, Barrister, Twenty Essex, member of the Bar of England and Wales,

Mr Gerry Regan, Assistant Legal Adviser, Legal Directorate, Foreign, Commonwealth & Development Office,

Ms Calypso Nash, Team Leader of Middle East Peace Process (MEPP) and Occupied Palestinian Territory, Middle East & North Africa Directorate, Foreign, Commonwealth & Development Office,

Ms Rachael McDougall, Deputy Head of the Israel and Occupied Palestinian Territory Taskforce, Middle East & North Africa Directorate, Foreign, Commonwealth & Development Office,

Ms Palika Bhasin, Second Secretary, Embassy of the United Kingdom of Great Britain and Northern Ireland to the Kingdom of the Netherlands,

S. Exc. M^me^ Lolwah Rashid Al-Khater, ministre d'État de la coopération internationale, ministère des affaires étrangères de l'État du Qatar,

M^me^ Hanadi Nedham Al-Shafai, conseillère, ambassade de l'État du Qatar au Royaume des Pays-Bas,

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.

Le Gouvernement du Royaume-Uni de Grande-Bretagne et d'Irlande du Nord est représenté par :

M^me^ Sally Langrish, représentante du Royaume-Uni de Grande-Bretagne et d'Irlande du Nord devant la Cour internationale de Justice, conseillère juridique et directrice générale des affaires juridiques, ministère des affaires étrangères, du Commonwealth et du développement,

S. Exc. M^me^ Joanna Roper, CMG, ambassadrice du Royaume-Uni de Grande-Bretagne et d'Irlande du Nord auprès du Royaume des Pays-Bas,

M. Dan Sarooshi, KC, professeur de droit international public à l'Université d'Oxford, avocat et membre du barreau d'Angleterre et du pays de Galles, Essex Court Chambers,

M. Paul Berman, directeur juridique, ministère des affaires étrangères, du Commonwealth et du développement,

M. Edward Haxton, conseiller juridique, ambassade du Royaume-Uni de Grande-Bretagne et d'Irlande du Nord au Royaume des Pays-Bas,

M^me^ Belinda McRae, avocate, Twenty Essex Chambers, membre du barreau d'Angleterre et du pays de Galles,

M. Gerry Regan, conseiller juridique adjoint, direction des affaires juridiques, ministère des affaires étrangères, du Commonwealth et du développement,

M^me^ Calypso Nash, cheffe de l'équipe chargée des questions concernant le processus de paix au Moyen-Orient et le Territoire palestinien occupé, direction du Moyen-Orient et de l'Afrique du Nord, ministère des affaires étrangères, du Commonwealth et du développement,

M^me^ Rachael McDougall, cheffe adjointe du groupe de travail concernant Israël et le Territoire palestinien occupé, direction du Moyen-Orient et de l'Afrique du Nord, ministère des affaires étrangères, du Commonwealth et du développement,

M^me^ Palika Bhasin, deuxième secrétaire, ambassade du Royaume-Uni de Grande-Bretagne et d'Irlande du Nord au Royaume des Pays-Bas,

Mr James Woodley, Middle East Peace Process (MEPP) Desk Officer, Middle East & North Africa Directorate, Foreign, Commonwealth & Development Office,

Ms Karen Blackstone, Policy Adviser, Embassy of the United Kingdom of Great Britain and Northern Ireland to the Kingdom of the Netherlands,

Ms Laura Grant, Policy Adviser, Embassy of the United Kingdom of Great Britain and Northern Ireland to the Kingdom of the Netherlands,

Ms Pauline Pfaff, Policy Adviser, Embassy of the United Kingdom of Great Britain and Northern Ireland to the Kingdom of the Netherlands,

Mr Jack Andrews, Multilateral Support Officer, Embassy of the United Kingdom of Great Britain and Northern Ireland to the Kingdom of the Netherlands.

The Government of the Republic of Slovenia is represented by:

Mr Marko Rakovec, Director General for International Law and Protection of Interests, Ministry of Foreign and European Affairs of the Republic of Slovenia,

as Agent;

Mr Helmut Hartman, Legal Adviser at the Embassy of the Republic of Slovenia in the Kingdom of the Netherlands,

as Co-Agent;

HE Mr Jožef Drofenik, Ambassador of the Republic of Slovenia to the Kingdom of the Netherlands,

as Diplomatic Representative;

Mr Daniel Müller, Founding Partner of FAR Avocats, member of the Paris Bar,

as Counsel and Advocate;

Ms Urška Čas, Deputy Head of Mission, Embassy of the Republic of Slovenia in the Kingdom of the Netherlands,

Ms Barbara Granda, Legal Officer, Ministry of Foreign and European Affairs of the Republic of Slovenia,

as Advisers.

The Government of the Republic of the Sudan is represented by:

Mr Marwan A. M. Khier, Chargé d'affaires, Embassy of the Republic of the Sudan in the Kingdom of the Netherlands,

as Head of Delegation;

Mr Fabián Raimondo, Associate Professor of Public International Law, Maastricht University, member of the Bar of the City of La Plata, Argentina,

as Advocate and Counsel;

M. James Woodley, spécialiste du processus de paix au Moyen-Orient, direction du Moyen-Orient et de l'Afrique du Nord, ministère des affaires étrangères, du Commonwealth et du développement,

M^me^ Karen Blackstone, conseillère politique, ambassade du Royaume-Uni de Grande-Bretagne et d'Irlande du Nord au Royaume des Pays-Bas,

M^me^ Laura Grant, conseillère politique, ambassade du Royaume-Uni de Grande-Bretagne et d'Irlande du Nord au Royaume des Pays-Bas,

M^me^ Pauline Pfaff, conseillère politique, ambassade du Royaume-Uni de Grande-Bretagne et d'Irlande du Nord au Royaume des Pays-Bas,

M. Jack Andrews, agent chargé des questions multilatérales, ambassade du Royaume-Uni de Grande-Bretagne et d'Irlande du Nord au Royaume des Pays-Bas.

Le Gouvernement de la République de Slovénie est représenté par :

M. Marko Rakovec, directeur général du droit international et de la protection des intérêts, ministère des affaires étrangères et européennes de la République de Slovénie,

comme agent ;

M. Helmut Hartman, conseiller juridique, ambassade de la République de Slovénie au Royaume des Pays-Bas,

comme coagent ;

S. Exc. M. Jožef Drofenik, ambassadeur de la République de Slovénie auprès du Royaume des Pays-Bas,

comme représentant diplomatique ;

M. Daniel Müller, associé fondateur du cabinet FAR Avocats, avocat au barreau de Paris,

comme conseil et avocat ;

M^me^ Urška Čas, cheffe adjointe de mission, ambassade de la République de Slovénie au Royaume des Pays-Bas,

M^me^ Barbara Granda, juriste, ministère des affaires étrangères et européennes de la République de Slovénie,

comme conseillères.

Le gouvernement de la République du Soudan est représenté par :

M. Marwan A.M. Khier, chargé d'affaires à l'ambassade de la République du Soudan au Royaume des Pays-Bas,

comme chef de délégation ;

M. Fabián Raimondo, professeur associé de droit international public à l'Université de Maastricht, membre du barreau de la ville de La Plata (Argentine),

comme avocat et conseil ;

Ms Rasha Yousif, Counsellor, Embassy of the Republic of the Sudan in the Kingdom of the Netherlands,

Mr Hatim Rudwan, Administrative Assistant, Embassy of the Republic of the Sudan in the Kingdom of the Netherlands,

Ms Rana Alsaraf, Administrative Assistant, Embassy of the Republic of the Sudan in the Kingdom of the Netherlands.

The Government of the Swiss Confederation is represented by:

Ms Chantal Bauhofer,

Ms Sandra Caluori,

Ms Corinne Cicéron Bühler,

Mr Jonathan Cuénoud,

Ms Géraldine Fuchs,

Ms Gloria Gaggioli,

Ms Irina Ibrahim,

Mr Clément Marquet,

Mr Franz Perrez.

The Government of the Syrian Arab Republic is represented by:

Mr Ammar Al Arsan, Head of the Permanent Mission of the Syrian Arab Republic to the European Union in Brussels,

as Head of Delegation;

Mr Yazan Al Hakim, diplomat at the Permanent Mission of the Syrian Arab Republic to the European Union in Brussels, Legal Advisor,

Ms Afraa Sulaiman, diplomat at the Permanent Mission of the Syrian Arab Republic to the European Union in Brussels.

The Government of the Republic of Tunisia is represented by:

HE Mr Skander Denguezli, Ambassador of the Republic of Tunisia to the Kingdom of the Netherlands,

as Head of Delegation;

Mr Slim Laghmani, Professor of Public International Law,

Ms Nabila Rezgui,

Ms Haifa Ben Alaya,

Ms Aicha Ayari.

M^me^ Rasha Yousif, conseillère à l'ambassade de la République du Soudan au Royaume des Pays-Bas,

M. Hatim Rudwan, assistant administratif à l'ambassade de la République du Soudan au Royaume des Pays-Bas,

M^me^ Rana Alsaraf, assistante administrative à l'ambassade de la République du Soudan au Royaume des Pays-Bas.

Le Gouvernement de la Confédération suisse est représenté par :

M^me^ Chantal Bauhofer,

M^me^ Sandra Caluori,

M^me^ Corinne Cicéron Bühler,

M. Jonathan Cuénoud,

M^me^ Géraldine Fuchs,

M^me^ Gloria Gaggioli,

M^me^ Irina Ibrahim,

M. Clément Marquet,

M. Franz Perrez.

Le Gouvernement de la République arabe syrienne est représenté par :

M. Ammar Al Arsan, chef de la mission permanente de la République arabe syrienne auprès de l'Union européenne à Bruxelles,

comme chef de délégation ;

M. Yazan Al Hakim, diplomate à la mission permanente de la République arabe syrienne auprès de l'Union européenne à Bruxelles, conseiller juridique,

M^me^ Afraa Sulaiman, diplomate à la mission permanente de la République arabe syrienne auprès de l'Union européenne à Bruxelles.

Le Gouvernement de la République tunisienne est représentée par :

S. Exc. M. Skander Denguezli, ambassadeur de la République tunisienne auprès du Royaume des Pays-Bas,

comme chef de délégation ;

M. Slim Laghmani, professeur de droit international public,

M^me^ Nabila Rezgui,

M^me^ Haifa Ben Alaya,

M^me^ Aicha Ayari.

The Government of the Republic of Türkiye is represented by:

HE Mr Ahmet Yıldız, Deputy Minister for Foreign Affairs of the Republic of Türkiye,

as Head of Delegation and National Authority;

HE Mr Selçuk Ünal, Ambassador of the Republic of Türkiye to the Kingdom of the Netherlands,

as Agent and Deputy Head of Delegation;

Ms Pınar Gülün Kayseri, Minister-Counsellor, Embassy of the Republic of Türkiye in the Kingdom of the Netherlands,

Mr Recep Köşker, Counsellor, Embassy of the Republic of Türkiye in the Kingdom of the Netherlands,

as Counsellors;

Mr Abdullah Ömeroğlu, Legal Counsellor, Embassy of the Republic of Türkiye in the Kingdom of the Netherlands,

as Legal Adviser;

Mr Derviş Fikret Ünal, Head of Department, Ministry of Foreign Affairs of the Republic of Türkiye,

as Counsellor;

Mr Ozan Can Gümüş, Second Secretary, Embassy of the Republic of Türkiye in the Kingdom of the Netherlands,

Mr Baran Volkan Ateş, Second Secretary, Embassy of the Republic of Türkiye in the Kingdom of the Netherlands,

as Advisers.

The Government of the Republic of Zambia is represented by:

Mr Marshal Mubambe Muchende, State Counsel and Solicitor-General of the Republic of Zambia,

Mr Sylvester Mundanda, Ambassador of the Republic of Zambia to the Benelux countries,

Ms Mutinta Stella Mushabati, Legal Counsel,

Ms Sambwa Simbyakula, Acting Assistant Director,

Mr Mwenda Hamanyati, First Secretary for Legal,

Mr Simulyamana Niphegie Choonga, First Secretary for Legal,

Ms Mulima Lisimba, First Secretary for Legal,

Mr Lawrence Mulangu, Counsellor.

Le Gouvernement de la République de Türkiye est représenté par :

S. Exc. M. Ahmet Yıldız, vice-ministre des affaires étrangères de la République de Türkiye,

comme chef de délégation et représentant de l'État ;

S. Exc. M. Selçuk Ünal, ambassadeur de la République de Türkiye auprès du Royaume des Pays-Bas,

comme agent et chef adjoint de délégation ;

M^me^ Pınar Gülün Kayseri, ministre conseillère, ambassade de la République de Türkiye au Royaume des Pays-Bas,

M. Recep Köşker, conseiller, ambassade de la République de Türkiye au Royaume des Pays-Bas,

comme conseillers ;

M. Abdullah Ömeroğlu, conseiller juridique, ambassade de la République de Türkiye au Royaume des Pays-Bas,

comme conseiller juridique ;

M. Derviş Fikret Ünal, chef de département, ministère des affaires étrangères la République de Türkiye,

comme conseiller ;

M. Ozan Can Gümüş, deuxième secrétaire, ambassade de la République de Türkiye au Royaume des Pays-Bas,

M. Baran Volkan Ateş, deuxième secrétaire, ambassade de la République de Türkiye au Royaume des Pays-Bas,

comme conseillers.

Le Gouvernement de la République de Zambie est représenté par :

M. Marshal Mubambe Muchende, *State Counsel* et *Solicitor-General* de la République de Zambie,

M. Sylvester Mundanda, ambassadeur de la République de Zambie auprès des pays du Benelux,

M^me^ Mutinta Stella Mushabati, conseillère juridique,

M^me^ Sambwa Simbyakula, directrice adjointe par intérim,

M. Mwenda Hamanyati, premier secrétaire aux affaires juridiques,

M. Simulyamana Niphegie Choonga, premier secrétaire aux affaires juridiques,

M^me^ Mulima Lisimba, première secrétaire aux affaires juridiques,

M. Lawrence Mulangu, conseiller.

The League of Arab States is represented by:

HE Mr Abdelhamid Zehani, Chief of the Permanent Mission of the League of Arab States in Brussels,

Mr Abdel Hakim El Rifai, Deputy Chief of the Permanent Mission of the League of Arab States in Brussels,

Mr Mutassembelah Alshawwa, Palestine Desk Officer at the League of Arab States,

Mr Ralph Wilde, Senior Counsel and Advocate,

Ms Salma Waheedi, Adviser.

The Organisation of Islamic Cooperation is represented by:

HE Mr Hissein Brahim Taha, Secretary-General of the Organisation of Islamic Cooperation,

HE Mr Samir Bakr Diab, Assistant Secretary-General for Palestine and Al-Quds Affairs,

HE Ms Ismat Jahan, Permanent Observer of the Organisation of Islamic Cooperation to the European Union,

HE Mr Ali Goutali, Director of the Department of Palestine and Al-Quds Affairs,

Ms Monique Chemillier-Gendreau, Emeritus Professor of Public Law and Political Science at the University Paris Diderot, Counsel,

Ms Juliette Chemillier, Assistant to Counsel,

Mr Aliou Hima Hamani,

Mr Johannes den Heijer.

The African Union is represented by:

Ms Hajer Gueldich, Legal Counsel of the African Union,

as Agent, Counsel and Advocate;

HE Mr Mohamed Salem Khalil, Senior Legal Officer,

Mr Makane Moïse Mbengue, Legal Expert,

Mr Mohamed Helal, Legal Expert,

Ms Tafadzwa Pasipanodya, Legal Expert,

Ms Meseret Fassil, Associate Legal Officer,

Mr Damien Charlotin, Research Fellow,

Mr Karim M'ziani, Attorney-at-Law,

as Counsel and Advocates.

La Ligue des États arabes est représentée par :

S. Exc. M. Abdelhamid Zehani, chef de la mission permanente de la Ligue des États arabes à Bruxelles,

M. Abdel Hakim El Rifai, chef adjoint de la mission permanente de la Ligue des États arabes à Bruxelles,

M. Mutassembelah Alshawwa, spécialiste de la Palestine à la Ligue des États arabes,

M. Ralph Wilde, conseil principal et avocat,

M^me^ Salma Waheedi, conseillère.

L'Organisation de la coopération islamique est représentée par :

S. Exc. M. Hissein Brahim Taha, secrétaire général de l'Organisation de la coopération islamique,

S. Exc. M. Samir Bakr Diab, secrétaire général adjoint pour les affaires de la Palestine et d'Al-Qods,

S. Exc. M^me^ Ismat Jahan, observatrice permanente de l'Organisation de la coopération islamique auprès de l'Union européenne,

S. Exc. M. Ali Goutali, directeur du département des affaires de la Palestine et d'Al-Qods,

M^me^ Monique Chemillier-Gendreau, professeure émérite de droit public et de sciences politiques à l'Université Paris Diderot, conseil,

M^me^ Juliette Chemillier, assistante de la conseil,

M. Aliou Hima Hamani,

M. Johannes den Heijer.

L'Union africaine est représentée par :

M^me^ Hajer Gueldich, conseil juridique de l'Union africaine,

comme agente, conseil et avocate ;

S. Exc. M. Mohamed Salem Khalil, juriste principal,

M. Makane Moïse Mbengue, expert juridique,

M. Mohamed Helal, expert juridique,

M^me^ Tafadzwa Pasipanodya, experte juridique,

M^me^ Meseret Fassil, juriste adjointe,

M. Damien Charlotin, *Research Fellow*,

M. Karim M'ziani, avocat,

comme conseils et avocats.

The Government of the Kingdom of Spain is represented by:

Mr Santiago Ripol Carulla, Head of the International Legal Office, Ministry of Foreign Affairs of the Kingdom of Spain,

as Head of Delegation;

HE Ms Consuelo Femenía Guardiola, Ambassador of the Kingdom of Spain to the Kingdom of the Netherlands,

Ms Andrea Gavela Llopis, Head State Attorney, Ministry of Foreign Affairs of the Kingdom of Spain,

Mr Emilio Pin Godos, Deputy Head of the International Legal Office, Ministry of Foreign Affairs of the Kingdom of Spain,

Mr Juan Almazán Fuentes, Legal Adviser, Embassy of the Kingdom of Spain in the Kingdom of the Netherlands,

Ms Elisabet Jiménez Perdigones, Assistant, Embassy of the Kingdom of Spain in the Kingdom of the Netherlands (in charge of logistics and documentation).

The Government of the Republic of Fiji is represented by:

HE Mr Filipo Tarakinikini, Permanent Representative of the Republic of Fiji to the United Nations, New York,

Ms Robyn-Ann Mani, Second Secretary, Permanent Mission of the Republic of Fiji to the United Nations Office and other international organisations in Geneva,

Ms Ana Rokomokoti, Head of Law and Assistant Professor, Fiji National University,

Mr Andrew Tucker, Director, The Hague Initiative for International Cooperation (thinc.), Adviser,

Mr Pieter Hoogendoorn, Chair, The Hague Initiative for International Cooperation (thinc.), Adviser,

Mr Matthijs de Blois.

Le Gouvernement du Royaume d'Espagne est représenté par :

M. Santiago Ripol Carulla, chef du bureau du droit international, ministère des affaires étrangères du Royaume d'Espagne,

comme chef de délégation ;

S. Exc. M^me^ Consuelo Femenía Guardiola, ambassadrice du Royaume d'Espagne auprès du Royaume des Pays-Bas,

M^me^ Andrea Gavela Llopis, avocate principale de l'État, ministère des affaires étrangères du Royaume d'Espagne,

M. Emilio Pin Godos, chef adjoint du bureau du droit international, ministère des affaires étrangères du Royaume d'Espagne,

M. Juan Almazán Fuentes, conseiller juridique, ambassade du Royaume d'Espagne au Royaume des Pays-Bas,

M^me^ Elisabet Jiménez Perdigones, assistante, ambassade du Royaume d'Espagne au Royaume des Pays-Bas (chargée de la logistique et de la documentation).

Le Gouvernement de la République des Fidji est représenté par :

S. Exc. M. Filipo Tarakinikini, représentant permanent de la République des Fidji auprès de l'Organisation des Nations Unies (New York),

M^me^ Robyn-Ann Mani, deuxième secrétaire, mission permanente de la République des Fidji auprès de l'Office des Nations Unies et des autres organisations internationales à Genève,

M^me^ Ana Rokomokoti, directrice de la faculté de droit et professeure adjointe à l'Université nationale des Fidji,

M. Andrew Tucker, directeur, The Hague Initiative for International Cooperation (thinc.), conseiller,

M. Pieter Hoogendoorn, président, The Hague Initiative for International Cooperation (thinc.), conseiller,

M. Matthijs de Blois.

Le PRÉSIDENT : Please be seated. The sitting is open.

La Cour se réunit ce matin et se réunira dans les prochains jours pour entendre les exposés oraux et observations au sujet de la demande d'avis consultatif que l'Assemblée générale de l'Organisation des Nations Unies lui a soumise sur la question des *Conséquences juridiques découlant des politiques et pratiques d'Israël dans le Territoire palestinien occupé, y compris Jérusalem-Est.*

*

Je vais à présent rappeler les principales étapes de la présente procédure consultative.

Le 30 décembre 2022, par sa résolution 77/247, l'Assemblée générale des Nations Unies a décidé de demander un avis consultatif à la Cour. Le texte de cette résolution a été communiqué à la Cour par une lettre du Secrétaire général de l'Organisation des Nations Unies, datée du 17 janvier 2023 et reçue au Greffe le 19 janvier 2023. Je vais à présent demander au greffier de bien vouloir donner lecture du paragraphe de cette résolution contenant les questions sur lesquelles l'avis consultatif de la Cour est demandé.

Le GREFFIER :

« *a)* Quelles sont les conséquences juridiques de la violation persistante par Israël du droit du peuple palestinien à l'autodétermination, de son occupation, de sa colonisation et de son annexion prolongées du territoire palestinien occupé depuis 1967, notamment des mesures visant à modifier la composition démographique, le caractère et le statut de la ville sainte de Jérusalem, et de l'adoption par Israël des lois et mesures discriminatoires connexes ?

b) Quelle incidence les politiques et pratiques d'Israël visées au paragraphe 18 *a)* ci-dessus ont-elles sur le statut juridique de l'occupation et quelles sont les conséquences juridiques qui en découlent pour tous les États et l'Organisation des Nations Unies ? »

Le PRÉSIDENT : Merci.

