

**International Court of Justice**

Oral Statement of the

**Islamic Republic of Iran**

*delivered by*

***H.E Mr. REZA NAJAFI***

In advisory proceedings concerning

**Legal Consequences arising from the Policies and Practices of Israel in  
the Occupied Palestinian Territory, including East Jerusalem**

**22 February 2024**



## **I. Introduction**

**Mr. President, Distinguished Members of the Court,**

It is indeed an honor to appear before the International Court of Justice on behalf of the Islamic Republic of Iran.

Enjoying a longstanding principled position in support of the full realization of the inherent right of the Palestinian people to self-determination, the Islamic Republic of Iran follows this advisory proceeding of the Court with great interest.

What makes this proceeding even more prominent and focus of attention of almost every nation in the world, is its concurrence with the ongoing appalling situation in Palestine, particularly the Gaza Strip.

To indicate how severe and grave the situation in Gaza is, I merely refer to three United Nations (UN) and World Health Organizations (WHO) reports:

First) According to the UN Secretary-General, as a result of Israeli military operations, the entire population is enduring destruction at a scale and speed

without parallel in recent history and 2.2 million Palestinians there struggling to simply make it through another day without proper shelter, heating, sanitary facilities, food, and drinking water<sup>1</sup>;

Second) According to the UN Under-Secretary-General for Humanitarian Affairs, “for children in particular, there is no food, no water, no school; nothing but the terrifying sounds of war, day in and day out, and its people are witnessing daily threats to their very existence — while the world watches on”<sup>2</sup>; and

Third) According to the WHO, the population in Gaza is facing extreme hunger, with insufficient food and high levels of malnutrition.<sup>3</sup> Yet, the conditions in Gaza are becoming much worse every day.

We remain at a turning point in the history of mankind; the opinion of this Court can set the ground for saving lives of thousands of innocent women and children, and contribute to the legitimate demand of a people deprived of its inherent right to self-determination for decades.

It is hoped that this Court will, once more, make history, by giving a landmark advisory opinion in support of the right to self-determination of the Palestinian people which may finally help cease the illegal prolonged occupation of Palestine.

**Mr. President, Members of the Court,**

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<sup>1</sup> 23 January 2024, UN Secretary-General’s remarks to the Security Council - on the Middle East.

<sup>2</sup> (OCHA, “UN relief chief: The war in Gaza must end”, Statement by Martin Griffiths, Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator, 5 Jan. 2024.)

<sup>3</sup> See (WHO, “Lethal combination of hunger and disease to lead to more deaths in Gaza”, 21 Dec. 2023.)

In our oral statement, we submit that:

**Firstly**, this Court has jurisdiction to give the advisory opinion requested;

**Secondly**, there are legal consequences arising from the prolonged occupation of the Palestinian territories by the Israeli occupying regime in violation of the right of the Palestinian people who have never experienced the right to self-determination; and

**Thirdly**, having elaborated on the legal consequences that arise for all States and the United Nations from this status, I will reiterate the inclusive plan previously submitted by the Islamic Republic of Iran to the United Nations for realization of the right of Palestinians to self-determination.

## **II. Jurisdiction of the Court**

**Mr. President, Members of the Court,**

First, we submit that the Court has jurisdiction to render the advisory opinion requested by the General Assembly in resolution 77/247 of 30 December 2022.

Here we believe that the elements of Article 65 (1) of the Statute of the Court namely the existence of the “legal question” and the authorized “body” i.e. the General Assembly, are fulfilled in this case. That said, the ICJ, as the principal judicial organ of the United Nations can assist the General Assembly to exercise its functions under the UN Charter by rendering the Advisory Opinion requested.

Therefore, just as the Court has established its jurisdiction in the advisory opinion on the *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory (Wall)*, it has jurisdiction in the present case based on the same grounds; moreover, there is no compelling reason for declining to give an advisory opinion.<sup>4</sup>

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<sup>4</sup> As the first point of our argument regarding jurisdiction, we submit that the question raised in paragraph 18 (a) and (b) of the General Assembly resolution is qualified as “legal”. According to paragraph 3 of Article 102 of the Rules of Court, the legal question must be pending between two or more countries. Consideration of the legal issues related to the occupation of the Palestinian territory by the General Assembly and the Security Council clearly indicates that the question requested remains suspended and ongoing. Now the General Assembly requests an advisory opinion from the Court on a legal question. The advisory opinion requested can be divided into two parts. Firstly, violation of the right of the Palestinian people to self-determination by the Occupying Power reflected in part (a) of the question and secondly, the legal consequences that arise for all States and the United Nations from this status which is raised in part (b) of the aforementioned paragraph. The right of the peoples under occupation to self-determination as a core principle of international law has acquired content over time through the practice of states and international organizations, and has, as such, gained recognition as a fundamental right in international law.

Also, “occupation” has legal dimensions and the actions and decisions of the Occupying Power affect the rights and obligations of other legal entities. Hence, the question raised is clearly recognized as legal. In sum, the General Assembly's request for an advisory opinion fulfills the conditions of Article 65 of the Statute of the Court and Article 96(1) of the Charter both *ratione personae* (the General Assembly being a duly authorized organ) and *ratione materiae* (the request being on a legal question).

As for the second prong of our arguments on jurisdiction of this Court, we submit that the General Assembly has, beyond the shadow of a doubt, the authority to request an advisory opinion in the current case. In tandem with Article 96 of the UN Charter, the Court in its advisory opinion on the *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, opined that the General Assembly is competent to raise questions and determine the necessity of questions before the Court. Paragraph 62 of the said advisory opinion stipulated that: “[...] the Court cannot decline to answer the question posed based on the ground that its opinion would lack any useful purpose. The Court cannot substitute its assessment of the usefulness of the opinion requested for that of the organ that seeks such opinion, namely the General Assembly.” In addition, in paragraph 28 of the above opinion, the Court makes an explicit reference to the practice of the General Assembly with reference to Article 12, paragraph 1, of the Charter.

Finally, it is submitted that according to the jurisprudence of the Court the case of “compelling reasons” and “discretionary power” is moot, negative proposition because of its subject being non-existent *ab initio*. In the *Legality of the Threat or Use of Nuclear Weapons case*, a number of arguments were put forward as to why the Court should not render an advisory opinion in that circumstance. The Court established its jurisdiction for an advisory opinion requested by the General Assembly in paragraphs 10-19 of its Advisory Opinion and determined that it had the competence to deliver the advisory opinion, and that there were no compelling reasons for it not to do so. The same is true here.

Also, in the *Wall case*, the Court assessed those same arguments in paragraphs 13-35 of its Advisory Opinion and determined that it had the competence to deliver the opinion on the question posed by the General Assembly, and that there were no compelling reasons for it not to do so. Considering the relationship between the subject of the request in the *Wall case* for an advisory opinion and the new question raised by the General Assembly in the current case, there remains no doubt that the same is true here. Moreover, as the Court discussed in *Western Sahara case*, the Court has the authority to give an advisory

### **III. The Legal Consequences arising from the ongoing violation of the right of the Palestinians to self-determination**

**Mr. President, Members of the Court,**

Now I turn to the first section of our reasoning regarding the merits of the matter; here, we first argue that the Israeli occupying regime has violated, and continues to violate, on several grounds, the Palestinians' right to self-determination.

The legal status of the right to self-determination is generally understood to be attributed to "peoples" and grounded first in the Charter of the United Nations,<sup>5</sup> in several UN General Assembly resolutions,<sup>6</sup> and its inclusion in common Article 1 to the two International Covenants of Human Rights.<sup>7</sup> As such, "all peoples have the right freely to determine, without external interference, their political status and their place in the international community and to pursue their economic, social and cultural development, and every State has the duty to respect this right in accordance with the provisions of the Charter".<sup>8</sup>

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opinion for the question raised by an authorized organ based on article 65, paragraph 1, of the statute and may only decline to do so in case of *compelling reasons*, which are absent in the current case.

<sup>5</sup> Article 1(2) of the UN Charter reads: "The Purposes of the United Nations are: [...] 2. To develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace."

<sup>6</sup> UNGA, 'Resolution 2625 (XXV): Declaration on Principles of International Law Concerning Friendly Relations and Co-operation Among States in Accordance with the Charter of the United Nations' (24 October 1970) UN Doc A/RES/2625(XXV).

<sup>7</sup> International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 (ICCPR); International Covenant on Economic, Social and Cultural Rights (adopted 16 December 1966, entered into force 3 January 1976) UNTS 93 (ICESCR).

<sup>8</sup> UNGA UN Doc A/RES/2625(XXV); see also common Article 1 (2) of the ICCPR and ICESCR; see also UN Human Rights Committee (HRC), 'General Comment No. 12: Article 1 (Right to self-determination)' (13 April 1984) para. 6.

In line with the elements mentioned in the question raised for the request of advisory opinion in the General Assembly resolution, I briefly present my arguments on a series of measures that constitute the ongoing violation by the Israeli occupying regime; these are as follows:

- (i) Prolonged occupation;
- (ii) Altering the demographic composition in the occupied territories;
- (iii) Altering the character and status of the Holy City of Al-Quds;
- (iv) Discriminatory measures; and
- (v) Violation of the right of the Palestinian people to permanent sovereignty over their natural resources.

(i) **Prolonged occupation**

First and foremost, the prolonged occupation by the Israeli occupying regime confirms its intention to make it permanent, in violation of the principle of prohibition of the acquisition of territory by force.

The occupation of the Palestinian territories is the longest military occupation existing today. The right to self-determination of the Palestinian people continues to be violated as long as this occupation ages; this ongoing violation thwarts Palestine's ability to rely on State-based rights and obligations under international law,<sup>9</sup> depriving them of their inalienable right to self-determination, including their right to live in freedom, justice and dignity.