Par ordonnance en date du 3 février 2023, la Cour a décidé que l'Organisation des Nations Unies et ses États Membres, ainsi que l'État observateur de Palestine, étaient jugés susceptibles de fournir des renseignements sur les questions qui lui étaient soumises pour avis consultatif, et fixé au 25 juillet 2023 la date d'expiration du délai dans lequel des exposés écrits sur

les questions pourraient lui être présentés et au 25 octobre 2023 la date d'expiration du délai dans lequel les États ou organisations qui auraient présenté un exposé écrit pourraient présenter des observations écrites sur les autres exposés. Statuant sur des demandes présentées ultérieurement par la Ligue des États arabes, l'Organisation de la coopération islamique et l'Union africaine, la Cour a décidé que ces trois organisations internationales étaient susceptibles de fournir des renseignements sur les questions dont la Cour est saisie, et qu'en conséquence elles pourraient le faire dans les délais fixés par la Cour.

Au cours du mois de juin 2023, le Secrétaire général de l'Organisation des Nations Unies a communiqué à la Cour un dossier de documents pouvant servir à élucider les questions formulées par l'Assemblée générale. Le dossier a été publié sur le site Internet de la Cour. En complément du dossier, de nouveaux documents et plusieurs traductions ont été communiqués à la Cour par le Secrétariat de l'Organisation des Nations Unies en octobre 2023.

Written statements were filed in the Registry, in order of receipt, by Türkiye, Namibia, Luxembourg, Canada, Bangladesh, Jordan, Chile, Liechtenstein, Lebanon, Norway, Israel, Algeria, the League of Arab States, the Syrian Arab Republic, Palestine, the Organisation of Islamic Cooperation, Egypt, Guyana, Japan, Saudi Arabia, Qatar, Switzerland, Spain, the Russian Federation, Italy, Yemen, the Maldives, the United Arab Emirates, Oman, the African Union, Pakistan, South Africa, the United Kingdom, Hungary, Brazil, France, Kuwait, the United States of America, China, The Gambia, Ireland, Belize, Bolivia, Cuba, Mauritius, Morocco, Czechia, Malaysia, Colombia, Indonesia, Guatemala, Nauru, Djibouti, Togo, Fiji, Senegal and Zambia.

Then, written comments were filed in the Registry, in order of receipt, by Jordan, the Organisation of Islamic Cooperation, Qatar, Belize, Bangladesh, Palestine, the United States of America, Indonesia, Chile, the League of Arab States, Egypt, Algeria, Guatemala, Namibia and Pakistan.

By letters dated 18 October 2023, the Registrar informed the United Nations, its Member States and the observer State of Palestine, as well as the League of Arab States, the Organisation of Islamic Cooperation and the African Union, that hearings on the request for an advisory opinion would open on 19 February 2024.

For the purposes of the current oral proceedings, the following participants, set out in speaking order, will take the floor: Palestine, South Africa, Algeria, Saudi Arabia, the Kingdom of the Netherlands, Bangladesh, Belgium, Belize, Bolivia, Brazil, Chile, Colombia, Cuba, Egypt, the United Arab Emirates, the United States of America, the Russian Federation, France, The Gambia, Guyana, Hungary, China, the Islamic Republic of Iran, Iraq, Ireland, Japan, Jordan, Kuwait, Lebanon, Libya, Luxembourg, Malaysia, Mauritius, Namibia, Norway, Oman, Pakistan, Indonesia, Qatar, the United Kingdom, Slovenia, Sudan, Switzerland, the Syrian Arab Republic, Tunisia, Türkiye, Zambia, the League of Arab States, the Organisation of Islamic Cooperation, the African Union, Spain, Fiji, the Maldives and the Comoros.

This morning, the Court will hear the State of Palestine, which has been allocated a maximum speaking time of three hours. All the other participants in the oral proceedings over the next days will speak for a maximum of 30 minutes each.

Before inviting Palestine to address the Court, I would add that, in accordance with Article 106 of its Rules, the Court has decided that the written statements and written comments submitted in the current advisory proceedings are to be made accessible to the public after the opening of the present hearings. These written submissions will be posted on the Court's website at the end of each day for those participating in the hearings on that day. The text of the oral statements will also be placed on the Court's website.

I now give the floor to His Excellency Mr Riad Malki, Minister for Foreign Affairs and Expatriates of the State of Palestine. Your Excellency, you have the floor.

Mr MALKI:

1. OPENING STATEMENT

1. Mr President, Members of the Court, it is an honour and a great responsibility to appear before you on behalf of the people and the State of Palestine in these historic proceedings.

2. I stand before you as 2.3 million Palestinians in Gaza, half of them children, are besieged and bombed, killed and maimed, starved and displaced. As more than 3.5 million Palestinians in the West Bank, including East Jerusalem, are subjected to the colonization of their territory and the racist violence that enables it. As 1.7 million Palestinians in Israel are treated as second-class citizens, as

unwelcomed intruders in their ancestral land. As 7 million Palestine refugees continue to be denied their right to return to their land and homes. I stand before you as the entire Palestinian people continue to be denied their fundamental rights, their very existence negated.

3. For over a century, the inalienable right of the Palestinian people to self-determination has been denied and violated. Palestine was not a land without a people; it was not, as Israeli leaders have described it, a wasteland. There was life on this land. There was a political life, a cultural life, a social life, a religious life. It had schools and universities, cinemas and cultural halls; it had villages and villagers, families and communities, whose life was disrupted by the impact of a promise made thousands of miles away, over a hundred years ago. A breach of a sacred trust that relegated the indigenous people of the land to the status of "non-Jewish communities" — according them only civil and religious rights, denying their existence as a people and their rights as a nation and paving the way for their dehumanization and mass expulsion from their homeland decades later.

4. The United Nations enshrined in its Charter the right of all peoples to self-determination and pledged to rid the world of the gravest breaches of this right, namely colonialism and apartheid. Yet, for decades, the Palestinian people have been denied this right and have endured both colonialism and apartheid. There are those who are outraged by the use of these words. They should instead be outraged by the reality we are living. This reality is known by every Palestinian, suffered by millions, generation after generation.

5. It is a reality of the expulsion of the Palestinian people from their own land, not just during the 1948 Nakba, which led to the expulsion of up to 900,000 Palestinians; not just the expulsion of more than 400,000 Palestinians in 1967, but continually, including now, as I address you at this very moment. It is the indiscriminate maiming and killing of Palestinians. It means you can spend the entirety of your life as a refugee, denied your dignity and your right to return home. It means your life and family, your community and home are under constant threat; your loved ones can be taken away and thrown in an Israeli jail, held there indefinitely. Your land can be stolen, colonized and annexed without hesitation. Freedom is nowhere to be found, there is no safe haven. It means discrimination everywhere and no justice, anywhere.

6. It is a reality where Israel can destroy Gaza, killing tens of thousands of Palestinians, almost half of them children, leaving 1 million children starved, terrorized and traumatized for life, orphaned

of a mother, a father, or both, amputated and disabled, leaving nearly 2 million people displaced and desperate, with nowhere to shelter from the onslaught. The genocide underway in Gaza is the result of decades of impunity and inaction. Ending Israel's impunity is a moral, political and legal imperative.

7. Successive Israeli governments have given the Palestinian people only three options: displacement, subjugation or death; these are the choices, ethnic cleansing, apartheid or genocide. But our people are here to stay, they have a right to live in freedom and dignity in their ancestral land. They will not forsake their rights.

8. I thus implore you, as you hear the legal arguments, not to forget the Palestinian people. Not to forget that our people are struggling every day for their survival as individuals, families, communities, as a nation. That less than a month ago, this Court ordered provisional measures in a landmark case brought by the Republic of South Africa against Israel under the Genocide Convention — an Order that Israel continues to defy with impunity.

9. For decades Israel has occupied the Palestinian territory, committing violations that are inherent to its presence in our land and colonial objective. This occupation is annexationist and supremacist in nature. It is a deliberate, cynical perversion of international law. It is thus illegal. The only solution consistent with international law is for this illegal occupation to come to an immediate, unconditional, and total end.

10. As you affirmed 20 years ago, the Palestinian people have the right to self-determination. It is an *erga omnes* right. It is non-negotiable, non-derogable. No occupying Power, including Israel, can be granted a perpetual veto over the rights of the people it occupies.

11. Allow me now to show you five maps. The first one is historic Palestine. This is the territory over which the Palestinian people should have been able to exercise their right to self-determination. Instead, the General Assembly, recommended the partition of Palestine, ignoring the will of our people, as shown in the second map. With the Nakba that ensued, over two thirds of our people were systematically and forcibly expelled by Israel and three fourths of Palestine became Israel, as shown in the third map. This was the start of the Nakba: the dispossession, the displacement and replacement of our people, the denial of rights, and discrimination that continue to this very day.

12. In 1967, Israel then occupied the remainder of Palestine. And from the first day of its occupation, started colonizing and annexing the land with the aim of making its occupation irreversible. It left us with a collection of disconnected Bantustans preventing the independence of our State, as shown in map 4. Israel wanted the geography of Palestine, but not its demography. So it kept pushing our people out: out of their homes, out of their land.

13. Here is the fifth map. It was displayed by Israel's Prime Minister to the General Assembly last September. He called this "the New Middle East". There is no Palestine at all on this map, only Israel, comprised of all the land from the Jordan River to the Mediterranean Sea. This shows you what the prolonged, continuous Israeli occupation of Palestine is intended to accomplish: the complete disappearance of Palestine and the destruction of the Palestinian people.

14. There can be no justification for these injustices and indignities. Allowing them to continue is unacceptable and inexcusable. Acquisition of territory by force; persecution, racial discrimination and apartheid against a people; denial of self-determination are all grave violations of the most fundamental norms of international law. There is a legal and moral obligation to bring them to a prompt end.

15. Mr President, Members of the Court, the State of Palestine reaffirms its unwavering commitment to the rule of international law, which must finally prevail. The force of the law must prevail over the unlawful use of force. We said years ago that we made a choice: justice, not vengeance. But justice delayed is justice denied, and the Palestinian people have been denied justice for far too long. We believe in the universal principles crafted over decades to save successive generations from the scourge of war and oppression. It is time to put an end to the double standards that have kept our people captive for far too long. International law must be applied to all States without exception; no State can be absolved of its obligations under the law and no people can be deprived of its protection.

16. Palestine legitimately seeks the fulfilment of the rights of our people, including the independence of the State of Palestine on the pre-1967 borders, with East Jerusalem as its capital, in accordance with international law and United Nations resolutions. This is the historical compromise we agreed to, a just and lasting solution with two democratic States, Palestine and Israel, living side by side, in peace and security. We seek peace, which can only be rooted in justice. When we

committed to the peace process three decades ago, we did it in the belief and expectation that international law would finally be upheld, not that this process would witness its continued breach; we did so, expecting that the rights of our people would finally be fulfilled, not further denied. By determining the law and the obligations of all States and organizations, this Court can help chart a path for peace anchored in justice and respecting international law.

17. It has taken the Palestinian people decades of painful struggle to stand before you today. We appeal to the Court to uphold our rights to self-determination, return and all other human rights, including by declaring that the Israeli occupation is illegal and must end immediately, totally and unconditionally.

18. Mr President, Members of the Court, I will be followed today by six speakers on behalf of the State of Palestine. First will be Professor Andreas Zimmermann, who will address the Court's jurisdiction to answer the General Assembly's questions and the absence of compelling reasons that might lead the Court to decline to do so.

19. Next will be Mr Paul Reichler, who will demonstrate the illegality of Israel's prolonged occupation, because its annexation of Palestinian territory, including through widespread colonization, is intended to be permanent, in violation of the prohibition of the acquisition of territory by force.

20. The next speaker will be Ambassador Namira Negm, who will address the system of persecution, racial discrimination and apartheid that Israel is imposing on the Palestinian people, as a means of maintaining its control over the land by the subjugation of the indigenous Palestinian people.

21. She will be followed by Professor Philippe Sands, who will demonstrate how Israel's dispossession, displacement and replacement of the Palestinian people — and discrimination against them — have led to the wholesale denial of their inalienable right to self-determination.

22. The Court will then be addressed by Professor Alain Pellet, who will identify the legal consequences that follow from Israel's grave and ongoing violations of peremptory norms.

23. These legal consequences necessarily include the obligation to bring this unlawful occupation to an end and to dismantle the colonial and supremacist architecture, legal and physical, that Israel has consolidated over decades.

24. The final speaker of the State of Palestine will be Minister Riyad Mansour, our Permanent Representative to the United Nations.

25. Minister Mansour will focus on the permanent responsibility of the United Nations and the obligations of all States to bring this injustice to a swift end so as to uphold the law, fulfil Palestinian rights and achieve a just peace for all.

26. Many States will also stand before this Court, informed by their own history of occupation, colonialism and apartheid. They will stand here on principle to defend the international law-based order. And millions around the world will be watching, hoping that their faith in the international system can be restored, and that the Palestinian people will not be abandoned or discarded as expendable. Palestine remains the greatest test of the credibility of this international law-based order, a test humanity cannot afford to fail.

27. Mr President, Members of the Court, the State of Palestine expresses its fullest confidence that you will discharge the sacred duties entrusted to you with the wisdom, fairness and justice that the world expects and needs of you.

28. I thank you for the honour of addressing you. And I now request, Mr President, the Court to call on Professor Zimmermann. Thank you.

The PRESIDENT: I thank His Excellency Mr Malki for his opening statement. I now give the floor to Professor Andreas Zimmermann. You have the floor, Professor.

Mr ZIMMERMANN:

2. THE COURT'S JURISDICTION AND DISCRETION

I. Introduction

1. Merci, Monsieur le président. Mr President, Members of the Court, let me start by expressing my honour to appear once again before the Court. This is even more true this time since the current proceedings address issues that have been of utmost relevance for the international community for decades and, indeed, for the United Nations since its very inception. These issues lie at the very heart of the Organization's ability to achieve international peace and security — now more than ever.

2. I will present Palestine's arguments on jurisdiction and admissibility. I can, and will, be succinct, as there is no doubt that the Court has jurisdiction to give the requested opinion and that there are no compelling reasons for the Court to decline to issue the requested opinion.

3. Rather, to the contrary, compelling positive reasons exist for the Court to address the legal questions referred to it, as the Court's legal determinations will assist all parties as to the legal parameters that must be adhered to. The Court's determinations are both urgent and relevant, given Israel's manifold violations of peremptory norms of international law, which continue and intensify on a daily basis.

II. The Court plainly has jurisdiction to answer the request

4. Mr President, the Court clearly has jurisdiction to provide the requested opinion. The General Assembly is obviously competent to request the opinion in line with Article 96, paragraph 1, of the Charter. Moreover, resolution 77/247 was adopted by a clear majority and in full compliance with both the requirements of the Charter and the Assembly's Rules of Procedure.

5. The questions posed by the General Assembly are also plainly *legal* in character. As the Court has repeatedly and consistently confirmed in its jurisprudence[1], the fact that the questions may have political implications is irrelevant and does not bar the Court from fulfilling its essential judicial function.

III. There are no compelling reasons for the Court to decline to issue the requested opinion

6. Further, there is no reason — let alone a compelling one — for the Court to decline to issue the requested opinion. On the contrary, manifold reasons exist which confirm that an answer, by the Court, to these questions is of utmost importance for the General Assembly, the United Nations at large, and the international community as a whole.

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[1] Cf. *Conditions of Admission of a State to Membership in the United Nations (Article 4 of the Charter), Advisory Opinion, 1948, I.C.J. Reports 1947-1948*, pp. 61-62; *Competence of the General Assembly for the Admission of a State to the United Nations, Advisory Opinion, I.C.J. Reports 1950*, pp. 6-7; *Certain Expenses of the United Nations (Article 17, paragraph 2, of the Charter), Advisory Opinion, I.C.J. Reports 1962*, p. 155; *Application for Review of Judgement No. 158 of the United Nations Administrative Tribunal, Advisory Opinion, I.C.J. Reports 1973*, p. 172, para. 14; *Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion, I.C.J. Reports 1996 (I)*, p. 234, para. 13; *Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965, Advisory Opinion, I.C.J. Reports 2019 (I)*, p. 112, para. 58.

7. *First*, the questions concern serious breaches of *jus cogens* and *erga omnes* norms. As my colleagues will show, those breaches, by Israel, include violations of:

— the prohibition of acquisition of territory by force,

— the prohibition of racial discrimination and apartheid,

— the denial of the right of self-determination,

— as well as other egregious violations of international human rights and humanitarian law of the same character.

8. Accordingly, all States, as well as the United Nations *in toto*, have a legally protected interest in having those violations, in both their individual and cumulative manifestations, as well as their legal consequences, laid out, and clarified, by the Court so as to guide them in their future actions.

9. *Second*, the questions concern the United Nations' continuous responsibility for resolving the question of Palestine. This responsibility stems from its duties relating to matters of international peace and security arising under the Charter, and as the Court put it, "has its origin in the Mandate and the Partition Resolution concerning Palestine"[2]. This responsibility continues, as confirmed by the unequivocal and contemporary practice of the General Assembly, the Security Council, as well as other United Nations organs and bodies.

10. As the Court has previously reiterated in its *Wall* Advisory Opinion, there exists "a permanent responsibility [of the United Nations] towards the question of Palestine until the question is resolved in all its aspects in a satisfactory manner in accordance with international legitimacy"[3].

11. The questions put before the Court by the Assembly thus seek the Court's legal guidance on matters of fundamental and long-standing importance and concern to the United Nations.

12. *Third*, all of the grounds for declining to issue an opinion suggested in the submissions of a few States fall far short of constituting *compelling* reasons that must exist for the Court to refrain from answering the General Assembly's questions.

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[2] *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, I.C.J. Reports 2004 (I)*, p. 159, para. 49.

[3] *Ibid*., referencing United Nations General Assembly (UNGA), resolution 57/107, 3 Dec. 2002, UN doc. A/RES/57/107.

13. Some of these submissions oppose the advisory opinion because of the purported existence of a "negotiation framework" or of bilateral "negotiations". However, none of these considerations constitutes a reasonable basis for the Court to refuse the General Assembly's request. To the contrary, an opinion from the Court will assist in these negotiations by confirming the applicable international legal framework, as affirmed in United Nations resolutions, in order to reach a just and peaceful solution.

14. As a matter of fact, there exist at least *three* reasons why the Court should not be deterred from answering the General Assembly's questions on that basis:

15. *First*, Israel has repeatedly refused, to this very day, to engage in meaningful negotiations with Palestine on the basis of international law and United Nations resolutions. This is reflected in repeated statements, including, most recently, by the Israeli Prime Minister and other high-ranking Israeli officials. The mere hypothetical possibility of future negotiations cannot thus be used as a mere pretext for avoiding the application of international law to this crucial matter, or for avoiding responsibility for ongoing breaches of peremptory norms of international law.

16. Israel has made it clear that it wants, and will tolerate, only one State — Israel — between the Mediterranean Sea and the Jordan River. This is confirmed, *inter alia*, by the map displayed by the Israeli Prime Minister in his speech before the General Assembly of 22 September 2023 that you have already seen, as well as by his November 2023 statement where the Israeli Prime Minister said that he was proud to have prevented the establishment of a Palestinian State[4].

17. These statements of Israel's Head of Government have not been empty words. Rather they are reflected in concrete policy decisions and measures on the ground, undertaken by Israel for decades.

18. *Inter alia*, when faced with the attempt, by Palestine, to initiate the conciliation procedure under Articles 11 and 12 of CERD, it was Israel that consistently and continuously rejected any meaningful attempt to bring to an end, by way of negotiations under the auspices of the Ad Hoc

[4] *The Times of Israel*, "PM: I'm proud I blocked a Palestinian state. Looking at Gaza, everyone sees what would have happened", 16 Dec. 2023, available at http://tinyurl.com/4ba4usea.

Commission set up under Article 12 of CERD, its entrenched system of racial discrimination inherent in its occupation régime[5].

19. *Second*, and significantly, the Security Council has repeatedly called for a peaceful settlement of the question of Palestine *based on international law*. It renewed this call only two months ago in December 2023 in its resolution 2720 when reiterating that a solution to the conflict must be "consistent with international law and relevant United Nations resolutions"[6].

20. The Court's opinion can thus only contribute to achieving the peaceful settlement of the question of Palestine called for by the Security Council. It — your opinion — will clarify the legal rights and obligations of Israel, of Palestine, of third States and of the United Nations to be reflected in a settlement that is truly consistent with international law. Thus, the Court's opinion will also contribute to upholding the international rule of law at large.

21. In that regard, let me remind you, Members of the Court, that this is precisely what the Court's advisory opinion in the *Chagos* proceedings achieved. By clarifying the relevant legal rules, it — your opinion — broke the deadlock that had precluded negotiations. The advisory opinion — your opinion — led the United Kingdom to agree to negotiate with Mauritius, for the first time, on the basis of Mauritius' sovereignty over the disputed territory.

22. *Third*, the General Assembly, when deciding upon the request for the current advisory opinion, was acutely aware of the claim that such request would somehow purportedly undermine the chances of future negotiations. Nevertheless, the General Assembly decided to ask for the Court's legal determination anyway[7]. The General Assembly thus found that this argument had no merit. To the contrary, the General Assembly considered that the Court's opinion would be helpful as to future steps to be taken by the political organs of the United Nations, as well as by all States. In line with your role as one of the principal organs of the organization, as envisaged in Article 7 of the Charter, the Court ought not now set aside this considered decision of the General Assembly.

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[5] Written Comments of Palestine (CoPS), para. 4.32, citing Note Verbale from Israel, 24 July 2023.

[6] United Nations Security Council (UNSC), resolution 2720 (22 Dec. 2023), UN doc. S/RES/2720, p. 4, para. 12, emphasis added.

[7] UNGA, Fourth Committee, Seventy-seventh Session, 25th Meeting, Fourth Committee Hears Support for Referring Question of Palestine to International Court of Justice for Advisory Opinion (10 Nov. 2022), UN doc. GA/SPD/770, available at http://tinyurl.com/4dvhkatm; UNGA, Fourth Committee, Seventy-seventh Session, 26th Meeting, Fourth Committee, Concluding Its Work, Approves Six Draft Resolutions, Including Request for ICJ Opinion on Israeli Occupation (11 Nov. 2022), UN doc. GA/SPD/771, available at http://tinyurl.com/yc74akhu.

23. Members of the Court, the mere hypothetical chance of possible future negotiations cannot and ought not prevent the Court from rendering its opinion. If this were the case, *quod non*, a reluctant State wishing to bar the Court from exercising its judicial function, could unilaterally prevent a matter from reaching the Court by simply insisting on the mere possibility of negotiations. This would curtail the General Assembly's right to receive legal assistance from the Court — and to do so even in a situation where the General Assembly, making the request, determined that such opinion by the Court would be needed for the exercise of its own function.

24. Such approach finds no basis in the wording of the Charter or the Court's Statute either. It would unduly limit the right of the political organs of the United Nations to request an opinion from the Court on *any* legal question, as both Article 96, paragraph 1, of the United Nations Charter and Article 65 of the Court's Statute provide unequivocally.

IV. Conclusion

25. Mr President, Members of the Court, let me conclude. The catastrophic developments of recent months in the Gaza Strip confirm that the matters put to the Court by the General Assembly are, if ever there was need, not mere "bilateral issues". Rather, they are issues of grave consequence for the maintenance of international peace and security. They are thus of immense concern for the international community at large, where the Court's legal guidance is desperately needed.

26. All of these aforementioned considerations corroborate that in the present proceedings — as indeed in each and every previous advisory proceeding that had come before this Court — there are no compelling reasons to prevent the Court from rendering its opinion.

27. Rather, Palestine invites the Court to fulfil its duty of providing its legal determination to the General Assembly by answering the legal questions put to it. In so doing, you will assist all States, as well as the United Nations, in furthering respect for the international rule of law, the fulfilment of the inalienable rights of the Palestinian people, and a just and peaceful solution in accordance with international law.

28. Members of the Court, I thank you for your kind attention and would now kindly ask you, Mr President, to call upon Mr Reichler to take the floor. Thank you.

The PRESIDENT: I thank Prof Zimmermann. I now give the floor to Mr Paul Reichler. You have the floor, Mr Reichler.

Mr REICHLER:

3. THE ILLEGALITY OF ISRAEL'S PROLONGED OCCUPATION, ANNEXATION AND SETTLEMENT OF THE OCCUPIED PALESTINIAN TERRITORY

1. Mr President, Members of the Court, it is an honour for me to appear before you, and a privilege to speak on behalf of the State of Palestine.

2. I will address the legality of Israel's prolonged occupation, annexation and settlement of the Occupied Palestinian Territory. In so doing, I will identify the elements that determine whether, and in what circumstances, a belligerent occupation is, or becomes, unlawful under international law; I will then review the evidence to assess whether those elements are present here; and I will show that, based on the applicable law and the well-established and undisputed facts, Israel's 56-year occupation of Palestinian territory is manifestly and gravely unlawful, and that international law requires that it be brought to an end, completely and unconditionally.

I. The applicable rule of law

3. The applicable rule of law is straightforward. As Pictet wrote in 1958, "occupation . . . is essentially a temporary . . . situation"[8]. This remains the law. In December 2022, the General Assembly, in resolution 77/126, recognized 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"[9]. This rule is neatly explained in the Written Statement of Switzerland:

> "The laws of occupation are built on the idea that occupation is only a temporary situation. They are based on four fundamental principles . . .: 1) the occupying power does not acquire sovereignty over the territory it occupies . . . 2) the occupying power must maintain the *status quo ante* and must not take any measures which might bring about permanent changes"[10].

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[8] J. Pictet, *Commentary: IV Geneva Convention Relative to the Protection of Civilian Persons in Time of War* (ICRC, 1958), p. 275 (https://www.legal-tools.org/doc/7d971f/pdf).

[9] UNGA, resolution A/RES/77/126, "Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and the occupied Syrian Golan", 12 Dec. 2022, para. 7 (https://undocs.org/A/RES/77/126).

[10] Written Statement of the Swiss Federation, para. 44.

The law is thus crystal clear: occupation can only be a temporary state of affairs. A permanent occupation is a legal oxymoron.

II. The permanent character of the Israeli occupation

4. Mr President, what makes Israel's ongoing occupation of the Palestinian territory unlawful is precisely its permanent character, and what demonstrates its permanence are: (i) Israel's *de jure* and *de facto* annexation of Jerusalem and the West Bank; (ii) its claims of sovereignty over these areas, which it refers to by their biblical names, Judea and Samaria, and considers integral parts of the State of Israel; (iii) its establishment of hundreds of permanent Israeli settlements, with over 700,000 Israeli settlers, who have been promised by successive Israeli governments that they will never be removed; and (iv) the multitude of official statements and documents that openly declare Israel's intention to incorporate all of the occupied territory east of the Green Line into the State of Israel as a permanent part of a single Jewish State extending from the Jordan River to the Mediterranean Sea.

A. Declarations of permanence by Israel's highest authorities

5. As I will show you, the evidence is overwhelming and leaves no room for serious dispute about Israel's actions or its intentions. As Israel's Cabinet Secretary wrote in June of last year:

> "Judea and Samaria were not seized from a sovereign state recognized by international law, and the State of Israel has a right to impose its sovereignty over these areas as they comprise the cradle of history of the Jewish people and are an inseparable part of the Land of Israel."[11]

As purported legal authority, the Cabinet Secretary invoked the First Book of Maccabees, written in the year 100 BC, chapter 15, verse 33: "It is not a foreign land we have taken nor have we seized the property of foreigners, but only our ancestral heritage, which for a time had been unjustly occupied by our enemies."[12]

6. This was followed in August of last year by a message broadcast on Israel's Army Radio by Israel's Heritage Minister: "Sovereignty must be extended within the borders of the West

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[11] Letter from Yossi Fuchs, Cabinet Secretary, to Abdalah – The Legal Centre for Arab Minority Rights in Israel, 19 June 2023, para. 2. The Hebrew original of the letter is available at https://www.adalah.org/uploads/uploads/Cabinet_Secretary_Response_19_June_2023.pdf. An English translation of the letter is available at: https://www.adalah.org/uploads/uploads/Response_Cabinet_Secretary_19_June_2023.pdf.

[12] *Ibid.*, para. 11.

Bank . . . and in the most prudent way, to create international recognition that this place is ours . . . There is no Green Line, it is a fictitious line that creates a distorted reality and must be erased."[13]

7. In September 2023, Israel's Prime Minister literally erased the Green Line, in his presentation to the United Nations General Assembly. As you saw earlier, he depicted the State of Israel as extending from the Jordan River to the Mediterranean Sea, eliminating not only the Green Line but all traces of Palestine. This was no oversight; it was an act of the Head of Government, with all the attribution that it implies. The same message was delivered by Israel's Finance Minister in Paris, six months earlier, when he denied the existence of Palestine and declared that Palestinians do not constitute a people[14]. Previously, he said: "We are here to stay. We will make it clear that our national ambition for a Jewish State from the river to the sea is an accomplished fact, a fact not open to discussion or negotiation."[15] This has been Israel's consistent position. Here is the map of Israel produced by its armed forces and published by the Government in 2021[16]. One State, Israel, from the river to the sea. There is no Green Line; there is no Palestine. Instead, Palestine has been replaced by "Judea" and "Samaria", which, according to Israel's highest officials, are now integral parts of the State of Israel.

B. Annexation and settlement of Jerusalem

8. As these official statements and maps demonstrate, Israel makes no secret of its intention to retain permanently the entire area east of the Green Line. Its annexation of occupied Palestinian territory began in 1967 with legislation annexing East Jerusalem, which Israel increased eleven-fold in size to incorporate not only the Holy City but also vast areas of the West Bank surrounding the City[17]. Its Defence Minister, Moshe Dayan, declared at the time: "The Israel Defence Forces have

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[13] "'This place is ours': Israeli minister calls for annexation of West Bank", *The New Arab*, 3 Aug. 2023 (https://www.newarab.com/news/israeli-minister-calls-annexation-occupied-west-bank).

[14] "Smotrich says there's no Palestinian people, declares his family 'real Palestinians'", *The Times of Israel*, 20 Mar. 2023 (https://tinyurl.com/3k368zh7).

[15] B. Smotrich, "Israel's Decisive Plan", *Hashiloach*, 7 Sept. 2017 (https://tinyurl.com/2s3k69sn).

[16] Ministry of Foreign Affairs, "Topographical map of Israel", 24 Oct. 2021, (https://www.gov.il/en/Departments/General/topographical-map-of-israel).

[17] Government and Law Procedures Ordinance No. 1 of 5727-1967, *Israeli Collection of Regulations*, No. 2064, 28 June 1967, p. 2690 (Written Statement of Palestine, Vol. II, Ann. 5) and Municipalities Ordinance (Announcement of the Expansion of the Jerusalem Municipality Boundaries), *Israeli Collection of Regulations*, No. 2065, 28 June 1967, p. 2694 (Written Statement of Palestine, Vol. II, Ann. 6).

liberated Jerusalem . . . We have returned to this most sacred shrine, never to part from it again."[18] In 1990, the Israeli Cabinet instructed the Foreign Minister to notify the Secretary-General of the United Nations that "Jerusalem is not, in any part, 'occupied territory'; it is the sovereign capital of Israel"[19]. In June 1996, the Guidelines of the incoming Israeli Government stated: "Jerusalem, the capital of Israel, is one city, whole and undivided, and will remain forever under Israel's sovereignty."[20] More recently, in assuming office in December 2022, the current Prime Minister declared that "[t]he Jewish people are not occupiers in their own land nor occupiers in our eternal capital Jerusalem"[21]. As these official statements make clear, Israel's dominion over Jerusalem and the incorporated area of the West Bank is not intended to be temporary. It has been repeatedly proclaimed by Israel's highest authorities to be "eternal".

9. In furtherance of this end, more than 230,000 Israeli Jewish settlers — encouraged, subsidized and protected by the Israeli Government and occupation forces — have been installed in East Jerusalem, dramatically altering the demographic composition of the Holy City by creating an Israeli Jewish majority[22].

C. Annexation and settlement of the West Bank

10. Israel has been equally clear in declaring its permanence in the West Bank, where more than 465,000 Israeli Jewish settlers have been implanted with the support of every Israeli government since 1967, in over 270 ever-expanding settlements[23], spread throughout this territory, in what can only be described as a vast colonial enterprise. These settlements, whose accelerated growth and

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[18] United Nations Committee on the Exercise of the Inalienable Rights of the Palestinian People, *The Status of Jerusalem*, New York, United Nations, 1997, p. 12 (footnote omitted) (https://tinyurl.com/24nbfype).

[19] Statement adopted by the Israeli Cabinet on 14 October 1990, quoted in the Report Submitted to the Security Council by the Secretary-General in Accordance with resolution 672 (1990), 31 Oct. 1990, p. 3 (https://tinyurl.com/2fzdebbz).

[20] Guidelines of the Government of Israel – June 1996, 18 June 1996 (https://tinyurl.com/k6pfx9cr).

[21] "Netanyahu says Israel not bound by 'despicable' U.N. vote", *Reuter*s, 31 Dec. 2022 (https://tinyurl.com/3w3ec5a4).

[22] See e.g. European Union, Office of the European Union Representative (West Bank and Gaza Strip, UNRWA), *2021 Report on Israeli settlements in the occupied West Bank, including East Jerusalem*, 20 July 2022, p. 2 (https://tinyurl.com/5n6echjm); Jerusalem Institute for Policy Research, *Jerusalem Facts and Trends 2022*, pp. 18-20 (http://tinyurl.com/5h463scu); Peace Now, *Settlements Map 2023*, 5 Jan. 2023, p. 2 (https://tinyurl.com/2p97bz6p).

[23] See e.g. Peace Now, *Israeli Settlements 2023* (https://tinyurl.com/2nh4t2s8) and *West Bank Population* (http://tinyurl.com/44wjbaks).

distribution over the years are illustrated on your screens now, are a key instrument of Israel's annexation of the West Bank; this is both their purpose and their effect.

11. As the Secretary-General reported to the General Assembly in 2015:

> "Occupation is supposed to be temporary because the annexation or acquisition of territory by force is strictly prohibited under international law . . . In the West Bank, including East Jerusalem, the establishment and maintenance of the settlements amount to a slow, but steady annexation of the occupied Palestinian territory."[24]

12. Israel has made no secret of the intended permanence of these settlements. In 2010, Prime Minister Netanyahu told Israeli settlers in the West Bank: "Our message is clear. 'We are planting here, we will stay here, we will build here. This place will be an inseparable part of the State of Israel for eternity.'"[25] In August 2019, the Prime Minister announced that: "The time has come to apply Israeli sovereignty over the Jordan Valley and to also arrange the status of all Jewish communities in Judea and Samaria . . . They will be part of the State of Israel."[26] In January 2020, Israel's Defence Minister, Naftali Bennett, declared: "Our objective is that within a short amount of time . . . we will apply sovereignty to all of Area C, not just the settlements, not just this bloc or another."[27]

13. This area, which is depicted in red on your screens now, comprises over 61 per cent of the West Bank. The Defence Minister proclaimed: "I solemnly declare that Area C belongs to Israel."[28] This area includes the Jordan Valley, which is the water reservoir, the breadbasket and the source of life for the entire West Bank.

14. In December 2022, the Guiding Principles of the incoming Israeli Government declared: "The Jewish people have an exclusive and indisputable right to all parts of the Land of Israel. The Government will promote and develop the settlement of all parts of the Land of Israel — the Galilee, the Negev, the Golan and Judea and Samaria."[29] The coalition agreement between the political parties that formed the Government included this pledge: "[T]he Prime Minister will lead the formulation

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[24] Report of the Secretary-General, Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and the occupied Syrian Golan, 13 Aug. 2015, A/70/351, para. 17 (https://undocs.org/A/70/351).

[25] "Netanyahu Says Some Settlements to Stay in Israel", *New York Times*, 24 Jan. 2010 (https://tinyurl.com/2meyxrn3).

[26] Israel Prime Minister's Office, "Excerpts from PM Netanyahu's Remarks to the Makor Rishon Economic, Society and Innovation Conference in Jerusalem", 8 Dec. 2019 (emphasis added) (https://tinyurl.com/2p8tc8z8).

[27] "Bennett: Israel is working to apply sovereignty to all of Area C", *Middle East Monitor*, 9 Jan. 2020 (emphasis added) (https://tinyurl.com/2p88djvm).

[28] *Ibid.*

[29] "Judicial reform, boosting Jewish identity: the new coalition's policy guidelines", *The Times of Israel*, 28 Dec. 2022 (https://tinyurl.com/2mne27kj).

and promotion of policy in which sovereignty will be applied in Judea and Samaria, while choosing the timing and weighing all the national and international interests of the State of Israel."[30]

III. Israel's defiance of the Security Council, the General Assembly and the Court

15. General Assembly resolution 77/126 was adopted on 12 December 2022, just as the current Israeli Government was assuming office. The resolution pointedly recalled: "[T]he principle of the inadmissibility of the acquisition of land by force and therefore the illegality of the annexation of any part of the Occupied Palestinian Territory, including East Jerusalem, which constitutes a breach of international law" and the resolution condemned Israel's "annexation of land, whether de facto or through national legislation"[31].

16. Israel has thoroughly disregarded resolution 77/126, just as it disregarded all prior General Assembly and Security Council resolutions declaring illegal the annexation of any part of the Occupied Palestinian Territory and the establishment of Israeli settlements there. These include but are by no means limited to:

— Security Council resolution 252 of 1968, declaring Israel's acquisition of territory by military conquest "inadmissible"[32];

— resolution 476 of 1980, which "[r]eaffirm[ed] the overriding necessity for ending the prolonged occupation of Arab territories" in 1980 and "[s]trongly deplore[d] the refusal of Israel . . . to comply with the relevant resolutions of the Security Council and the General Assembly"[33];

— resolution 478 of 1980, which "determine[d] that all legislative and administrative measures and actions taken by Israel . . . to alter the character and status of the Holy City of Jerusalem, and in particular the 'basic law' on Jerusalem, are null and void and must be rescinded forthwith"[34];

— resolution 2334 of 2016, which "reaffirm[ed] . . . the inadmissibility of the acquisition of territory by force", and condemned "all measures aimed at altering the demographic

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[30] Coalition Agreement between the Likud Party and the Religious Zionist Party for the Establishment of a national government, 28 Dec. 2022, point 118 (Vol. II, Written Statement of Palestine, Annex 12).

[31] *Ibid*., para. 8.

[32] UNSC resolution 252 (1968), 21 May 1968, sixth recital (https://digitallibrary.un.org/record/90754?ln=en).

[33] UNSC resolution 476 (1980), 30 June 1980, paras. 1 and 2.

[34] UNSC resolution 478 (1980), 20 Aug. 1980, para. 3 (https://digitallibrary.un.org/record/25618?ln=en).

composition, character and status of the Palestinian Territory occupied since 1967 . . . including, *inter alia*, the construction and expansion of settlements, transfer of Israeli settlers, confiscation of land, demolition of homes and displacement of Palestinian civilians"[35]; and

— at least 28 General Assembly resolutions, which expressly condemned Israel's "annexation" of Jerusalem and the West Bank[36].

17. Israel has also blatantly disregarded the obligations reflected in the Court's 2004 Advisory Opinion in the *Wall* case[37]. Since then, instead of dismantling the wall, Israel has extended it from a length of 190 km to more than 460 km[38], encompassing hundreds of additional square kilometres of Palestinian land, and incorporating it into the State of Israel. In its Advisory Opinion, the Court expressed concern lest "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"[39].

18. And that is precisely what has happened over the past 20 years, not only within the expanded confines of the wall, but all across the West Bank, most of which has now been annexed *de facto* by Israel. In 2022, the report of the United Nations International Commission of Inquiry concluded: "Israel treats the occupation as a permanent fixture and has — for all intents and purposes — annexed parts of the West Bank . . . The International Court of Justice anticipated such a scenario in its 2004 advisory opinion . . . This has now become the reality."[40]

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[35] UNSC resolution 2334 (2016), 23 Dec. 2016, second and fourth recitals (https://www.un.org/webcast/pdfs/SRES2334-2016.pdf).

[36] See, for example, resolution 2851 (XXVI), 20 Dec. 1971, res. 3240, 29 Nov. 1974, res. 3525, 15 Dec. 1975, res. 31/106, 16 Dec. 1976, res. 32/91, 13 Dec. 1977, res. 33/113, 18 Dec. 1978, res. 34/90, 12 Dec. 1979, res. 38/180, 19 Dec. 1983, res. 48/59, 31 Jan. 1993, res. 58/98, 17 Dec. 2003, res. 59/123, 10 Dec. 2004, res. 60/106, 8 Dec. 2005, res. 61/118, 14 Dec. 2006, res. 62/108, 17 Dec. 2007, res. 63/97 5 Dec. 2008, res. 64/93, 10 Dec. 2009, res. 65/104, 10 Dec. 2010, res. 66/78, 9 Dec. 2011, res. 67/120, 18 Dec. 2012, res. 68/82, 11 Dec. 2013, res. 69/92, 5 Dec. 2014, res. 70/89, 9 Dec. 2015, res. 71/97, 6 Dec. 2016, res. 72/86, 7 Dec. 2017, res. 73/98, 7 Dec. 2018, res. 74/11, 3 Dec. 2019, res. 75/97, 18 Dec. 2020, res. 76/82, 9 Dec. 2021.

[37] *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, I.C.J. Reports 2004 (I)*, pp. 201-202, para. 163.

[38] UN Office for the Coordination of Humanitarian Affairs, "The humanitarian impact of 20 years of the Barrier - December 2022", 30 December 2022 (https://www.ochaopt.org/content/humanitarian-impact-20-years-barrier-december-2022).

[39] *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, I.C.J. Reports 2004 (I)*, p. 184, para. 121.

[40] Report of the Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel, 14 September 2022, A/77/328, para. 76 (https://undocs.org/A/77/328).

19. The Special Rapporteur on human rights in the Occupied Palestinian Territory reached the same conclusion: "The occupation by Israel has been conducted in profound defiance of international law . . . Its 55-year-old occupation burst through the restraints of temporariness long ago. Israel has progressively engaged in the de jure and de facto annexation of occupied territory."[41]

IV. Recent acceleration of Israel's annexation of the Occupied Palestinian Territory

20. Mr President, Israel's ongoing annexation of the West Bank accelerated in 2023, with the largest ever expansion of settlements in the territory[42]. Twenty-two new settlements were authorized[43] and more than 16,000 new housing units were built, funded or planned by Israeli authorities[44]. As explained by Israel's Finance Minister: "The construction boom in Judea and Samaria and all over our country continues . . . We will continue to develop the settlement[s] and strengthen the Israeli hold on the territory."[45]

21. In developing its settlements, Israel has invested heavily in the infrastructure needed to supply them with water and electric power, as well as a network of roads and highways to connect them to one another and to Israel itself[46]. These investments, in the hundreds of millions of dollars, attest to the intended permanent character of the settlements[47]. The roads, which Palestinians are forbidden to use, and a pervasive system of roadblocks and checkpoints, prevent Palestinians — but not Israeli settlers — from moving from place to place in the West Bank, and they isolate Palestinian communities by cutting them off from one another[48]. Israel's settlement expansion has thus both uprooted Palestinians from their homes to make room for new settlements, and forced them to live

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[41] Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, 12 Aug. 2022, A/HRC/49/87, para. 11 (https://undocs.org/A/HRC/49/87).

[42] "2023 sets record for settlement construction and outpost legalization – watchdog", *The Times of Israel*, 8 August 2023 (https://www.timesofisrael.com/2023-sets-record-for-settlement-construction-and-outpost-legalization-watchdog/).

[43] *Ibid.*

[44] "Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and the Occupied Syrian Golan", Report of the Secretary-General, 25 Oct. 2023, A/78/554, para. 9 (https://undocs.org/A/78/554).

[45] B. Smotrich, Tweet, 18 June 2023 (Written Statement of Palestine, Vol. II, Ann. 13).

[46] See Written Statement of Palestine, paras. 3.119-3.124, 3.239-3.248.

[47] See "Budget dedicates billions for West Bank roads, settlements and illegal outposts", *The Times of Israel*, 25 May 2023 (https://www.timesofisrael.com/budget-dedicates-billions-for-west-bank-roads-settlements-and-illegal-outposts/); Breaking The Silence, "Highway to Annexation – Israeli Road and Transportation Infrastructure Development in the West Bank", December 2020, p. 6 (https://www.breakingthesilence.org.il/inside/wp-content/uploads/2020/12/Highway-to-Annexation-Final.pdf).

[48] See Written Statement of Palestine, paras 3.73-3.90, 3.220-3.225, 3.247-3.248, 5.46-5.48. 4.93-4.95.

in disconnected and non-contiguous enclaves, which the Special Rapporteur has called "a fragmented archipelago of 165 disparate patches of land"[49]. This achieves the fundamental objective of the occupation: permanent acquisition of the maximum amount of Palestinian territory, with the minimum number of Palestinians in it.

22. In furtherance of this objective, and with increasing frequency, armed groups of settlers, supported by Israel's occupation forces and encouraged by government ministers, have violently expelled thousands of peaceful Palestinian civilians from their ancestral villages and lands. A United Nations Fact Finding Mission confirmed: "[T]he motivation behind this violence and the intimidation against the Palestinians and their properties is to drive the local populations away from their lands and allow the settlements to expand."[50] The United Nations High Commissioner for Human Rights reported in March 2023: "[S]ettler violence further intensified, reaching the highest levels ever recorded by the United Nations."[51] In November 2023, the High Commissioner warned that the situation had further deteriorated with "a sharp increase in settler violence and takeover of land across the West Bank. Since 7 October," he continued, "nearly 1,000 Palestinians from at least 15 herding communities have been forced from their homes"[52].

23. The Secretary-General, in his most recent report, issued on 25 October 2023, expressly linked the expansion of Israeli settlements to the permanent acquisition of Palestinian territory:

> "[S]uccessive Israeli Governments have consistently advanced and implemented policies of settlement expansion and takeover of Palestinian land.
>
> The policies of the current Government in this regard are aligned, to an unprecedented extent, with the goals of the Israeli settler movement to expand long-term control over the occupied West Bank, including East Jerusalem, and, in practice, to further integrate those areas within the territory of the State of Israel."[53]

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[49] Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, 29 July 2021, A/HRC/47/57, para. 63 (https://undocs.org/A/HRC/47/57).

[50] Report of the International Fact-Finding Mission to Investigate the Implications of the Israeli Settlements on the Civil, Political, Economic, Social and Cultural Rights of the Palestinian People Throughout the Occupied Palestinian Territory, Including East Jerusalem, 7 February 2013, UN doc. A/HRC/22/63, para. 107.

[51] "Israeli Settlements in the Occupied Palestinian Territory, including East Jerusalem, and in the Occupied Syrian Golan", 15 Mar. 2023, UN doc. A/HRC/52/76, para. 38.

[52] Statement by UN High Commissioner for Human Rights Volker Türk on Israel and the Occupied Palestinian Territory, 10 Nov. 2023 (https://reliefweb.int/report/occupied-palestinian-territory/statement-un-high-commissioner-human-rights-volker-turk-israel-and-occupied-palestinian-territory-10-november-2023-enar).

[53] "Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and the Occupied Syrian Golan", Report of the Secretary-General, 25 Oct. 2023, UN doc. A/78/554, paras. 4-5.

V. Application of the law to the facts

24. Mr President, Members of the Court, taking account of this evidence, as well as that described in the State of Palestine's two written submissions, I turn to the law and how it applies to this occupation. The Written Statement of Switzerland is, once again, directly on point. It highlights the distinction between the law of occupation and the legality of a particular occupation:

> "The law of occupation and the legality of occupation are two different questions. The law of occupation applies independently of the question of the legality of the occupation. Occupation is a situation subject to international humanitarian law, whereas its legality is covered by the United Nations Charter."[54]

25. In relation to the legality of the occupation under the Charter, Switzerland observes:

> "The United Nations has consistently reaffirmed the principle of the inadmissibility of the acquisition of territory by force, and condemned Israeli measures aimed at modifying the demographic composition, the character and the status of Jerusalem and the Occupied Palestinian Territory as a whole, notably the construction and extension of settlements, the transfer of Israeli settlers, the confiscation of land, the demolition of homes and the displacement of Palestinian civilians."[55]

In Switzerland's view: "The measures taken by Israel in the Occupied Palestinian Territory lead to fundamental changes, particularly demographic changes, that can have a permanent character."[56] In such circumstances, Switzerland expressly invites the Court "to rule on the consequences of the permanent character of the measures taken by Israel in the Occupied Palestinian Territory as to the status of the occupation under general international law, in particular the Charter of the United Nations"[57].

26. Many States agree with this approach. France, too, underscores the temporary character of lawful occupation[58]. This is a requirement that Israel's occupation of Palestinian territory plainly fails to meet. As France states:

> "[I]f the restrictions authorised by a regime of occupation were justifiable in the period following the military operations, they are not any more today. These points have been reiterated by the Security Council and the General Assembly on numerous occasions concerning Israel's obligation to withdraw from the 'occupied' territories."[59]

27. France calls out, in particular, Israel's annexation of occupied territory:

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[54] Written Statement of the Swiss Federation, para. 51.

[55] *Ibid.*, para. 46.

[56] *Ibid.*, para. 48.

[57] *Ibid.*, para. 51.

[58] Written Statement of the French Republic, para. 49.

[59] *Ibid.*

> "The status of occupying power does not confer any legal title justifying annexation . . . The passage of time is not sufficient, as regards the acquisition of territory by force, to render lawful a situation that is gravely unlawful."[60]

On Israel's vast network of settlements and hundreds of thousands of settlers in the occupied territory, France states: "These permanent establishments are obviously incompatible with the necessarily temporary character of the occupation."[61]

28. Thirty-five of the States and international organizations that submitted written statements have addressed the legality of Israel's occupation of Palestinian territory. Only two of these 35, to which I will come, argued that the occupation is not unlawful. Key excerpts reflecting the views expressed by the overwhelming majority — that the occupation is unlawful as a whole and must be brought to an end — are collected in Chapter 2 of the State of Palestine's Written Comments[62]. Here are three brief but emblematic examples:

29. The African Union

> "invites the Court to conclude that the prolonged Israeli occupation of the Palestinian territories is, in itself, unlawful . . . [T]he policies and practices associated with it amount to *de facto* and *de jure* annexation of the Palestinian territories, which violates the prohibition on the acquisition of territory by force."[63]

30. Brazil observes that: "Occupation is inherently temporary. This is the basic distinction between occupation and annexation." Brazil, here, hits the nail right on the head: unlike occupation, annexation is intended to be permanent, and it makes the occupation itself unlawful. In Brazil's words, Israel's policies and practices "render the occupation unlawful as a whole, inasmuch as it would be tantamount to the acquisition of territory by force"[64].

31. Japan, too, emphasizes that the annexation of occupied territory is unlawful, referring to Article 2 (4) of the United Nations Charter: "As the ICJ clarified in the *Wall Advisory Opinion*, the illegality of the acquisition of territory by force is a corollary of the prohibition of use of force incorporated in the UN Charter", which Japan calls "the most fundamental rule of the post-war regime for peace based on the rule of law among nations"[65].

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[60] *Ibid*., para. 58.

[61] *Ibid*., para. 50.

[62] See Written Comments of the State of Palestine, paras. 2.15, 2.25 and 2.30.

[63] Written Statement of the African Union, Vol. I, paras. 90-91.

[64] Written Statement of Brazil, para. 46.

[65] Written Statement of Japan, para. 9.

VI. The indefensibility of Israel's ongoing occupation of Palestinian territory

32. The two outliers are Fiji and the United States. Of all the States that submitted written statements to the Court, only Fiji attempted to defend the occupation as lawful. But even Fiji conceded that Israel has annexed East Jerusalem *de jure* and that the application of an occupying Power's laws to the occupied territory, which is the case in the West Bank, constitutes an annexation *de facto*[66]. Nor did Israel itself deny its annexations of Jerusalem and the West Bank. Its abbreviated written statement is mainly an attack on the General Assembly for its alleged bias[67]. It makes no attempt to defend the legality of its occupation under international law.

33. The only State besides Fiji to defend Israel is the United States. This is not surprising. Whatever offences against international law Israel commits, the United States comes forward to shield it from accountability. Here, the United States attempts to defend Israel, not by arguing that the occupation is lawful, but that it is neither lawful nor unlawful. To reach this conclusion, the United States argues that belligerent occupation is governed exclusively by international humanitarian law and not by the United Nations Charter or general international law. In its own words: "Although international humanitarian law imposes obligations on belligerents in their conduct of an occupation, it does not provide for the legal status of an occupation to be lawful or unlawful."[68]

34. Even assuming, *arguendo*, that this is a correct reading of international humanitarian law, which we dispute, it does not lead to the conclusion that an occupation cannot be unlawful under international law. What about Article 2 (4) of the United Nations Charter, and general international law, including the prohibition on acquisition of territory by force? For the United States, apparently, this peremptory norm does not exist when it comes to Israel's annexation and settlement of the Occupied Palestinian Territory. Only in such a lawless — and United Nations Charter-less — world could the Israeli occupation be described as "not unlawful".

35. Notably, the United States ignores the part of the General Assembly's request that the Court determine the legal status of the occupation under the United Nations Charter, in addition to international humanitarian law and other sources of law; and the United States fails to mention, let

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[66] Written Statement of Fiji, p. 6.

[67] Written Statement of Israel, pp. 1-4.

[68] Written Comments of the United States of America, para. 13.

alone respond to, Switzerland's Written Statement, asserting that belligerent occupation is covered *both* by international humanitarian law *and* by the United Nations Charter and general international law; and that the legality of the occupation itself is governed by the latter. The United States also ignores the written statements of the many other States which conclude that the Israeli occupation is unlawful as a whole, precisely because its annexation and settlement of the occupied territory constitute a permanent acquisition of territory by force in violation of Article 2 (4) and general international law.

36. Instead, in a single footnote, the United States responds only to those States which submitted that the Israeli occupation is unlawful under Articles 40 and 41 of the Draft Articles on Responsibility of States for Internationally Wrongful Acts[69]. Remarkably, the United States contends that neither of those two articles reflects general international law. This is truly stunning! A persistent failure of a State to fulfil an obligation arising under a peremptory norm is not unlawful under general international law, as provided in Article 40? The injunction in Article 41 — that no State shall recognize as lawful a situation created by a serious breach of a peremptory norm — is not part of general international law? Just how far in disregarding the international legal order will the United States go to exempt Israel from the consequences of its ongoing violation of peremptory norms, including the prohibition on acquisition of territory by force?

37. Apparently, very far indeed. According to former US President Barack Obama, in the memoir he published in 2020:

> "[J]ust about every country in the world considered Israel's continued occupation of the Palestinian territories to be a violation of international law. As a result, our diplomats found themselves in the awkward position of having to defend Israel for actions that we ourselves opposed."[70]

This is exactly what the United States is doing — again — in these proceedings.

VII. The occupation is unlawful and must be brought to an end

38. Mr President, Members of the Court, the evidence is before you — in the written submissions of the State of Palestine and dozens of other States and international organizations, and in the voluminous materials supplied to you by the Secretary-General — and it is indisputable. Under

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[69] Written Comments of the United States of America, p. 12, fn. 34.

[70] B. Obama, *A Promised Land* (Crown, 2020), p. 627.

the umbrella of its prolonged military occupation, Israel has been steadily annexing the Occupied Palestinian Territory, and it continues to do so. Its undisguised objective is the permanent acquisition of this territory, and the exercise of sovereignty over it, in defiance of the prohibition on acquisition of territory by force.

39. The evidence is not only indisputable, it is of the highest probative value: investigative reports of authoritative United Nations agencies; reports of the Secretary-General; resolutions of the Security Council and the General Assembly; legislative and administrative acts by the Israeli Government; and public statements against interest by the most senior government officials admitting that Israel's objective is sovereignty over all the territory east of the Green Line and its incorporation into a single Jewish State from the river to the sea. In this case, there is no reason not to take them at their word, because their deeds have been entirely consistent with it.

40. For Israel, as its successive governments have made clear, there is no Palestine. It simply does not exist. In November 2023, Prime Minister Netanyahu declared that his Government would never agree to a Palestinian State in the occupied territory[71]. He later declared: "I will not compromise on full security control over all the territory west of Jordan — and this is contrary to a Palestinian state."[72] Israel's intransigence was confirmed by its staunchest ally in December 2023, when US President Joe Biden publicly lamented that Israel's leaders "don't want anything remotely approaching a two-state solution"[73].

41. That is the very solution demanded by the Security Council, the General Assembly, the overwhelming majority of States and the State of Palestine itself. It is, in fact, the only solution that can lead to lasting peace and security for the Israeli people as well as the Palestinian people. And it is this very solution that has been frustrated by Israel's defiant insistence on maintaining its dominion over Palestinian territory in perpetuity. This is why the Court's advisory opinion is so critical and so urgent. The best, and possibly the last, hope for the two-State solution that is so vital to the needs of

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[71] "PM lobbying Likud MKs, saying only he can prevent a Palestinian state in Gaza, West Bank – report", *The Times of Israel*, 27 Nov. 2023 (https://www.timesofisrael.com/liveblog_entry/pm-lobbying-likud-mks-saying-only-he-can-prevent-a-palestinian-state-in-gaza-west-bank-report/).

[72] B. Netanyahu, X (formerly Twitter), 20 Jan. 2024 (https://x.com/netanyahu/status/1748764135716749568?s=48&t=1mdVCcNdpupgB8dtMqfGFg).

[73] The White House, "Remarks by President Biden at a Campaign Reception", 12 Dec. 2023 (https://www.whitehouse.gov/briefing-room/speeches-remarks/2023/12/12/remarks-by-president-biden-at-a-campaign-reception-5/).

both peoples is for the Court to declare illegal the main obstacle to that solution — the ongoing Israeli occupation of Palestine — and for it to pronounce, in the clearest possible terms, that international law requires that this entire illegal enterprise be terminated: completely, unconditionally and immediately.

42. Mr President, the law is clear and it demands nothing less. A permanent occupation — one that is founded upon annexation and massive settlement of the occupied territory, and which aims to exercise sovereignty over it — is manifestly and gravely unlawful; it is an ongoing international wrong that must be brought to an immediate end. As the Court ruled in 1971: "[T]he continued presence of South Africa in Namibia being illegal, South Africa is under obligation to withdraw its administration from Namibia immediately and thus put an end to its occupation of the Territory"[74].

43. The Secretary-General applied this principle directly to Palestine in his remarks to the Security Council one month ago: "Palestinians must see their legitimate aspirations for a fully independent, viable and sovereign State realized, in line with United Nations resolutions, international law and previous agreements. Israel's occupation must end."[75]

44. Mr President, the proverbial ball is now in your court. The General Assembly has asked you the critical questions. It is now your responsibility to answer them. Silence is not an option. As the immortal Palestinian poet, Mahmoud Darwish, wrote: "In silence we become accomplices." But, he assured us, when we speak: "Every word has the power to change the world."

45. Mr President, Members of the Court, your words have such power. In 2004, the Court affirmed the inalienable right of the Palestinian people to self-determination. In 2024, it is time for you to enable them finally to exercise that right, by freeing them from the unlawful Israeli occupation of their territory, so that they may live in a sovereign and fully independent State of their own, in peaceful and secure coexistence with all their neighbours, including Israel. By upholding international law, which is all the State of Palestine asks you to do, your powerful words will change the world.

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[74] *Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970)*, *Advisory Opinion*, *I.C.J. Reports 1971*, p. 58, para. 133.

[75] UN Secretary General, "Secretary General's remarks to the Security Council on the Middle East", 23 Jan. 2024 (https://www.un.org/sg/en/content/sg/speeches/2024-01-23/secretary-generals-remarks-the-security-council-the-middle-east).

46. I thank you Mr President, Members of the Court, for your kind courtesy and patient attention. We are in your hands, Mr President, whether you would like to take the mid-morning break now or call our next speaker.

The PRESIDENT: I thank Mr Reichler. I will invite the next speaker to take the floor after a coffee break of ten minutes. The sitting is suspended.

The Court adjourned from 11.25 a.m. to 11.45 a.m.

The PRESIDENT: Please be seated. The sitting is resumed. I shall now give the floor to Ms Namira Negm. You have the floor, Madam.

Ms NEGM:

4. ISRAEL'S PERSECUTION, RACIAL DISCRIMINATION AND APARTHEID AGAINST THE PALESTINIAN PEOPLE

1. Thank you Mr President. Mr President, distinguished Members of the Court, it is an honour to appear before you on behalf of the State of Palestine to address Israel's racial discrimination, persecution and apartheid against the Palestinian people.

2. Starting from the Nakba of 1948 until now, Israel has adopted discriminatory legislation and measures by which it has established a deeply entrenched system of racial discrimination against Palestinians, subjugating them to Israeli domination and denying their fundamental rights.

3. Discrimination against the Palestinian people is as integral to Israel's prolonged occupation as is the annexation and colonization of the Palestinian territory. They are inextricable parts of the same whole and feed off each other.

4. The United Nations Special Rapporteur has explained:

> "At the heart of the settler colonial project of Israel is a comprehensive dual legal and political system that provides comprehensive rights and living conditions for the Jewish Israeli settlers in the West Bank, including East Jerusalem, while imposing upon the Palestinians military rule and control without any of the basic protections of international humanitarian and human rights law."[76]

[76] Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, Michael Lynk, 12 Aug. 2022, A/HRC/49/87, p. 11, para. 38.

5. In the Occupied Palestinian Territory, Israeli civilian laws apply extraterritorially to illegal settlers, while draconian Israeli military laws apply to the Palestinian population, on the sole basis of national or ethnic origin.

6. Using "a toolbox of population control"[77] and inhumane acts amounting to aggravated forms of racial discrimination, Israel restricts every aspect of Palestinian life, from birth to death, resulting in manifest human rights violations and an overt system of repression and persecution.

7. Treated as a burden and a demographic threat, Palestinians' rights to life, liberty and their fundamental freedoms are systematically denied. In East Jerusalem, by revoking thousands of residential permits, Israel has transformed the Palestinians with deep ancestral roots into temporary residents, who can lose that residency and their right to live in their city at any moment.

8. Through indiscriminate killing, summary execution, mass arbitrary arrest, torture, forced displacement, settler violence, movement restrictions and blockades, Israel subjects Palestinians to inhumane life conditions and untold human indignities, affecting the fate of every man, woman and child under its control.

9. For Israel, Palestinians are by definition guilty. Hence, it comes as no surprise that the conviction rate for Palestinians hauled before Israeli military courts stands at 99 per cent[78].

10. In the words of the Special Rapporteur:

> "Israel's all-encompassing criminalization shows that the military legislation, rather than safeguarding security, renders every single Palestinian potentially subject to imprisonment for ordinary acts of life"[79].

11. By contrast, despite the call by the Security Council[80] for Israel to disarm the settlers, their violence continues, aided and abetted by the Israeli Government and military. This is part and parcel of this Israeli domination and discrimination enterprise. Settlers are rarely, if ever, prosecuted for

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[77] Report of the Special Rapporteur on the Situation of Human Rights in the Palestinian Territories Occupied Since 1967, 22 Dec. 2020, UN doc. A/HRC/44/60, p. 7, para. 24.

[78] Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, Francesca Albanese: "Arbitrary deprivation of liberty in the occupied Palestinian territory: the Palestinian experience behind and beyond bar", UN doc. A/HRC/53/59, 28 Aug. 2023, p. 14, para. 59.

[79] *Ibid.*, p. 10, para. 36.

[80] UNSC resolution 904 (1994), 18 Mar. 1994, S/RES/904, para. 2: "to implement measures, including, *inter alia*, confiscation of arms, with the aim of preventing illegal acts of violence by Israeli settlers".

crimes against Palestinians[81], ravaging them with absolute impunity. Even some States friendly to Israel have now decided to sanction some of the violent settlers themselves as Israel fails to do so[82].

12. Palestinians, and Palestinians only, endure horrific levels of extensive human and material losses, including home demolitions[83] enforced as *collective* punishment[84]. All of this has created a coercive environment that facilitates Israel's forcible displacement of Palestinians[85].

13. As described by the Special Rapporteur:

> "Collective punishment is an inflamed scar that runs across the entire . . Israeli occupation of Palestine . . . Notwithstanding numerous resolutions, reports and reminders critical of its use, Israel continues to rely upon collective punishment as a prominent instrument in its coercive toolbox of population control . . . The logic of collective punishment has been to project domination in order to subdue a subjugated population through inflicting a steep price for its resistance to alien rule."[86]

14. In Gaza, this collective punishment has reached unbearable levels. Hermetically sealed from the outside world by a 17-year air, land and sea blockade with no end in sight, the situation in Gaza was described, as early as 2016, by the Secretary General as "collective punishment for which there must be accountability"[87]. In the absence of accountability, Gaza is besieged and bombed, massacres perpetrated for more than 140 days now and nearly the entire population forcibly displaced and at risk of perishing.

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[81] Committee on the Elimination of Racial Discrimination, Consideration of reports submitted by States parties under article 9 of the Convention. Concluding Observations (Israel), 3 April 2012, CERD/C/ISR/CO/14-16, p. 7, para. 28.

[82] Press release, "UK sanctions extremist settlers in the West Bank", 12 Feb. 2024, https://www.state.gov/announcement-of-visa-restriction-policy-to-promote-peace-security-and-stability-in-the-west-bank/; https://www.gov.uk/government/news/uk-sanctions-extremist-settlers-in-the-west-bank; https://www.eeas.europa.eu/delegations/palestine-occupied-palestinian-territory-west-bank-and-gaza-strip/joint-statement_en.; https://www.diplomatie.gouv.fr/en/country-files/israel-palestinian-territories/news/2024/article/israel-palestinian-territories-france-adopts-sanctions-against-violent-israeli.

[83] Report of the United Nations High Commissioner for Human Rights, "Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and in the occupied Syrian Golan", 15 March 2023, UN doc. A/HRC/52/76, pp. 8-9, para. 26; Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, 22 Dec. 2020, UN doc. A/HRC/44/60, p. 7, para. 24.

[84] CAT, Concluding observations on the fifth periodic report of Israel, CAT/C/ISR/CO/5, 3 June 2016, p. 9, para. 41; Report of the Secretary-General on the implementation of Security Council resolution 2334 (2016), 21 June 2023, UN doc. S/2023/458, p. 10, para. 64; UNGA resolution 77/126, 12 Dec. 2022.

[85] Report of the Secretary-General, Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and the Occupied Syrian Golan, 3 October 2022, A/77/493, p. 10, para. 75 (footnote omitted).

[86] Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, 22 Dec. 2020, UN doc. A/HRC/44/60, pp. 7-8, paras. 24-27.

[87] Secretary-General, Secretary-General's Remarks at Press Encounter, 28 June 2016 (emphasis added) (https://tinyurl.com/mryjv2n6).

15. Mr President, this prolonged repressive régime has dehumanized Palestinians, denying them the right to life, the right to safety, the right to even exist, while confining and fragmenting them and their territory.

16. The Court is not facing isolated or individual acts violating Palestinian human rights, but rather the cumulative effect of systematic policies undoubtedly constituting a "pattern of racial discrimination"[88].

17. Members of the Court,

> "[The] policies and practices [of Israel] amount to segregation [with] the existence in the Occupied Palestinian Territory of two entirely separate legal systems."[89]

These are not my words, these are the words of the Committee on the Elimination of All Forms of Racial Discrimination, tasked by more than 180 States to fight the scourge of racial discrimination.

18. Likewise, the United Nations International Commission of Inquiry has described the situation in the Occupied Palestinian Territory as a "legal regime of segregation"[90].

19. When it comes to determining that a measure, policy or practice disproportionately affects a group, this Court "attributes considerable weight to reports of several UN organs and monitoring bodies"[91] and to the "constant practice"[92] of independent treaty bodies.

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[88] *Application of the International Convention for the Suppression of the Financing of Terrorism and of the International Convention on the Elimination of All Forms of Racial Discrimination (Ukraine* v. *Russian Federation), Judgment of 31 January 2024*, para. 161.

[89] Committee on the Elimination of Racial Discrimination (CERD), Concluding observations on the combined seventeenth to nineteenth reports of Israel, adopted on 12 December 2019, CERD/C/ISR/CO/17-19, 27 Jan. 2020, p. 4, para. 22.

[90] Report of the independent international fact-finding mission to investigate the implications of the Israeli settlements on the civil, political, economic, social and cultural rights of the Palestinian people throughout the Occupied Palestinian Territory, including East Jerusalem, 7 Feb. 2013, UN doc. A/HRC/22/63, p. 12, para. 49:

> "The legal regime of segregation operating in the Occupied Palestinian Territory has enabled the establishment and the consolidation of the settlements through the creation of a privileged legal space for settlements and settlers. It results in daily violations of a multitude of the human rights of the Palestinians in the Occupied Palestinian Territory, including, incontrovertibly, violating their rights to non-discrimination, equality before the law and equal protection of the law."

[91] *Application of the International Convention for the Suppression of the Financing of Terrorism and of the International Convention on the Elimination of All Forms of Racial Discrimination (Ukraine* v. *Russian Federation), Judgment of 31 January 2024*, para. 238.

[92] *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, I.C.J. Reports 2004 (I)*, p. 179, para. 109.

20. The findings of independent treaty bodies are *a fortiori* to be "ascribe[d] great weight"[93] when their findings are shared by the United Nations General Assembly[94], the Human Rights Council[95], Special Rapporteurs[96], as well as by almost all the Participants in the present proceedings[97].

21. Members of the Court, Israel's occupation has been replete with systematic exclusions and restrictions adopted with the "purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights"[98].

22. As noted by the Special Rapporteur on human rights:

> "[T]he political system of entrenched rule in the Occupied Palestinian Territory that endows one racial-national-ethnic group with substantial rights, benefits and privileges while intentionally subjecting another group to live behind walls and checkpoints and under a permanent military rule *sans droits, sans égalité, sans dignité et sans liberté* . . . satisfies the prevailing evidentiary standard for the existence of apartheid."[99]

23. Apartheid exists in the Occupied Palestinian Territory. Twenty participant States[100] expressly hold the same position including victims of apartheid, South Africa and Namibia.

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[93] *Ahmadou Sadio Diallo (Republic of Guinea* v. *Democratic Republic of the Congo), Merits, Judgment, I.C.J. Reports 2010 (II),* p. 664, para. 66; see also *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. 104, para. 101.

[94] UNGA resolution 77/247, 30 Dec. 2022, para. 2, UN doc. A/RES/77/247.

[95] Human Rights Council, Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, Raquel Rolnik. Addendum. Mission to Israel and the Occupied Palestinian Territory, 24 Dec. 2012, UN doc. A/HRC/22/46/Add.1, paras. 50-51.

[96] Report of the Special Rapporteur on the Situation of Human Rights in the Palestinian Territories Occupied since 1967, 12 August 2022, UN doc. A/HRC/49/87, pp. 11-12, paras. 38-41; Written Statement of the State of Palestine, para. 4.12.

[97] Written Comments of the State of Palestine, paras. 4.29 *et seq.*; Written Statements of Algeria, pp. 30-44; of Bangladesh, para. 31; of Belize, pp. 32-47, 54; of Bolivia, pp. 4, 7-13; of Brazil, paras. 39-40; of Chile, paras. 96-107; of China, paras. 22, 33-35; of Colombia, paras. 4.8-4.10; of Cuba, p. 7; of Djibouti, paras. 32-52; of Egypt, paras. 277-282; of France, paras. 60-65; of Indonesia, paras. 28-39; of Ireland, paras. 12-46; of Jordan, paras. 4.96-4.173; of Kuwait, paras. 2, 14; of Lebanon, paras. 35-52; of Maldives, paras. 36-41; of Pakistan, paras. 65-84; of Qatar, Vol. I, paras. 3-24-3.163; of the Russian Federation, para. 72; of Saudi Arabia, paras. 57-73; of Senegal, pp. 4-5; of Switzerland, para. 55; of Syria, paras. 21, 25; of Yemen, paras. 11, 15; of the African Union, paras. 137-193; of the League of Arab States, paras. 76-91; and of the Organisation of Islamic Cooperation, Vol. I, paras. 307-343.

[98] *Application of the International Convention for the Suppression of the Financing of Terrorism and of the International Convention on the Elimination of All Forms of Racial Discrimination (Ukraine* v. *Russian Federation), Judgment of 31 January 2024*, para. 195.

[99] Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, 12 August 2022, UN doc. A/HRC/49/87, p. 17, para. 52.

[100] Written Statements of Algeria, Bangladesh, Belize, Bolivia, China, Cuba (by necessary implication), Djibouti, The Gambia, Indonesia, Jordan, Kuwait, Lebanon, Namibia, Pakistan, Palestine, Qatar, Saudi Arabia, South Africa, Syria, Yemen.

24. As all State parties to the CERD, Israel is under obligation to "particularly condemn" racial segregation and apartheid. Undoubtedly, apartheid falls within the scope of discriminatory "measures" referred to in the UNGA resolution requesting this advisory opinion[101].

25. This Court, as early as 1971, in its *Namibia* Opinion also confirmed that apartheid amounts to "a flagrant violation of the purposes and principles of the Charter"[102]. Further, the ILC has listed the prohibition of apartheid as a peremptory norm[103] permitting no derogation.

26. Applying the definition of apartheid, which reflects customary law, in both the 1973 Convention on the Suppression and Punishment of the Crime of Apartheid[104] and the 1998 Rome Statute of the International Criminal Court[105], Israel's policies and practices in the Occupied Palestinian Territory meet the evidentiary standard for the existence of apartheid.

27. *First, the existence of two or more different racial groups is present*. International law determines racial groups by the subjective perception of the group that it has a separate identity[106]. Judged by this standard, two distinct separate racial groups coexist in Palestine, namely the indigenous Palestinian population and Israeli Jews.

28. *Second, the establishment of an institutionalized régime of systematic oppression and domination by one racial group over another* undoubtedly exists. As evidenced in the State of Palestine's written statement, Israel has, in purpose and in effect, elaborated, through laws, military courts, violence, discriminatory zoning and planning, and collective punishment, a system to

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[101] General Assembly, resolution 77/247, 30 Dec. 2022, para. 2 (https://undocs.org/A/RES/77/247). Several states expressly recognize apartheid as a discriminatory "measure" in their Written Statements: Algeria (pp. 50-51), Belize (para. 66), Namibia (para. 4 *(b)*), Yemen (prelude to para. 34).

[102] *Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970), I.C.J. Reports 1971*, p. 57, para. 131.

[103] Draft Conclusions on Identification and Legal Consequences of Peremptory Norms of General International Law (*jus cogens*) 2022, Conclusion 23, Report of the International Law Commission at its Seventy Third Session (UNGAOR), 77th Session, Suppl. No. 10, UN doc. A/77/10 (2022).

[104] Convention on the Suppression and Punishment of the Crime of Apartheid, *UNTS*, Vol. 1015, p. 243 (entry into force: 18 July 1976).

[105] Rome Statute of the International Criminal Court, *UNTS*, Vol. 2187, p. 90, Article 7 (1) *(j)*.

[106] CERD, General Recommendation VIII, "Identification with a particular racial or ethnic group", UN doc. A/45/18, 22 August 1990; *Prosecutor* v. *Jelisic*, Case No IT-02-60-T, Trial Judgment, 14 December 1999, para. 70; Report of the Special Rapporteur on the Situation of Human Rights in the Occupied Palestinian Territory, A/HRC/49/28 of 16 March 2022, paras. 36-37.

subjugate Palestinians[107]. They are confined in space and rights. They travel on segregated roads[108] — a phenomenon that even apartheid South Africa never knew.

29. *Third, the commission of inhuman acts is endemic*. Israel subjects the Palestinians, at unprecedented levels, to inhuman acts as defined by these two Conventions[109]. Such inhuman acts include murder, forcible population transfer, massive arbitrary arrest, imprisonment[110] and torture, and while the occupation continues, they are becoming more egregious every year.

30. Finally, *the inhuman acts are committed with the purpose of maintaining the apartheid régime*, and by it, maintaining permanently Israel's illegal occupation of Palestinian territory.

31. As was shown by Mr Reichler, the statements of Israel's highest government officials evincing Israel's determination to dislocate the Palestinian population, annex its territory and maintain its system of colonial settlement all attest to Israel's intention to maintain an apartheid-based occupation régime permanently[111].

32. In July 2014, Israel's then Minister of Justice, declared:

> "What's so horrifying about understanding that the entire Palestinian people is the enemy? . . . They are all enemy combatants, and their blood shall be on all their heads . . . They should go, as should the physical homes in which they raised the snakes. Otherwise, more little snakes will be raised there."[112]

Tragically, this is just one of the many dehumanizing descriptions by Israeli officials of Palestinian children: "snakes". Snakes, Mr President.

33. For all the above reasons, the State of Palestine requests the Court to declare that Israel's discriminatory practices against the Palestinian people are tantamount to apartheid, which this Court defined in its 1971 Advisory Opinion on *Namibia* as "distinctions, exclusions, restrictions and

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[107] Written Statement of the State of Palestine, paras. 4.7-4.223.

[108] Committee on the Elimination of Racial Discrimination, Concluding observations on the combined seventeenth to nineteenth reports of Israel, 27 Jan. 2020, CERD/C/ISR/CO/17-19, para. 22 (https://undocs.org/CERD/C/ISR/CO/17-19); 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. 39 (https://undocs.org/A/77/328); United Nations Fact-Finding Mission on the Gaza Conflict, UN doc. A/HRC/12/48, 15 September 2009, para. 203; see also Amnesty International, "A Threshold Crossed — Israeli Authorities and the Crimes of Apartheid and Persecution", 27 Apr. 2021 (https://www.hrw.org/report/2021/04/27/threshold-crossed/israeli-authorities-and-crimes-apartheid-and-persecution).

109 Rome Statute of the International Criminal Court, 17 July 1998, Article 7 (1); Apartheid Convention, Article II.

[110] CRC, Concluding observations on the second to fourth periodic reports of Israel, C/ISR/CO/2-4, 4 July 2013, p. 9, para. 35.

111 Report of the UN Special Rapporteur on the situation of human rights in the Occupied Palestinian Territory, March 2022, A/HRC/49/87, p. 17, para. 51.

[112] "Israeli lawmaker's call for genocide of Palestinians gets thousands of Facebook likes", *The Electronic Intifada*, 7 July 2014, http://tinyurl.com/mr2mm3hc.

limitations exclusively based on grounds of race, colour or descent or national or ethnic origin, which constitute a denial of fundamental human rights"[113]. This actually reflects the Palestinian reality.

34. Mr President, Members of the Court, 47 United Nations experts have declared that if the occupation is not brought to an end:

> "[w]hat would be left of the West Bank would be a Palestinian Bantustan, islands of disconnected land completely surrounded by Israel and with no territorial connection to the outside world . . . and would be the crystallization of an already unjust reality: two peoples living in the same space, ruled by the same state, but with profoundly unequal rights. This is a vision of a 21st century apartheid."[114]

This is apartheid.

35. The Palestinian population in Israel stands at 20 per cent, hence, "Israel's discriminatory treatment of Palestinians must be viewed in its totality"[115]. As Palestine[116] and other participants demonstrated in their written statements[117], the system of racial discrimination extends to all areas between the Mediterranean Sea and the Jordan River[118]. Furthermore, Palestine, Namibia[119] and

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[113] *Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970), I.C.J. Reports 1971*, p. 57, para. 131.

[114] "Israeli annexation of parts of the West Bank would break international law — UN experts call on the international community to ensure accountability", United Nations Press Release, 16 June 2020 (https://tinyurl.com/jy7vkeze).

[115] Written Statement of South Africa, para. 17.

[116] Written Statement of the State of Palestine, para. 4.203 *et seq*.

[117] Written Statement of Belize, para. 69 ("In particular, different legal and administrative regimes govern Palestinians across different categories and territorial areas — 'permanent' residents in East Jerusalem with revocable residency permits, an occupied population under military rule in the remainder of the West Bank, a population of a 'hostile' territory in Gaza, Palestinian citizens of Israel, and Palestinian refugees and exiles, wherever they may be — and severe restrictions on the movement of Palestinians operate to territorially segregate the Palestinian people across these areas or exclude Palestinians altogether . . . These measures prevent the full development of the Palestinian people as a group"); Written Statement of Jordan, para. 4.111 ("Discrimination against Palestinians pre-dates the 1967 war. It began with the 1950 Absentees' Property Law, the 1953 Land Acquisition Law (Actions and Compensation), and the 1953 Citizenship Law."); Written Statement of Qatar, Vol I, para. 3.189, "by virtue of their identity, Palestinians are either driven from their homes due to dire living conditions, or are forced to face daily indignities in their own homeland.")

[118] Written Statement of the State of Palestine, para. 4.203 *et seq*.

[119] Written Statement of Namibia, para. 85.

South Africa[120], together with a myriad of public figures[121], legal scholars and NGOs[122], concur that such discriminatory treatment amounts to apartheid. Even some Israeli officials[123] admitted it.

36. Although it might not be clear to the naked eye, by Israeli law Jewish citizens of any country who have never been to Israel can automatically gain Israeli citizenship, yet Palestinian refugees who have spent their entire lives in forced exile and in refugee camps[124] are barred forever from returning to their homelands.

37. Unfortunately, time will not allow me to expose the full extent of Israel's discriminatory laws, but I would only highlight that Israel has an extensive set of laws discriminating against Palestinians in every aspect of life[125]. This was not left unnoticed by CERD, which noted that the practice of "segregation between Jewish and non-Jewish communities" continues to be applied "in Israel proper"[126].

38. A one-State reality of unequal rights[127] consolidating segregation and apartheid against Palestinians is reflected in the inherently discriminatory character of the 2018 Basic Law "Israel — The Nation-State of the Jewish People"[128].

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[120] Written Statement of South Africa, para. 117.

[121] Written Statement of the State of Palestine, para. 4.232. On June 2023, Mary Robinson and Ban Ki-moon issued a statement after a visit to Israel on behalf of the Elders in which they declared that "[t]hey had heard no detailed rebuttal of the evidence of apartheid", https://theelders.org>news>elders-warn-of-consequences-of-one-state-reality-in-israel-and-palestine.

[122] Human Rights Watch, "A Threshold Crossed: Israeli Authorities and the Crimes of Apartheid and Persecution", 27 April 2021 (https://tinyurl.com/4ufjn368); Amnesty International, "Israel's Apartheid against Palestinians: A Cruel System of Domination and a Crime Against Humanity", 1 February 2022 (https://tinyurl.com/mt7a7c24); Al Haq, "Israeli Apartheid. Tool of Zionist Settler Colonialism", 29 November 2022 (https://tinyurl.com/22x6t8ae); B'Tselem, "A Regime of Jewish Supremacy from the Jordan River to the Mediterranean Sea: This is Apartheid", January 2021 (https://tinyurl.com/3mvvyrav); Written Statement of the State of Palestine, para. 4.231.

[123] See Palestine Written Statement, paras. 4.233- 4.234.

[124] Human Rights Watch, "A Threshold Crossed — Israeli Authorities and the Crimes of Apartheid and Persecution", 27 April 2021 (https://tinyurl.com/4ufjn368).

[125] Written Statement of the State of Palestine, para. 4.206 *et seq*.

[126] CERD, Concluding observations on the combined seventeenth to nineteenth reports of Israel, CERD/C/ISR/CO/17-19, 12 December 2019, p. 5, para. 23 ("eradicate all forms of segregation between Jewish and non-Jewish communities and any such policies or practices that severely and disproportionately affect the Palestinian population *in Israel proper and* in the Occupied Palestinian Territory").

[127] Diplomatic services of the European Union, Statement by the Spokesperson of the EU on the latest settlement announcement by the Israeli authorities as well as the intended demolition of the Khan Al-Ahmar, 31 May 2018, https://www.eeas.europa.eu/node/45670_en ("These developments, alongside a number of other related actions taken in recent months, seriously undermine the viability of a negotiated two-state solution and the prospects for a lasting peace. Building new settlements for Israelis while demolishing Palestinian homes in the same area will only further entrench a one-state reality of unequal rights, perpetual occupation and conflict.")

[128] Basic Law: Israel as the Nation-State of the Jewish People, 19 July 2018 (https://tinyurl.com/fe5b4m7j).

39. Under this law, "exercising the right to national self-determination in the State of Israel is unique to the Jewish people"[129]. Developing Jewish settlements became an Israeli "national value"[130], not only in the occupied West Bank and the Syrian Golan but even in Israel, and I ask where? On which lands? The answer is on the lands where Palestinian citizens of Israel live, especially in the Galilee and the Naqab.

40. An exclusive right of one group and complete denial of the rights of another. From the Jordan River to the Mediterranean Sea. If this is not apartheid, what is?

41. Israel's measures, policies and practices against the Palestinian people are no less pervasive in their reach or less pernicious in their consequences than the institutionalized racial discrimination and segregation that existed in South Africa. And just like in 1971, the international community relies on this Court to play its own genuine role to bring about an end to this glaring injustice. An immediate end to this illegal situation will bestow on the Palestinian people the fundamental rights to which they are entitled by international law, yet unfortunately they have been so unjustly denied.

42. Let me conclude, Mr President, with a cry of desperation representing the countless victims of the ongoing Israeli atrocities as described by the Palestinian Poet Mourid Barghouti:

> "In my despair, I remember
> there is life after death; there is life after death
> and I have no problem;
> but I ask:
> O, God,
> is there life before death?"

43. Mr President, Members of the Court, I thank you for your kind attention. Mr President, I respectfully request that you now call Professor Sands to the podium. Thank you very much.

The PRESIDENT: I thank Ms Negma. I now invite Prof. Philippe Sands to address the Court. You have the floor professor.

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[129] Basic Law: Israel as the Nation-State of the Jewish People, 19 July 2018, Article 1 *(c)* (https://tinyurl.com/fe5b4m7j).

[130] *Ibid.*, Article 7 (https://tinyurl.com/fe5b4m7j).

Mr SANDS:

5. THE VIOLATION OF THE RIGHT TO SELF-DETERMINATION OF THE PALESTINIAN PEOPLE

I. The content of the right to self-determination

1. Monsieur le président, Mesdames et Messieurs les Membres de la Cour, j'ai l'honneur de m'adresser à vous ce matin au sujet du droit du peuple palestinien à l'autodétermination, de la privation prolongée de ce droit inaliénable et de sa quête permanente pour l'exercer pleinement.

2. Cinquante-trois États et trois organisations internationales ont déposé des observations écrites auprès de la Cour. Aucun d'entre eux — aucun, même pas Israël — n'a soutenu que le peuple palestinien n'a pas le droit à l'autodétermination en vertu du droit international.

3. Mr President, the written statements before you offer no discordant note to the three core propositions that the State of Palestine advances in these proceedings:

— *First*, the Palestinians are a distinct people.

— *Second*, as such, they enjoy the very same rights as every other people, including that most foundational of rights, namely the right to self-determination: to decide for themselves how they will live and organize, politically, socially, economically, in accordance with and subject to international law. As Professor Hersch Lauterpacht put it in 1945, in the language of another age, freedom means "the right of self-government through rulers chosen by and accountable to him", and equality "demands an equal opportunity of self-government and cultural development"[131].

— *Third*, the Palestinian people's right to self-determination has real and practical consequences; it is not an empty slogan. That right includes but is not limited to: the right to control their own land and natural resources; the right to be free from demographic manipulations by any third party; and the right to determine their own political status, economic development, their own futures.

4. Mr President, Members of the Court, there is no dispute as to the right of self-determination of the Palestinian people. It has never been in issue, not since the time of the Mandate. This Court

[131] H. Lauterpacht, *An International Bill of the Rights of Man* (1945, Columbia, reprinted by Oxford University Press (OUP) 2013), p. 146.

made that clear two decades ago in its Opinion in the *Wall* case when it said, loud and clear: "the existence of a 'Palestinian people' is no longer in issue"[132].

5. What is before this Court now is the ability of the Palestinian people to exercise that right, and Israel's systematic and prolonged violation of that right. What does the right to self-determination mean in practice? How has Israel violated it? And what are the consequences of those violations?

6. Mr President, Members of the Court, in its written statement the State of Palestine explained that the right to self-determination comprises four specific components. *First*, the right to territorial integrity. *Second*, the right not to be subjected to demographic manipulation within that territory by a foreign power. *Third*, the right to exercise permanent sovereignty over its natural resources. And *fourth*, the right to be able to pursue its chosen economic, social and cultural development. The prolonged occupation, colonization and purported annexation by Israel of Palestinian territory, with all the discriminatory and other unlawful acts, have and continue to deprive the Palestinian people of each of these four distinct components.

7. Let me start with the *right to territorial integrity*, so recently recognized and given effect by the Court in its Advisory Opinion on *Chagos*[133], and endorsed by an overwhelming majority by the General Assembly of the United Nations[134]. This implements resolutions 1514 and 2625[135]. Yet, Israel has clearly violated the territorial integrity of the Occupied Palestinian Territory, through over more than half a century of belligerent occupation. As Mr Reichler has described, it has purportedly annexed Jerusalem and the West Bank, and it has established hundreds of settlements populated by more than 700,000 settlers, regarded as a permanent part of Israel. It has extended the Wall that this Court found to be illegal in 2004[136]. It has confined Palestinians to enclaves. It has severed Jerusalem, it has restricted Palestinian rights of entry from the rest of the Occupied Palestinian Territory. It has

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[132] *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, I.C.J. Reports 2004 (I)*, pp. 182-183, para. 118 (hereinafter the "*Wall* Advisory Opinion").

[133] *Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965*, *Advisory Opinion*, *I.C.J. Reports 2019 (I)*, p. 134, para. 160 (hereinafter "*Chagos* Advisory Opinion").

[134] A/RES/73/295 of 22 May 2019.

[135] UNGA resolution 2625 (XXV), Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States, 24 Oct. 1970; UNGA resolution 1514 (XV), 14 Dec. 1960, para. 6.

[136] *Wall* Advisory Opinion, para. 163.

transformed the Gaza Strip into an impoverished enclave, a besieged, bombarded community, severed from the West Bank and East Jerusalem. Its leaders have declared that Israel will be sovereign over all the land between the Jordan River and the Mediterranean Sea and it has made this formal government policy.

8. What is the consequence of this? It is the acquisition of territory by force. It is the reduction and fragmentation, as you have seen, of the territory left for the Palestinians. This is a manifest violation of Palestine's territorial integrity, its unity, its contiguity, which are core elements of the right to self-determination. The General Assembly, the Security Council, the Human Rights Council have repeatedly called for the preservation of Palestine's territorial integrity[137], and condemned Israel's acts as a violation of the right of the Palestinian people to exercise their self-determination[138]. We urge the Court to declare Israel's 56-year occupation to be unlawful, to confirm, to take the words of your recent opinion in the *Chagos* case, that Israel is under an obligation to bring its presence on the territory of Palestine to an end and to do so as rapidly as possible[139].

9. Mr President, Members of the Court, I turn to the *right not to be subjected to demographic manipulation*. The Palestinian people, as you have heard and are aware, have been subject to a century of dispossession and displacement in manifest violation of their right to self-determination. This is in two ways. First, the forcible displacement undermines the integrity of the people, as the Court has confirmed in the *Wall*[140] and *Chagos* Advisory Opinions[141]. Between 1947 and 1949, during the *Nakba*, between 750,000 and 900,000 Palestinians were forcibly displaced[142]. In 1967, a further 400,000 were forcibly displaced[143]. Refugees are prevented from being able to return and

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[137] E.g. UNGA resolution 76/150, 16 Dec. 2021, preamble; UNGA resolution 77/208, 28 Dec. 2022, preamble; UNSC resolution 242 (1967), 22 Nov. 1967, para. 1 (ii); Human Rights Council, Resolution 52/34, 18 Apr. 2023, para. 5.

[138] See e.g. UNGA resolutions 67/120, 18 Dec. 2012, 68/82, 11 Dec. 2013, 69/92, 5 Dec. 2014, 70/89, 9 Dec. 2015, 71/97, 6 Dec. 2016, 72/86, 7 Dec. 2017, 73/98, 7 Dec. 2018, 75/97, 18 Dec. 2020, 76/82, 9 Dec. 2021 and 77/126, 12 Dec. 2022. See also UNSC resolutions 242 (1967), 22 Nov. 1967, 252 (1968), 21 May 1968, 298 (1971), 25 Sept.1971, 465 (1980), 1 Mar. 1980 and 2334 (2016), 23 Dec. 2016.

[139] *Chagos* Advisory Opinion, p. 139, para. 178.

[140] *Wall* Advisory Opinion, p. 184, para. 122.

[141] *Chagos* Advisory Opinion, p. 95, esp. at paras. 153-160.

[142] First Interim Report of the United Nations Economic Survey Mission for the Middle East (16 Nov. 1949, A/AC.25/4).

[143] F. Albanese, *Palestinian Refugees in International Law*, 2nd ed. (Oxford University Press, 2020), p. 50, fns. 265-266.

forcible displacements continue today: entire communities in the West Bank, including East Jerusalem, and now, before our very eyes, on a daily basis, across the entirety of Gaza.

10. Second, transferring another people into the territory of Palestine is contrary to international law. It undermines the exercise by Palestine of its right to self-determination[144]. Yet Israel declares that hundreds of thousands of unlawful settlers will somehow remain there permanently and forever[145].

11. This is a demographic manipulation of the highest order. It is grave, it continues, it violates the right of self-determination. The law requires that such actions must end forthwith.

12. Mr President, Members of the Court, the third aspect is the *right to exercise permanent sovereignty over natural resources*, as recognized by Article 1 of the two international covenants[146], and by so many UN bodies[147]. The resources include land, fresh water, agricultural and mineral resources, including hydrocarbons[148].

13. Israel's control and purported annexation of the Occupied Palestinian Territory embraces both the land and its natural resources[149]. For example, Israel systematically appropriates water resources[150]. In the West Bank alone, the United Nations has documented prohibitions on Palestinians drawing waters from the River Jordan[151], and grossly inequitable allocations of vital

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[144] Convention (IV) relative to the Protection of Civilian Persons in Time of War. Geneva, 12 August 1949 (Fourth Geneva Convention), Art. 49. They have also been pronounced as a "flagrant violation under international law" by the UN Security Council, most recently in resolution 2334 (23 Dec. 2016).

[145] JNS.org (28 Dec. 2022), "Israeli government guidelines envision settlement of Judea and Samaria" (https://www.jns.org/israeli-government-guidelines-envision-settlement-of-judea-and-samaria/); Haaretz (29 Aug. 2017), "Netanyahu Vows to Never Remove Israeli Settlements From West Bank: 'We're Here to Stay, Forever'" (https://www.haaretz.com/israel-news/2017-08-29/ty-article/netanyahu-vows-to-never-remove-west-bank-settlements-were-here-to-stay/0000017f-dbed-d3ff-a7ff-fbed8aed0000).

[146] International Covenant on Economic, Social and Cultural Rights (ICESCR), 16 Dec. 1966 (entry into force: 3 Jan. 1976), United Nations, *Treaty Series (UNTS)*, Vol. 993, Art. 1; International Covenant on Civil and Political Rights (ICCPR), 16 Dec. 1966 (entry into force 23 Mar. 1976), *UNTS*, Vol. 999, Art. 1.

[147] UNGA resolution 1803 (XVII), 12 Dec. 1962, para. 7; UNGA resolution 3281 (XXIX), 12 Dec. 1974, Art. 2, para. 1; UNGA resolution 41/128, 4 Dec. 1986, para. 1 (2).

[148] In violation of Article 33 of the Fourth Geneva Convention, which prohibits pillage of the occupied territory.

[149] United Nations Conference on Trade and Development (UNCTAD), "The Economic Costs of the Israeli Occupation for the Palestinian People: The Cost of Restrictions in Area C Viewed from Above", 9 Mar. 2023, UNCTAD/GDS/APP/2022/1, p. vii (https://tinyurl.com/3uaykkt2).

[150] 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. 35 (https://undocs.org/A/77/328).

[151] Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, 30 May 2019, A/HRC/40/73, para. 44 (footnote omitted) (https://undocs.org/A/HRC/40/73).

groundwaters as between Israelis and Palestinians[152]. Israel pillages rock quarries. Israel prevents Palestinian exploitation of hydrocarbon deposits, onshore and offshore[153]. These too are manifest violations of the right of self-determination.

14. Mr President, Members of the Court, the fourth component of the right to self-determination is the right of a people to determine its own political status and direction, and to pursue its own economic, social and cultural development of its choice. This is confirmed by a multitude of instruments and General Assembly resolutions[154]. Yet Israel persists in prohibiting and punishing political expressions of Palestinian identity and nationhood. Flags are outlawed and attacked[155]. Civil society organizations[156] and political parties are declared to be unlawful[157]. Leaders and elected representatives, and civilians more generally, including so many children, are assaulted[158], exiled[159], imprisoned[160] or killed[161].

15. General Assembly resolutions and many treaties confirm that these rights exist under international law[162]. And they have been systematically violated. The economic, social and cultural

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[152] Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, 30 May 2019, A/HRC/40/73, para. 48 (https://undocs.org/A/HRC/40/73); Report of the United Nations High Commissioner for Human Rights, Allocation of water resources in the Occupied Palestinian Territory, including East Jerusalem, 15 Oct. 2021, A/HRC/48/43, para. 27 (https://undocs.org/A/HRC/48/43).

[153] UNCTAD, "The Economic Costs of the Israeli Occupation for the Palestinian People: The Unrealized Oil and Natural Gas Potential, United Nations, 2019" (https://tinyurl.com/yvusxty9); World Bank, West Bank and Gaza — Area C and the Future of the Palestinian Economy, 2 Oct. 2013 (https://tinyurl.com/2p982j6x); UNGA resolution 77/187, 14 Dec. 2022, paras. 1 and 2.

[154] UNGA resolution 1514 (XV), 14 Dec. 1960, para. 2; UNGA resolution 2625 (XXV), 24 Oct. 1970, Annex; UNGA resolution 61/295, 13 Sept. 2007, Annex.

[155] Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, 21 Sept. 2022, A/77/356, para. 53 (https://undocs.org/A/77/356); "Israel security minister bans Palestinian flag-flying in public", *The Guardian*, 9 Jan. 2023 (https://tinyurl.com/mw3ebn5v).

[156] Human Rights Committee (HRC), Concluding observations on the fifth periodic report of Israel, 5 May 2022, CCPR/C/ISR/CO/5, para. 18 (https://undocs.org/CCPR/C/ISR/CO/5).

[157] Economic and Social Council, "Economic and social repercussions of the Israeli occupation on the living conditions of the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem, and of the Arab population in the occupied Syrian Golan", 8 June 2022, A/77/90-E/2022/66, para. 6 (https://undocs.org/A/77/90).

[158] See UNSC resolution 1435 (2002), 24 Sept. 2002, preamble ("*Gravely concerned* at the reoccupation of the headquarters of the President of the Palestinian Authority in the City of Ramallah that took place on 19 September 2002 and demanding its immediate end") (https://undocs.org/S/RES1435(2002)).

[159] UNSC resolution 484 (1980), preamble and para. 3.

[160] UNGA resolution 77/247, 30 Dec. 2022 ("*Expressing grave concern* that thousands of Palestinians, including many children and women, as well as elected representatives, continue to be held in Israeli prisons or detention centres under harsh conditions") (https://undocs.org/A/RES/77/247).

[161] UNSC resolution 611 (1988), 25 Apr. 1988, preamble and para. 1

[162] See also UNGA resolution 41/128, 4 Dec. 1986, para. 1 (1); HRC, General Comment No. 12, The Right to Self-Determination of Peoples, 13 Mar. 1984, HRI/GEN/1/Rev.9 (Vol. I), para. 1 (https://tinyurl.com/4nf6fuft).

rights of the Palestinian people are suppressed by a prolonged and unlawful occupation; by the purported annexation of the West Bank, including East Jerusalem; by the settlements; by the wall and its associated régime and infrastructure; by the blockade of Gaza; by the fragmentation of land; by the deprivation of resources; by the restrictions on freedom and movement of people and of goods; and by a multitude of other acts of subjugation and collective punishment. These acts, and others, have curtailed the access of the Palestinian people to livelihoods[163]; they have made the country and the people totally dependent on aid[164].

16. Cultural development too is under sustained assault. Access to religious and cultural sites is restricted, and the centuries-long historic *status quo* at Jerusalem's Christian and Muslim holy sites, notably at the Al-Aqsa Mosque, is undermined and violated. Religious, social and cultural events are stopped. Schools and universities are besieged or just demolished. Cultural heritage is usurped or just destroyed. Writers, poets and academics are simply prevented from expressing themselves, and some, like the renowned poet Refaat Alareer, have simply been killed[165]. Religious leaders face intimidation, harassment and incitement.

17. So it goes too for Palestinian social development. The World Health Organization (WHO) has described the health system in the Occupied Palestinian territories as "fragmented and fragile"[166]. Access to housing is destroyed by forced expulsions, demolition orders, seizure and destruction of property, discriminatory planning, violence and intimidation from settlers[167].

18. In the Gaza Strip, the economic, social and cultural life of the Palestinian people has been decimated. After 17 years of blockade, the population is destitute. It is subjected to destruction on an industrial scale, now utterly dependent on humanitarian aid merely to exist. This continuing military

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[163] UNGA, Report of the independent international fact-finding mission to investigate the implications of the Israeli settlements on the civil, political, economic, social and cultural rights of the Palestinian people throughout the Occupied Palestinian Territory, including East Jerusalem, 7 Feb. 2013, A/HRC/22/63, para. 73 (https://undocs.org/A/HRC/22/63); Committee on the Elimination of Racial Discrimination, Concluding Observations, 14 June 2007, CERD/C/ISR/CO/13, para. 34. See also HRC, Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, 12 Aug. 2022, A/HRC/49/87, para. 57 *(b)* (https://undocs.org/A/HRC/49/87).

[164] Economic and social repercussions of the Israeli occupation on the living conditions of the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem, and of the Arab population in the occupied Syrian Golan, Note by the Secretary-General, 8 June 2022, A/77/90, paras. 75-84 (https://undocs.org/A/77/90).

[165] "PEN America Mourns the Death of Palestinian Scholar-Writer Refaat Alareer", https://pen.org/press-release/pen-america-mourns-the-death-of-palestinian-scholar-writer-refaat-alareer/, 14 Dec. 2003.

[166] WHO, *Right to health in the occupied Palestinian territory: 2018* (2019), p. 18 (https://tinyurl.com/ycxvxbsk).

[167] Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, 22 Oct. 2020, A/75/532, para. 54 (http://tinyurl.com/3dm3ukcu).

assault today shocks the conscience of the world. Is it consistent with the right of self-determination, Mr President? One only has to ask the question to see how it answers itself.

19. "[T]he violence and restrictions imposed on Palestinians impact every aspect of Palestinian life"[168]. That's UNCTAD reporting in March 2023. And, of course, today the situation is even more grave. The violation of Palestine's exercise of the right to self-determination is manifest and it is gross.

20. In summary, Israel has arrogated to itself the right to decide who owns Palestinian land, who may live on it, and how it is to be used. On Israel's approach, *it* decides on the use of resources and allocation of benefits. On Israel's approach, *it* decides whether Palestinians remain or return. On Israel's approach, *it* decides how, if *at all*, Palestinians may meet, trade, teach, worship, live, love.

21. And Israel wants more. Its current Prime Minister and Government celebrate the denial of Palestinian exercise of self-determination, of sovereignty and statehood. They celebrate it. They claim a right to construct settlements in the Palestinian territory[169]. With pride they speak of the power to frustrate the Oslo Accords and Palestinian statehood, the ultimate expression — the ultimate expression — of the right of self-determination[170].

22. Mr President, let us be blunt: Israel has sought to negate the rights of the Palestinian people to exercise their right of self-determination, in all aspects, across all parts of the territory of Mandatory Palestine. It has done so for decades and it wishes to do so forever. Tragically, *tragically*, Israel celebrates the manifest violation of international law inherent in its prolonged occupation[171]. Tragically, *tragically*, Israel asserts "the right of national self-determination in the state of Israel is unique to the Jewish people", under its own 2018 Basic Law[172]. Tragically, *tragically*, Israel sets its face against the role of international law. No one in this Great Hall of Justice is starry-eyed about international law, but it is what we have, and it is your role, as judges of this Court, the principal

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[168] UNCTAD, The Economic Costs of the Israeli Occupation for the Palestinian People: The Cost of Restrictions in Area C Viewed from Above, 9 Mar. 2023, UNCTAD/GDS/APP/2022/1, p. 9 (https://tinyurl.com/3uaykkt2).

[169] *Basic Law: Israel as the Nation State of the Jewish People*, 19 July 2018 (https://main.knesset.gov.il/en/news/pressreleases/pages/pr13978_pg.aspx) para. 7.

[170] *The Times of Israel* (17 Dec. 2023), "Pointing to Hamas's 'little state,' Netanyahu touts his role blocking 2-state solution": https://www.timesofisrael.com/pointing-to-hamass-little-state-netanyahu-touts-role-blocking-2-state-solution/

[171] E.g. *Basic Law: Israel as the Nation State of the Jewish People*, 19 July 2018 (https://main.knesset.gov.il/en/news/pressreleases/pages/pr13978_pg.aspx), para. 1 I.

[172] *Basic Law: Israel as the Nation State of the Jewish People*, 19 July 2018 (https://main.knesset.gov.il/en/news/pressreleases/pages/pr13978_pg.aspx).

judicial organ of the United Nations, to affirm the place and the power of international law, to confirm the illegality of the occupation, to make clear that Palestine — in *all* respects — meets the criteria of statehood under international law with all the rights and responsibilities that implies.

II. The right to self-determination is not conditional

23. Mr President, Members of the Court, the existence and exercise of the right to self-determination are not conditional. The right is a peremptory right. This is recognized by States[173], by judges of this Court[174], by the International Law Commission[175], by commentators[176]. And what that means in practice is that there is no derogation from the existence or exercise of the right. In *Chagos*, the Court confirmed that resolution 1514 — which recognizes self-determination must be exercised "*without any conditions or reservations*"[177] — reflects customary general international law[178]. The only limitation on the right, the Court has said, is that the "free and genuine expression of . . . the people concerned"[179] has to be exercised in accordance with international law.

24. In *Chagos*, this Court swatted away British and American arguments that alleged security concerns somehow trumped the right of self-determination and its exercise. We trust that the Court

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[173] See Written Statements of: the African Union, Algeria, the Arab League, Bangladesh, Belize, Brazil, Chile, Cuba, Djibouti, Egypt, Gambia, Guyana, Ireland, Jordan, Lebanon, Liechtenstein, Malaysia, Mauritius, Namibia, Pakistan, Qatar, Saudi Arabia, South Africa, and the United Arab Emirates.

[174] E.g. *Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970), Advisory Opinion, I.C.J. Reports 1971* (hereinafter *Namibia* Advisory Opinion), separate opinion of Vice-President Ammoun, p. 90; *Chagos* Advisory Opinion, separate opinion of Judge Cançado Trinidade, paras. 120-169.

[175] Draft Conclusions on Identification and Legal Consequences of Peremptory Norms of General International Law (*Jus Cogens*), Annex, p. 16; D. Tladi, Fourth Report on Peremptory Norms of General International Law (*Jus Cogens*), UN International Law Commission, Special Rapporteur on Jus Cogens, UN doc. A/CN.4/727 (2019), at 48, paras. 108-115.

[176] See e.g. A. Pellet "Comments in response to Christine Chinkin and in defense of jus cogens as the best bastion against the excesses of fragmentation", *Finnish Yearbook of International Law*, Vol. 17 (2006), p. 86; Alexidze, "The legal nature of jus cogens in contemporary international law", Collected Courses of the Hague Academy of International Law, 1981-III, Vol. 172, pp. 219 *ff.*, at p. 229; Kadelbach, "Genesis, function and identification of jus cogens norms", *Netherlands Yearbook of International Law 2015*, 2016, Volume 46, p. 152; Santalla Vargas, "In quest of the practical value of jus cogens norms", *Netherlands Yearbook of International Law 2015* (pp. 211-239), p. 227; Hannikainen, Peremptory Norms (Jus Cogens) in *International Law, Historical Development, Criteria, Present Status* (Helsinki: Finnish Lawyers' Publishing Co, 1988) at 421; Orakhelashivili, *Peremptory Norms in International Law* (2006), p. 51; Hannikainen, *Peremptory Norms (Jus Cogens) in International Law, Historical Development, Criteria, Present Status* (1988) 421.

[177] UNGA resolution 1514 (XV), 14 Dec. 1960, para. 5 (emphasis added).

[178] *Chagos* Advisory Opinion, p. 132, para. 153.

[179] *Western Sahara, Advisory Opinion, I.C.J. Reports 1975* (hereinafter *"Western Sahara* Advisory Opinion"), p. 32, para. 55.

will dismiss the argument that somehow the Palestinian people's right of self-determination is conditional upon a subjective determination by another State as to matters of its security.

25. This right to self-determination includes the right of a people to form a sovereign and independent State. More than 140 States have recognized Palestine as a State, with a population, with a defined territory, with a government, being a party to multiple treaties, a State with rights and with obligations[180].

26. Mr President, Members of the Court, Palestinian statehood is not dependent on the approval of Israel. An occupying Power does not have, and cannot have, a right of veto over the right of self-determination of the Palestinian people. The inalienable rights of the Palestinian people include the right of self-determination, national independence and sovereignty[181].

III. Consequences of the violation of the right to self-determination

27. What are the consequences of Israel's violations of Palestine's right to self-determination and its exercise? Professor Pellet is going to address these matters, so I can be brief: as the purpose and effect of the occupation is the denial of the right of self-determination, and the prevention — let's be frank — of the solution called for by the Security Council, the General Assembly and the vast majority of States of our world, premised on the existence of the two-State solution — the occupation is illegal and must be brought to an "immediate, unconditional and total" end[182]. The right of self-determination requires that UN Member States bring Israel's occupation to an immediate end[183]. No aid. No assistance. No complicity. No contribution to forcible actions. No money, no arms, no trade, no nothing[184]. All UN Members are obliged by law to end Israel's presence on the territory of Palestine.

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[180] See *Montevideo Convention on Rights and Duties of States*, 12 Dec. 1933, Organization of American States (OAS), *Law and Treaty Series*, No. 37, at Article 1 ("The state as a person of international law should possess the following qualifications: a) a permanent population; b) a defined territory; c) government; and d) capacity to enter into relations with the other states.").

[181] UNGA resolution 3236 (XXIX), 22 Nov. 1974, para. 1.

[182] UNGA resolution 36/147 E, 16 Dec. 1981. See also UNGA resolutions 36/226 A, 17 Dec. 1981, 37/123 F, 20 Dec. 1982, 38/180 D, 19 Dec. 1983, 39/146 A, 14 Dec. 1984, 40/168 A, 16 Dec. 1985, 41/162 A, 4 Dec. 1986, 42/209 B, 11 Dec. 1987, 43/54 A, 6 Dec. 1988, 44/40 A, 4 Dec. 1989, 45/83 A, 13 Dec. 1990 and 46/82 A, 16 Dec.1991.

[183] Draft articles on Responsibility of States for internationally wrongful acts (2001), Article 40.

[184] UNGA resolution A/RES/2625(XXV) (Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations), Annex, p. 123.

IV. Concluding remarks

28. In concluding, Mr President, Members of the Court, may I respond to the unfortunate point made by a small number of States, that an opinion from this Court would somehow negatively impact future negotiations[185]. With great respect, the truth is the very opposite.

29. First, the Court has confirmed already that the Palestinian people have a right to self-determination without derogation. The existence and exercise of the right to self-determination is not and can never be a matter for negotiation.

30. Second, the function of this Court, of these judges, of you, is to state the law: to spell out the legal rights and obligations that will allow a just solution in the future, in conformity with international law. The political context is totally irrelevant. The legal questions in *Namibia*, in the *Wall* case, in the *Chagos* case, all had a political context[186], but the Court did not blink. It has never shied away from drawing the consequences of the right to self-determination[187]. In *Chagos* and in *Namibia*, the Advisory Opinions have been significant and positive in their outcomes and effects. By identifying the applicable legal principles, and then applying them to the facts, the Court performs a most significant, uniquely significant role, for protagonists and for the international community as a whole. With great respect to my friends from the United States and Britain, it is the very opposite of what they have written: the function of this Court, in interpreting and applying the right of self-determination of the Palestinian people, can only assist in a solution based on the law, by setting out the parameters required by the law to resolve the matter. A forthright advisory opinion from this Court makes a resolution more likely, not less likely.

31. Mr President, in 1945, Professor Hersch Lauterpacht wrote that "self-determination is an enlightened and beneficent ideal to which the formation of States must conform if both justice and the peace of the world are to be secured"[188]. That is the beating heart of self-determination. The idea that a people must be able to determine for themselves their lives and their futures. And Hersch

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[185] *Wall* Advisory Opinion (No. 2), para. 53.

[186] *Nuclear Weapons* Advisory Opinion, para. 13; *Interpretation of the Agreement of 25 March 1951 between the WHO and Egypt*, *Advisory Opinion, I.C.J. Reports 1980,* p. 87, para. 33.

[187] See *Namibia* Advisory Opinion, p. 31, para. 52; *Western Sahara* Advisory Opinion, pp. 31–34, paras. 54-60; *Accordance with International Law of the Unilateral Declaration of Independence in Respect of Kosovo*, *Advisory Opinion, I.C.J. Reports 2010 (II)*, p. 436, para. 79; *East Timor (Portugal v. Australia), Judgment, I.C.J. Reports* 1995, p. 102, para. 29; *Wall Advisory Opinion,* pp. 171-172, para. 88; *Chagos* Advisory Opinion, pp. 131-135, paras. 146–161.

[188] H. Lauterpacht, *An International Bill of Rights of Man* (1945, Columbia, reprinted by OUP, 2013), p. 144.

Lauterpacht personally knew of what he spoke and we know that he was right. Israel's actions, as you have heard already today, and will hear in the coming days, are manifest, grave and continuing violations of the right of which Lauterpacht spoke and we invite this Court to so declare, to help bring to an end this affront, to allow the Palestinian people to determine the conditions under which they will live, in their territory, under their government, under the law, and to do so fully and to do so forthwith. That is what international law requires, no more and no less.

Mr President, I thank you for your kind attention, and I invite you to call Professor Pellet to the Bar.

The PRESIDENT: I thank Professor Sands. I now invite Professor Pellet to address the Court. Vous avez la parole, Monsieur le professeur.

M. PELLET :

6. CONSÉQUENCES DES VIOLATIONS ISRAÉLIENNES

1. Monsieur le président, Mesdames et Messieurs les juges, mes collègues ont résumé, dans le temps limité qui leur était imparti, les principaux faits internationalement illicites qui sont attribuables à Israël — ils ont été plus longuement et précisément décrits, non seulement dans les observations écrites de l'État de Palestine, mais aussi dans celles de la très grande majorité des 56 autres États et organisations internationales qui ont pris part à la procédure écrite. Il m'appartient de récapituler, tout aussi brièvement, non pas ces graves violations elles-mêmes, mais les *conséquences juridiques* qui en découlent.

2. Ces conséquences sont l'objet même des deux questions posées à la Cour par l'Assemblée générale, puisque l'une et l'autre portent sur les « conséquences juridiques », justement, de l'occupation prolongée des territoires palestiniens.

3. Même si je me bornais à commenter la seule liste des diverses conséquences découlant des faits internationalement illicites dont Israël est responsable, je dépasserais considérablement le temps dont je dispose. Aussi me permettrai-je, Mesdames et Messieurs de la Cour, de vous renvoyer aux passages de nos observations écrites et de celles de la plupart des États et organisations internationales participant à la procédure, qui énumèrent ces conséquences de manière

particulièrement soigneuse et pertinente[189]. Les références seront reproduites par les soins diligents du Greffe dans les comptes-rendus de cette audience et figurent également dans le tableau synthétique — synthétique mais long ! — figurant à l'onglet n° 6-1 de vos dossiers, dont je redirai quelques mots dans un instant.

I. REMARQUES PRÉLIMINAIRES

4. Ces énumérations appellent plusieurs remarques générales et préalables.

5. En premier lieu, comme l'ont souligné les participants à la procédure écrite, sur ce point unanimes, les conséquences juridiques résultant pour Israël de ses violations des règles applicables sont, au premier chef, celles codifiées par les articles 29 à 37 du projet de la Commission du droit international (CDI) de 2001 sur la responsabilité de l'État. Il s'agit bien sûr de la réparation intégrale des dommages causés par les actions ou omissions d'Israël, mais aussi de leur cessation — inséparable du devoir d'exécuter les obligations violées — et de l'obligation d'offrir des garanties de non-répétition.

6. Un autre point, sur lequel il existe aussi un très large consensus, tient à la nature des obligations violées. D'une manière générale, les participants à la procédure considèrent qu'il s'agit de violations graves par Israël d'obligations découlant de normes impératives du droit international général, dont la définition et les conséquences sont partiellement codifiées par les articles 40 et 41 des articles de la CDI. Et tel est principalement le cas :

— de l'interdiction de l'acquisition de territoires par la menace ou l'usage de la force ;

— de l'obligation de respecter le droit à l'autodétermination ;

— de nombreuses règles relevant du droit humanitaire ou protectrices des droits humains ; et, en particulier,

— de l'interdiction de la discrimination raciale et de l'apartheid.

Je note au passage que cette énumération recoupe, de façon frappante, la liste, non exhaustive, de normes que la CDI avait précédemment désignées comme ayant ce statut — de normes

[189] Voir les observations écrites, par. 7.1-7.165 et les commentaires écrits, par. 2.53-2.107, 3.27-3.62 et 4.52-4.91 de l'État de Palestine. Voir aussi, en particulier, les énumérations figurant dans les observations écrites de l'Arabie saoudite (par. 74-88), du Belize (par. 101-105), des Émirats arabes unis (par. 75-101), de la Ligue des États arabes (par. 114 et suiv.), de la Namibie (par. 124-140 et 150), du Pakistan (par. 85-115) ou de la Suisse (par. 52), et dans les commentaires écrits de l'Algérie (par. 28).

impératives —, et qu'elle a annexée à ses projets de conclusions sur les normes impératives du droit international général (*jus cogens*)[190].

7. Mes collègues l'ont amplement montré. Je n'y reviens que pour souligner les conséquences particulières qui s'attachent à la nature propre des normes impératives. Je précise cependant que ces principes impératifs, présentés dans le tableau projeté à l'écran, sont davantage détaillés et précisés dans le document reproduit à l'onglet n° 6.2 du dossier des juges.

8. La raison pour laquelle il est utile de singulariser ces obligations tient à leurs conséquences particulières :

— Premièrement — et c'est le point de départ —, s'agissant de normes *impératives*, elles s'imposent à leurs destinataires, indépendamment de leur consentement.

— Deuxièmement, contrairement à ce que voudraient faire croire quelques États, on ne saurait les interpréter comme dérogeant ni aux règles de *jus cogens* ni à la Charte des Nations Unies qui constitue la norme suprême, créant aussi bien le Conseil de sécurité que la Cour, et par laquelle ces deux organes sont, bien sûr, tous deux liés.

— En outre, *aucune* circonstance ne saurait exclure l'illicéité d'un fait quelconque d'un État non conforme « à une obligation découlant d'une norme impérative du droit international général »[191] ; ce principe est codifié par l'important article 26 des articles de la CDI de 2001 et il est rappelé par le non moins important projet de conclusion 18 des projets de la CDI sur les normes impératives du droit international général[192].

— Enfin, Israël ne saurait s'abriter derrière de prétendues circonstances excluant l'illicéité pour justifier la violation de ces obligations impératives, péremptoires, intransgressibles.

9. J'ajoute que ces considérations s'imposent également, *mutatis mutandis*, en ce qui concerne les obligations qui résultent de résolutions du Conseil de sécurité, et d'abord, bien sûr, des décisions

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[190] Normes impératives du droit international général (*jus cogens*), rapport de la Commission du droit international, soixante-treizième session (18 avril–3 juin et 4 juillet–5 août 2022), A/77/10, Conclusion 23, annexe.

[191] CDI, projet de conclusions sur la détermination et les conséquences juridiques des normes impératives du droit international général (*jus cogens*), 2022, conclusion 18, tel que reproduit dans le rapport de la Commission du droit international, soixante-treizième session, doc. A/77/10, p. 73.

[192] Voir les observations écrites de l'Égypte (par. 181), de l'État de Palestine (par. 7.149) et du Liban (par. 20), ou les commentaires écrits de Belize (par. 66) ou de l'Irlande (par. 46).

prises en vertu du chapitre VII de la Charte, dont la liste pertinente figure à l'onglet n° 6.3 de vos dossiers.

10. En aucun cas des négociations ne peuvent remettre en cause les normes de *jus cogens* dont l'une des principales conséquences consiste — c'est bien connu — à annihiler « tout traité qui, au moment de sa conclusion, est en conflit avec une norme impérative du droit international général »[193]. L'aboutissement des négociations ne saurait être contraire aux normes impératives que j'ai énumérées il y a quelques instants — non plus d'ailleurs qu'aux résolutions obligatoires du Conseil de sécurité, mais celles-ci, en règle générale, reprennent ces normes impératives et les appliquent au contexte propre à leur objet.

11. Monsieur le président, contrairement à ce que les États-Unis ont laissé entendre dans leurs observations écrites[194], la tenue de négociations n'est pas nécessaire pour que soient tirées les conséquences qui s'imposent des violations par Israël de ses obligations internationales. Dès lors que l'attribution des violations est établie (et, en l'occurrence, elle n'est ni contestable ni, en réalité, contestée), la responsabilité de l'auteur existe *ipso facto*, avec toutes conséquences de droit. Pour le nier, quelques États[195] ont invoqué (notamment) une phrase, citée hors contexte, tirée de votre avis de 2004 dans l'affaire du *Mur* : « [S]eule la mise en œuvre de bonne foi de toutes les résolutions pertinentes du Conseil de sécurité, en particulier les résolutions 242 (1967) et 338 (1973), est susceptible de mettre un terme à cette situation tragique. »[196] Mais tout ce que vous avez dit par cette phrase, c'est que l'État de Palestine — qui y est prêt — et Israël — qui semble loin d'y être disposé — doivent appliquer les résolutions du Conseil de sécurité ; ils le doivent en effet, à la fois durant *et indépendamment* d'éventuelles négociations. Et, dans l'avis sur le *Mur* justement, vous n'avez nullement considéré que le prétendu « cadre de négociations » vous empêchait de vous prononcer sur les conséquences juridiques de son édification illicite.

12. J'ajoute que ni la résolution 242 ni la résolution 338 ne portent directement sur la responsabilité d'Israël pour ses pratiques et politiques à l'encontre du peuple palestinien ; en

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[193] Convention de Vienne sur le droit des traités, art. 53.

[194] Voir observations écrites, notamment par. 1.4, 2.27, 3.7, 5.1 ou 5.4 ; commentaires écrits, notamment par. 4-6, 10, 11 et 16.

[195] Voir les observations écrites des États-Unis (par. 1.4), de l'Italie (par. 2) ou du Royaume-Uni (par. 71.3).

[196] *Conséquences juridiques de l'édification d'un mur dans le territoire palestinien occupé, avis consultatif*, *C.I.J. Recueil 2004 (I)*, p. 201, par. 162.

revanche, la seconde, la 338, appelle à « des négociations ... entre les parties en cause sous des auspices appropriés en vue d'instaurer une paix juste et durable au Moyen-Orient »[197]. Ce n'est pas un problème de responsabilité. Et cette question reste plus que jamais d'actualité.

13. Vous avez d'ailleurs, toujours dans l'avis sur le *Mur*, appelé

> « l'attention de l'Assemblée générale … sur la nécessité d'encourager [l]es efforts en vue d'aboutir le plus tôt possible, *sur la base du droit international*, à une solution négociée des problèmes pendants et à la constitution d'un État palestinien vivant côte à côte avec Israël et ses autres voisins, et d'assurer *à chacun* dans la région paix et sécurité »[198].

J'insiste : « sur la base du droit international » — "on the basis of international law".

14. Autre conséquence du caractère impératif des normes violées par Israël : celui-ci ne saurait invoquer aucune circonstance pour s'exonérer de sa responsabilité que ce soit au motif d'un consentement prétendument donné par l'État de Palestine ou en invoquant la légitime défense ou en invoquant l'état de nécessité. Israël ne pourrait pas davantage justifier de « contre-mesures » en riposte à un fait internationalement illicite qu'il imputerait à la Palestine[199]. Comme la CDI le note à juste titre dans le commentaire de l'article 26 des articles sur la responsabilité de l'État, « il n'est pas permis à un État prenant des contre-mesures de déroger à une telle norme [et] l'état de nécessité ne peut excuser la violation d'une norme impérative »[200].

15. L'État de Palestine ne nie pas que, pour mettre en œuvre concrètement les obligations découlant de la responsabilité d'Israël à son égard et vis-à-vis du peuple palestinien, des négociations pourraient être utiles, voire nécessaires. Mais, s'agissant d'obligations découlant de normes impératives, ce ne pourrait être que pour faire face à des nécessités pratiques et, en aucune manière, de telles négociations ou leur perspective ne pourraient être un prétexte permettant à Israël de s'exonérer de sa responsabilité, d'en amoindrir les conséquences ou d'en retarder la mise en œuvre.

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[197] Voir aussi les résolutions 1850 (2008) ou 2334 (2016) du Conseil de sécurité.

[198] *Conséquences juridiques de l'édification d'un mur dans le territoire palestinien occupé, avis consultatif*, *C.I.J. Recueil 2004 (I)*, p. 201, par. 162. Les italiques sont de nous.

[199] Voir aussi l'article 50, paragraphe 1, des articles de la CDI.

[200] Rapport de la CDI sur les travaux de sa cinquante-troisième session, *Annuaire de la CDI (ACDI)*, 2001, vol. II, deuxième partie, p. 90, par. 4 du commentaire de l'article 26. Voir aussi *Application de la convention pour la prévention et la répression du crime de génocide (Bosnie-Herzégovine c. Yougoslavie), demandes reconventionnelles, ordonnance du 17 décembre 1997, C.I.J. Recueil 1997*, p. 258, par. 35.

II. LES CONSÉQUENCES DES VIOLATIONS ISRAÉLIENNES

A. Conséquences pour Israël

Des obligations découlant de normes impératives

16. Mesdames et Messieurs de la Cour, comme l'ont souligné non seulement l'État de Palestine[201] mais aussi un grand nombre d'autres participants à la procédure écrite[202], les obligations qui incombent à Israël de tirer les conséquences juridiques des faits internationalement illicites dont il est responsable sont *inconditionnelles* et *d'effet immédiat* :

— Tel est le cas s'agissant de l'obligation de mettre fin *immédiatement*, *inconditionnellement* et *complètement* à l'occupation du territoire palestinien, y compris Jérusalem-Est, occupation maintenue durant près de 57 ans en violation notamment de l'interdiction de l'acquisition de territoires par la menace ou le recours à la force, en violation du droit à l'autodétermination du peuple palestinien, en violation de la prohibition de la discrimination raciale et de l'apartheid et des principes fondamentaux protecteurs des droits de la personne humaine et du droit humanitaire[203].

— C'est aussi le cas de l'obligation de « mettre à néant »[204] l'ensemble des textes législatifs ou réglementaires visant à annexer Jérusalem-Est ou une partie, quelle qu'elle soit, du territoire de l'État de Palestine au mépris de son intégrité territoriale, ainsi que ceux organisant l'exploitation de ses ressources naturelles[205].

— C'est le cas de l'obligation d'en finir avec la politique d'apartheid et de discrimination raciale dont le peuple palestinien est victime dans son ensemble, tant dans les territoires occupés qu'en Israël[206].

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[201] Observations écrites de l'État de Palestine, notamment par. 6.19 ou 7.26.

[202] Voir notamment, parmi d'autres, mais très argumentées sur ce point, les observations écrites du Liban, par. 59, de l'Union africaine, par. 203 *a)*, de l'Arabie Saoudite, par. 78 *d)*. Voir aussi, par exemple, Afrique du Sud, par. 148, Bolivie, p. 14, Égypte, par. 281, ou Syrie, par. 33.

[203] Voir notamment les résolutions 242 (1967) du Conseil de sécurité, par. 1 i), 476 (1980), par. 1 et 2, 478 (1980), par. 1 et 2, 672 (1990), par. 3, 681 (1990), par. 4, 904 (1994), par. 1 et 3, 1322, par. 1-4, 1397 (2002), par. 1, 1405, préambule et par. 1, 1435 (2002), par. 1-3, 1544 (2004) *passim*, ou 1860 (2009), par. 2, ou 77/247 de l'Assemblée (30 décembre 2022), préambule. Voir aussi les résolutions relatives à l'interdiction d'expulser les civils palestiniens des territoires occupés, *infra* note 210.

[204] Voir *Mandat d'arrêt du 11 avril 2000 (République démocratique du Congo c. Belgique), arrêt, C.I.J. Recueil 2002*, p. 32, par. 76, et p. 33, par. 78 3.

[205] Voir notamment la résolution 242 (1967) du Conseil de sécurité.

[206] Voir notamment les résolutions 73/99 (2018), par. 2, de l'Assemblée générale, 75/98 (2020), par. 2, 77/247 (2022), par. 2.

— C'est le cas de l'obligation de révoquer toutes les mesures visant à modifier la composition démographique des territoires occupés, y compris Jérusalem[207], et le statut des Lieux saints[208] ; et, dans le même esprit, de l'interdiction d'établir des missions diplomatiques à Jérusalem.

— Il en va ainsi aussi de l'obligation de démanteler les colonies de peuplement dans les territoires occupés[209] ;

— ou de l'obligation d'assurer le retour des Palestiniens expulsés d'Israël et du territoire palestinien occupé, et de leurs descendants[210], et de restituer les propriétés confisquées, qu'il s'agisse de biens immobiliers ou mobiliers, à leurs propriétaires palestiniens[211] et de leur assurer une indemnisation appropriée ;

— ou encore de l'obligation de rechercher, de poursuivre et de punir les auteurs de crimes de guerre, de crimes contre l'humanité — dont l'apartheid — ou de génocide, ou d'autres violations graves des droits de la personne humaine[212].

17. Je me permets de vous renvoyer à nouveau, Mesdames et Messieurs les juges, au tableau qui figure à l'onglet n° 6-1 de vos dossiers et qui synthétise, à partir des réponses tant de l'État de Palestine que de plusieurs autres participants à la procédure, les conséquences juridiques sur lesquelles vous êtes appelés à vous prononcer.

18. Monsieur le président, les obligations, « secondaires » si l'on veut, que j'ai énumérées jusqu'à présent sont la conséquence des pratiques et politiques d'Israël menées en violation grave et persistante d'obligations découlant de normes impératives du droit international général et, *d'abord*, de son occupation illicite et de la négation du droit du peuple palestinien à l'autodétermination, qui sont la source de tous les autres maux. En s'acquittant, effectivement et rapidement, de ces

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[207] Résolution 242 (1967) du Conseil de sécurité.

[208] Voir notamment les résolutions 484 (1980) du Conseil de sécurité, par. 1 et 2, 592 (1986), par. 1 et 2, 605 (1987), par. 1-3 ; 607 (1988), par. 1-3.

[209] Voir les résolutions suivantes du Conseil de sécurité : 446 (1979), par. 1 et 3, résolutions 452 (1979), *passim*, résolution 465 (1980), par. 5 et 6, ou 2334 (2016), *passim*.

[210] Voir les résolutions 607 (1988), par. 1-3, du Conseil de sécurité, 608 (1988), par. 1 et 2, 636 (1989), par. 1 et 2, 641 (1989), par. 1 et 2, 694 (1991), par. 1 et 2, 726 (1991), 726 (1991) *passim*, ou 799 (1992), *passim*, ou 2672 C (XXXV) (8 décembre 1970) de l'Assemblée générale, par. 1.

[211] Voir notamment les résolutions 194 (III) de l'Assemblée générale (11 décembre 1948), par. 11, 3236 (XXIX) (22 novembre 1974), par. 2. Voir aussi la note 1005 des observations écrites de l'État de Palestine.

[212] Voir notamment la convention pour la prévention et la répression du crime du génocide, art. II, IV, V et VI ; la convention internationale sur l'élimination et la répression du crime d'apartheid, art. premier, IV et V ; ou la convention de Genève relative à la protection des personnes civiles en temps de guerre (IV), art. 146, 147 et 148.

obligations, Israël procéderait en partie au moins au « rétablissement de la situation qui existait avant que le fait illicite ne soit commis »[213], sans que cela suffise néanmoins à réparer les immenses préjudices causés au peuple palestinien depuis la Nakba de 1948. Dans la mesure où ce dommage ne peut être réparé par la restitution, Israël doit s'acquitter de deux autres obligations : conformément aux principes codifiés par les articles 34, 36 et 37 des articles de 2001, il est tenu de procéder à l'indemnisation des victimes de ses agissements et de donner satisfaction en réparation du préjudice causé par ses faits internationalement illicites sous forme de reconnaissance des violations, d'expression de regrets, d'excuses formelles ou selon toute autre modalité appropriée[214].

L'obligation d'indemniser

19. Je ne m'étendrai pas sur l'indemnisation — sauf à rappeler que la réparation doit être intégrale[215] et qu'elle est essentielle pour les Palestiniens, victimes directes des exactions israéliennes, notamment du fait du non-respect des droits humains et du droit humanitaire et, en particulier, de « la Convention de Genève relative à la protection des personnes civiles en temps de guerre, du 12 août 1949, [applicable] à tous les territoires arabes occupés par Israël [depuis] 1967 »[216]. C'est la résolution 484 (1980) du Conseil de sécurité. Mais, dans le cadre de la présente procédure, vous ne pouvez guère, Mesdames et Messieurs les juges, qu'en poser le principe sans déterminer les montants des indemnisations.

L'obligation d'offrir une satisfaction appropriée

20. En revanche, vous pouvez vous montrer plus précis en ce qui concerne la satisfaction que l'État de Palestine est en droit d'attendre de la part d'Israël, notamment parce que le Conseil de sécurité et l'Assemblée générale ont fait des constatations expresses et juridiquement obligatoires à cet égard. Dans cet esprit, le Conseil de sécurité a évoqué, dès 1967, la « reconnaissance de la souveraineté, de l'intégrité territoriale et de l'indépendance politique de *chaque* État de la

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[213] Article 35 des articles de la CDI sur la responsabilité de l'État pour fait internationalement illicite, *ACDI*, 2001, vol. II, deuxième partie.

[214] Cf. l'article 37 des articles de la CDI.

[215] Voir les articles 31 et 34 des articles de la CDI et le principe énoncé par la C.P.J.I. dans l'affaire de l'*Usine de Chorzów (fond)* (*arrêt n° 13, 1928, C.P.J.I. série A n° 17*, p. 47).

[216] Voir résolutions 484 (1980) du Conseil de sécurité, par. 1 et 2, 592 (1986), par. 1 et 2, 605 (1987), par. 1-3 ; 607 (1988), par. 1-3.

région »[217] ; cet appel lancé à Israël est resté sans effet mais aurait dû (et devrait plus que jamais) inciter les États qui ne l'ont pas fait à suivre l'exemple des 145 pays qui ont déjà reconnu l'État de Palestine. Dans cette même résolution, le Conseil appelle à « garantir l'inviolabilité territoriale et l'indépendance politique de chaque État de la région »[218]. « [C]haque État », cela comprend désormais, indiscutablement, l'État de Palestine. Ces décisions — car il s'agit de décisions obligatoires — ont été réitérées à maintes reprises depuis lors, notamment par l'importante résolution 2334 du Conseil de sécurité du 23 décembre 2016, qui présente un intérêt tout particulier et que nous avons fait figurer, pour votre commodité, sous l'onglet n° 6.4 du dossier des juges[219]. Israël n'y a pas davantage prêté attention.

L'obligation d'offrir des assurances et garanties de non-répétition

21. Monsieur le président, s'il existe une situation dans laquelle les assurances et garanties de non-répétition envisagées par l'article 30 des articles de la CDI s'imposent, c'est bien celle qui nous occupe. Depuis presque 57 ans, malgré les appels répétés de l'Assemblée générale et du Conseil de sécurité des Nations Unies et de nombreuses autres organisations internationales, gouvernementales ou non, Israël s'en est obstinément tenu à sa politique d'oppression et de discrimination contre le peuple palestinien, au mépris des principes les plus fondamentaux du droit international et a, par ses pratiques, continuellement aggravé la situation avec l'objectif non dissimulé de rendre impossible la réalisation du droit du peuple palestinien à l'autodétermination.

22. Je relève du reste, une fois de plus, que le Conseil de sécurité a, de longue date, appelé expressément Israël à s'acquitter de l'ensemble de ces obligations[220], comme le montre le tableau qui figure à l'onglet n° 6.3 de vos dossiers qui synthétise l'ensemble des résolutions pertinentes du Conseil de sécurité. Et l'Assemblée générale a insisté à maintes reprises sur « la nécessité *impérieuse* de mettre un terme *immédiatement* à l'occupation israélienne qui a commencé en 1967 »[221] ainsi

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[217] Résolution 242 du 22 novembre 1967, p. 8, par. 1 ii). Les italiques sont de nous.

[218] *Ibid*., par. 2 *c)*. Voir aussi, parmi beaucoup d'autres, les résolutions suivantes de l'Assemblée générale : 68/15 (25 novembre 2013), 76/10 (1er décembre 2021), 76/150 (16 décembre 2021), 77/247 (30 décembre 2022), par. 12.

[219] Résolution 2334 (2016) du Conseil de sécurité.

[220] Voir *supra* les notes 203, 209 et 216.

[221] Voir notamment les résolutions 74/139 (18 décembre 2019) de l'Assemblée générale et 76/150 (16 décembre 2021). Les italiques sont de nous.

qu'aux autres manquements d'Israël à ses obligations dont l'Assemblée a souligné le caractère impératif[222]. *Immédiatement*...

B. Conséquences pour les États autres qu'Israël et pour les Nations Unies

23. Monsieur le président, outre l'impossibilité juridique pour la Palestine de renoncer à exiger d'Israël le respect de ses obligations impératives, le caractère « *cogens* » de celles-ci et la gravité de leurs violations par Israël ont d'importantes conséquences vis-à-vis des États tiers. Elles sont énumérées *a minima* à l'article 41 des articles de la CDI.

Des obligations découlant de normes impératives

24. Le Conseil de sécurité et l'Assemblée générale ont de façon récurrente appelé « *tous les États* [à] ne fournir à Israël *aucune* assistance qui serait utilisée spécifiquement pour les colonies de peuplement des territoires occupés »[223]. Plus largement, ils ont également réaffirmé l'obligation des Nations Unies et de tous les États de ne pas reconnaître la situation résultant de l'occupation illicite du territoire palestinien, de ne pas lui apporter aide ou assistance, de faire la distinction entre le territoire palestinien occupé et celui d'Israël, et de respecter et de faire respecter le droit international. Cela implique que la responsabilité d'Israël soit mise en œuvre et que des moyens pratiques soient adoptés pour assurer l'application des résolutions du Conseil de sécurité.

25. Monsieur le président, les principes énoncés à l'article 41 décrivent certaines des conséquences indispensables, essentielles, de toute violation grave d'obligations découlant de normes impératives du droit international. De telles normes sont rares, certes ; mais Israël a gravement et systématiquement violé la plupart d'entre elles et persiste à les violer. Il doit en assumer les conséquences et il appartient à la Cour de les lui rappeler et d'en préciser le contenu au regard des faits de l'espèce.

Contenu des obligations

26. Ici encore, par manque de temps et parce que *iterare eadem omnia diabolicum*, je vous prie de bien vouloir vous reporter aux paragraphes pertinents de nos observations et de nos

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[222] Voir notamment les résolutions 37/123 F (16 décembre 1982) de l'Assemblée générale, 46/82 A (16 décembre 1991), par. 5, 77/187 (14 décembre 2022), par. 5 et 77/208, (15 décembre 2022), *passim*.

[223] Voir, par exemple, la résolution 465 (1980) du Conseil de sécurité, p. 6, par. 7. Les italiques sont de nous.

commentaires écrits[224]. Je me borne à rappeler en style télégraphique que les États et les organisations internationales, à commencer par les Nations Unies, doivent :

— s'interdire de fournir à Israël une aide militaire et technologique susceptible d'être utilisée dans le territoire palestinien occupé, y compris à Gaza bien sûr, pour perpétuer ou accentuer son occupation et le régime de discrimination raciale et d'apartheid qu'Israël a institué[225] ; cette interdiction s'étend à l'autorisation de toute forme de commerce d'armes pouvant servir à de telles fins ;

— les États tiers doivent aussi assister le peuple palestinien, y compris les réfugiés depuis la Nakba jusqu'à ceux qui ont fui les exactions israéliennes récentes, en lui fournissant les moyens nécessaires à leur subsistance, notamment par le biais des organisations internationales compétentes et cela inclut sûrement l'UNRWA[226] ;

— ils doivent aussi s'abstenir de nouer des relations économiques ou toutes autres formes de rapports avec Israël impliquant la population ou les ressources naturelles des territoires occupés sans l'accord exprès des représentants légitimes du peuple palestinien ; les États tiers doivent aussi s'assurer que leurs nationaux ne pillent pas et ne s'approprient pas indûment ces ressources[227] ;

— tous les États et organisations internationales ont l'obligation de coopérer en vue de la réalisation effective du droit du peuple palestinien à l'autodétermination[228] ;

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[224] Observations écrites de l'État de Palestine, par. 2.88-2.103, 3.44-3.58 ; commentaires écrits, par. 4.70-4.87.

[225] Convention internationale sur l'élimination de toutes les formes de discrimination raciale, art. 3 ; *Effets juridiques de la séparation de l'archipel des Chagos de Maurice en 1965, avis consultatif, C.I.J. Recueil 2019 (I)*, opinion individuelle de la juge Sebutinde, p. 276, par. 12 ; Conseil de sécurité, résolution 465 (1980), 1er mars 1965, par. 7. Assemblée générale, résolutions 2625 (XXV), 24 octobre 1970 ; ES-9/I, 5 février 1982, par. 12 ; ou 77/25, 30 novembre 2022, par. 13 *c)*.

[226] Déclaration du 17 décembre 2014 par la conférence des Hautes Parties contractantes à la quatrième convention de Genève sur les mesures à prendre pour imposer la convention dans le territoire palestinien occupé, y compris Jérusalem ; Assemblée générale, rapport du Secrétaire général sur la protection de la population civile palestinienne, A/ES-10/794, par. 23-25.

[227] Voir notamment la résolution 2334 (2016) du Conseil de sécurité ; Assemblée générale, résolution 77/187, 14 décembre 2022 ; *Conséquences juridiques pour les États de la présence continue de l'Afrique du Sud en Namibie (Sud-Ouest africain) nonobstant la résolution 276 (1970) du Conseil de sécurité, avis consultatif, C.I.J. Recueil 1971*, p. 55-56, par. 122 et 126.

[228] Voir les articles 1er, par. 3, des deux pactes internationaux des droits de l'homme de 1966 et les résolutions 67/19 (29 novembre 2012) et 55/208 de l'Assemblée générale (15 décembre 2022), par. 2.

— ils doivent aussi poursuivre et punir l'ensemble des individus responsables de crimes graves de droit international (y compris leurs propres nationaux) devant leurs juridictions nationales ou en coopérant avec la Cour pénale internationale[229].

27. Il y a en effet un point sur lequel je souhaite attirer plus spécialement votre attention, Mesdames et Messieurs les juges. Il relève du paragraphe 3 de l'article 41, qui précise être « sans préjudice des autres conséquences prévues dans la présente partie et de toute conséquence supplémentaire que peut entraîner, d'après le droit international » une violation grave telle que la définit l'article 40. Dès lors, les obligations des États tiers et des Nations Unies ne s'arrêtent pas à ces devoirs de coopération et de reconnaissance. Comme l'État de Palestine l'a expliqué dans ses observations écrites[230], ils ont également une obligation, à la fois coutumière et conventionnelle, de rechercher et de punir ou extrader les auteurs des violations — qu'il s'agisse de crimes de guerre, de crimes contre l'humanité ou du crime d'apartheid, pour ne rien dire des actes de génocide commis contre le peuple palestinien, dont vous avez reconnu la plausibilité dans votre ordonnance du 26 janvier dernier. Vous avez d'ailleurs expressément rappelé, dans votre avis sur le *Mur*, que

> « tous les États parties à la convention de Genève relative à la protection des personnes civiles en temps de guerre … ont l'obligation, dans le respect de la Charte des Nations Unies et du droit international, de faire respecter par Israël le droit international humanitaire incorporé dans cette convention »[231].

Cette obligation s'étend à *l'ensemble* des crimes commis par ou à l'instigation d'Israël.

CONCLUSION

28. Mesdames et Messieurs les juges, je pense qu'aucune affaire qui vous a été soumise, contentieuse ou consultative, n'a soulevé autant de questions — et des questions gravissimes — que celles sur lesquelles vous êtes appelés à vous prononcer aujourd'hui. Le nombre de participants à cette procédure — 57 durant la phase écrite et 54 qui prennent part à ces audiences — témoigne de l'importance de l'enjeu et de la conviction de la « communauté internationale des États dans son

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[229] Voir l'article 146 de la convention IV de Genève de 1949 ; voir aussi les résolutions 694 (1991) du Conseil de sécurité (24 mai 1991) ou 72/85 de l'Assemblée générale (7 décembre 2017).

[230] Observations écrites, par. 7.151 à 7.154.

[231] *Conséquences juridiques de l'édification d'un mur dans le territoire palestinien occupé, avis consultatif*, *C.I.J. Recueil 2004 (I)*, p. 200, par. 159 (voir *supra* la note 8). Voir aussi CPI, Chambre préliminaire I, *Situation dans l'État de Palestine, Décision relative à la demande présentée par l'Accusation en vertu de l'article 19-3 du Statut pour que la Cour se prononce sur sa compétence territoriale en Palestine*, ICC-01/18, 5 février 2021, p. 41, par. 86.

ensemble » que la Cour a un rôle crucial à jouer pour aider à mettre fin à la situation dramatique créée par les manquements d'Israël aux principes les plus intransgressibles du droit international.

29. Comme un très grand nombre d'États et d'organisations internationales, la Palestine a détaillé, dans ses observations écrites, les conséquences des très nombreuses et graves violations du droit international commises par Israël — y compris de la plupart de ses règles les plus fondamentales[232]. Elle considère qu'il vous appartient de guider l'action de l'Assemblée générale et, au-delà, des Nations Unies et de l'ensemble des États, pour s'assurer qu'Israël se conforme enfin aux obligations qui découlent pour lui de ses manquements répétés, systématiques et continus aux principes les plus fondamentaux du droit international. Et il faut redire que tous ces principes, toutes ces violations sont engendrés par l'occupation prolongée du territoire palestinien, qui est sans aucun doute « la mère » de toutes ces violations. Votre avis, Mesdames et Messieurs de la Cour, sera un guide précieux pour cela.

30. L'État de Palestine est conscient que vous ne pourrez, d'un coup de baguette magique, mettre fin à l'occupation israélienne et à la situation tragique du peuple palestinien, mais il a la *certitude* qu'en énonçant avec fermeté *et précision* les conséquences juridiques de la violation persistante par Israël des droits du peuple palestinien, vous pouvez, par votre avis, contribuer de manière appréciable à faire cesser cette terrible injustice et à « œuvrer pour une paix juste et durable permettant à chaque État de la région de vivre en sécurité », conformément à l'injonction du Conseil de sécurité vieille maintenant de 57 ans[233]. Du même coup, vous vous acquitterez de votre fonction première : assurer le respect du droit international dont votre Cour, Mesdames et Messieurs les juges, est « l'organe »[234].

31. Je vous remercie de votre attention et je vous prie, Monsieur le président, de bien vouloir appeler à la barre M. le ministre Mansour Riyad, représentant permanent de la Palestine auprès des Nations Unies, pour quelques remarques conclusives.

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[232] Voir les observations écrites de l'État de Palestine, par. 7.01-1.165, et ses commentaires écrits, par. 2.53-2.107, 3.27-3.62 et 4.51-4.91.

[233] Résolution 242 (1967) du Conseil de sécurité.

[234] *Compatibilité de certains décrets-lois dantzikois avec la constitution de la Ville libre, avis consultatif, 1935, C.P.J.I. série A/B n° 65*, opinion individuelle de M. Anzilotti, p. 61. V. aussi CPJI, arrêt, 25 mai 1926, *Certains intérêts allemands en Haute-Silésie polonaise, fond, arrêt n° 7, 1926, C.P.J.I. série A n° 7*, p. 19, et *Effets juridiques de la séparation de l'archipel des Chagos de Maurice en 1965, avis consultatif, C.I.J. Recueil 2019 (I)*, p. 95.

The PRESIDENT: Je remercie le professeur Pellet. I now give the floor to His Excellency Mr Riyad Mansour. You have the floor, Excellency.

Mr MANSOUR:

7. CLOSING STATEMENT

1. Mr President, honourable Members of the Court, I think you have in your folders the full text or the original text of my speech but, in light of the lateness of the hour, I shortened it further. As we gather here in this Great Hall of Justice, in the Peace Palace, we are reminded of these simple words: peace through justice, peace through law.

2. The General Assembly brought the question of Palestine before the Court because our people, the law and peace are in jeopardy.

3. The clarity of the law as it pertains to this question is only matched by the evidence of its continued breach by Israel.

4. As we address you today, this breach has reached its most inhumane levels. More than two million Palestinians in Gaza are being pushed all the way to the border, to the very brink, Palestinian children, women and men consumed by disease, despair, destruction and death, which are spreading like wildfire.

5. In the rest of occupied Palestine, settlers rampage and terrorize, no village, town or city, no community, no sanctity spared. Israeli leaders no longer feel the need to hide their intentions. They speak openly of getting rid of the Palestinian people, one way or another.

6. They defy the law, and the law is barely fighting back. For Palestine, the law continues to be only a measure of the severity of breaches, rather than a catalyst for action and accountability.

7. What does international law mean for Palestinian children in Gaza today? It has protected neither them, nor their childhood. It has not protected their families or communities. It has not protected their lives or limbs, their hopes or homes.

8. We are a proud and resilient people that has endured more than its share of agony. It is so painful to be Palestinian today. How could we be just subjected to such loss and injustice, such lawlessness and humiliation, time and time again?

9. What does international law mean for a nation bestowed with inherent rights, but enjoying none?

10. It took 75 years for the United Nations to commemorate the Nakba, our violent dispossession, displacement from our land and denial of our rights and existence. And we are seeing it happen all over again. Massacres, millions forcibly driven towards the unknown, tents, starvation, deprivation and dehumanization enabling one people to impose all of this on another.

11. Palestinians — under occupation, in Israel, as refugees and in the diaspora — all they ask for are their rights, and to live in freedom and dignity in their ancestral land.

12. For 75 years, the Palestinian people have faced attempts to push them out of geography and, indeed, out of history. And it goes on. And it will go on forever, unless and until international law is upheld. Unless and until the unlawful occupation of Palestine ends.

13. Mr President, Members of the Court, our right to self-determination was recognized in the context of a mandate 100 years ago, yet simultaneously negated by the actions of the mandatory power.

14. The question of Palestine was passed on to the United Nations at the time of its inception and has remained on its agenda ever since.

15. In the aftermath of the Nakba, the United Nations admitted Israel to membership while emphasizing the need for it to respect resolutions 181 (II) and 194 (III) concerning the Palestinian State and the territory allotted to it, the international status of Jerusalem and the right of return of Palestinian refugees. Israel recognized these resolutions to secure its admission only to renege on them as soon as it was admitted.

16. Ever since, Israel became convinced that the new realities imposed by the use of force would override the obligations arising from the rule of international law, without any consequences.

17. In 1967, the Security Council "*[e]mphasiz[ed]* the inadmissibility of the acquisition of territory by war" and called for the "withdrawal of Israel armed forces from territories occupied in the recent conflict".

18. Instead, Israel started to colonize the land.

19. The General Assembly, in resolution 3005 (XXVII) called upon Israel "to desist from, *(a)* [t]he annexation of any part of the occupied territories; [and] *(b)* [t]he establishment of Israeli

settlements in those territories and the transfer of parts of an alien population into the occupied territories"[235].

20. Instead, Israel formalized its annexation of Jerusalem and other parts of the West Bank and poured hundreds of thousands of settlers into our territory.

21. In 1974, 50 years ago, the General Assembly reaffirmed

> "the inalienable rights of the Palestinian people in Palestine, including: *(a)* The right to self-determination without external interference; *(b)* The right to national independence and sovereignty", as well as "the inalienable right of the Palestinians to return to their homes and property from which they have been displaced and uprooted, and call[ed] for their return"[236].

22. Instead, Israel denied the existence of the Palestinian people.

23. The United Nations has consistently reiterated these calls, yet Israel has consistently rejected them, entrenching its violations rather than ending them.

24. So here we are, though the law is absolutely clear, it is being trampled.

25. Without accountability there is no justice, and without justice there can be no peace. Israel must be made to bear the consequences of its illegal conduct rather than reap the benefits.

26. After 75 years, justice can no longer wait for the day Israel has an epiphany and suddenly decides to reverse course, and commit to the law and United Nations resolutions. Our journey in the search for justice has brought us before you, before the International Court of Justice, following the General Assembly's decision to seek your guidance.

27. We call on you to confirm that Israel's presence in the Occupied Palestinian Territory is illegal, that the presence of its occupation forces and settlers is illegal, and that its occupation must thus come to *an immediate, complete and unconditional end*. This occupation has served as cover for Israel's colonial designs: the acquisition of Palestinian territory by force.

28. In 1980, the Security Council reaffirmed "the overriding necessity to end the prolonged occupation of Arab territories occupied by Israel since 1967, including Jerusalem". *If the occupation was deemed prolonged in 1980, how should it be characterized today, nearly 45 years later?* And if it was an overriding necessity to end it then, what exactly is it now? — I ask you.

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[235] General Assembly, resolution 3005 (XXVII), 15 Dec. 1972, para. 2.

[236] General Assembly, resolution 3236 (XXIX), 22 Nov. 1974.

29. Mr President, Members of the Court, the United Nations admitted Israel in 1949. Seventy-five years later, Palestine is yet to be admitted as a full member of the United Nations. I sat in the General Assembly next to representatives of liberation movements. Next to the ANC and SWAPO. We stood side by side with them as they achieved their independence and took their rightful places among the community of nations. They cannot accept that the Palestinian people are left behind any longer, indefinitely denied their innate rights. That is why many of those States will appear before this Court in the coming days.

30. Mr President, Members of the Court, based on the United Nations record, you should have no difficulty arriving at the conclusion that the occupation is prolonged, that Palestinian territory has been annexed, that our self-determination has been denied, and that the people of Palestine have been subjected to systematic racial discrimination.

31. The occupation itself cannot be distinguished from these breaches; they are not merely the result of the occupation but are rather the foundation upon which the occupation rests. Rooted in the singular unlawful goal of maintaining permanent Israeli dominion over the Occupied Palestinian Territory and relegating the Palestinians it has not been able to displace to inferior status in their own land, in perpetuity, deprived of their inalienable rights.

32. A finding from this distinguished Court that the occupation is illegal and drawing the legal consequences from this determination would contribute to bringing it to an immediate end, paving the way to a just and lasting peace.

33. In closing, honourable judges, the State of Palestine appeals to this Court: to guide the international community in upholding international law, ending injustice and achieving a just and lasting peace.

34. To guide us towards a future in which Palestinian children are treated as children, not as a demographic threat. In which the identity of the group to which we belong does not diminish the human rights to which we are all entitled.

35. A future in which no Palestinian and no Israeli is killed. A future in which two States live side by side in peace and security. The Palestinian people only demand respect for their rights. They ask for nothing more; they cannot accept nothing less and nothing else.

36. The future of freedom, justice and peace can begin here and now. It is within your power to give the clearest statement possible on what the law is, what it requires and what it means in practice, for all Members of the United Nations. We trust in your wisdom, your fairness and your dedication to justice and the rule of law and I thank you very much Mr President.

The PRESIDENT: I thank His Excellency Mr Mansour. This concludes the oral statement of the State of Palestine. Your statement brings to an end this morning's session. The Court will meet again tomorrow, at 10 a.m., to hear South Africa, Algeria, Saudi Arabia, the Kingdom of the Netherlands, Bangladesh and Belgium. The sitting is adjourned.

The Court rose at 1.20 p.m.

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