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<sup>9</sup> In November 2012, the UN General Assembly decided, by 138 votes to 9 with 41 states abstaining, 'to accord to Palestine non-member observer State status in the United Nations'. 'Status of Palestine in the United Nations: Resolution adopted by the General Assembly on 29 November 2012' (4 December 2012) UN Doc A/Res/67/19, 3;

Thus, we request the Court to consider the very fact of prolongation of the occupation as an indicator of the violation of the right of the Palestinians to self-determination.

(ii) **Altering the demographic composition in the occupied territories**

**Mr. President, Members of the Court,**

Apart from prolonged occupation, altering the demographic composition in the occupied territories has led to violation of the Palestinians' right to self-determination. The UN Security Council has a bulk of resolutions concerning the occupation of Palestinian territories, all condemning, among others, altering the demographic composition of these territories by the Israeli Occupying Power.<sup>10</sup> Hence, it is a well-established fact that the Israeli occupying regime has grossly violated international law on an *ongoing* basis;

Article 49 (6) of the Fourth Geneva Convention reads:

*“the Occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies.”*

Apart from that, the Court, in its opinion in *the Wall* case declared that:

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<sup>10</sup> Including resolutions 242 (1967), 338 (1973), 446 (1979), 452 (1979), 465 (1980), 476 (1980), 478 (1980), 1397 (2002), 1515 (2003), and 1850 (2008), as cited in UN Security Council, 'Resolution 2334, Adopted by the Security Council at its 7853rd meeting, on 23 December 2016' (23 December 2016) UN Doc S/RES/2334, condemning all measures aimed at altering the demographic composition, character and status of the Palestinian territories, construction and expansion of settlements, transfer of settlers, confiscation of land, demolition of homes and displacement of Palestinian civilians, in violation of international humanitarian law and relevant UN resolutions.

*“[the] provision prohibits not only deportations or forced transfers of population such as those carried out during the Second World War, but also any measures taken by an Occupying Power in order to organize or encourage transfers of parts of its own population into the occupied territory.”<sup>11</sup>*

Furthermore, the Court affirmed, in the same case, the violation of the right to self-determination based on measures taken by the Occupying Power which has led to a change in the demographic composition of Palestine.

**Mr. President, Members of the Court,**

Forcible deportation of civilian populations, widely known for one of its most infamous instances as “Nakba Day”, has a long history. Essentially, with the illegal formation of the Israeli occupying regime in 1948 instead of the former British Mandate of Palestine, the demographic composition changed significantly with the displacement of more than 700,000 Palestinians. In fact, the Israeli occupying regime was illegally established that year through a violent, arbitrary process that involved the deportation or forcible transfer of hundreds of thousands of native Palestinians from their land to create a Majority-Jewish colony, in line with the demands of the Zionist movement.

By denying the right to return of forcibly deported Palestinians to Palestine, the Israeli regime continues to deprive those Palestinians of their

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<sup>11</sup> *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, I.C.J. Reports 2004*, p. 136, para. 120.

right to live in their homeland. The majority of Palestinians live outside Palestine mainly in Jordan, Syria and Lebanon, with many of them remaining stateless living in crowded refugee camps that lack basic infrastructure.

Needless to say, forcible displacement of civilian population, is of such a high significance that has been defined as a war crime under Article 8 of the Statute of the International Criminal Court.

(iii) *Altering the character and status of the Holy City of Al-Quds*

**Mr. President,**

The next measure that has violated the right of self-determination of Palestinians, is altering the character and status of the Holy City of Al-Quds. The actions taken by the Israeli occupying regime with regard to the Holy City of Al-Quds have utterly disregarded the right to self-determination of the Palestinian people.

Altering the character and status of Al-Quds has had significant religious and cultural implications for the Palestinian people. Al-Quds Al-Sharif holds a remarkable religious and historical significance for Palestinians, as well as for Muslims, Christians and Jews worldwide. By altering the *status quo* of the City and its holy sites, the Israeli occupying regime has undermined the cultural heritage and identity of the Palestinian people, and has further violated their right to self-determination.

The construction and expansion of settlements, along with the violation of Palestinians' right to free movement and the revocation of

residency permits, have altered the demographic and cultural character of the City as well.<sup>12</sup>

(iv) **Discriminatory measures**

**Mr. President, Members of the Court,**

The next series of measures depriving the Palestinian people of their right to self-determination comprise of discriminatory measures targeting the basic rights of the people in the occupied territories. This has been underlined by the UN General Assembly and recorded extensively to include the killing and injury of civilians, the forced displacement of civilians and a systematic policy of obstruction of humanitarian assistance.<sup>13</sup>

The Israeli occupying regime's actions, as manifested in various laws and policies, have created a system of discrimination that has negatively affected the Palestinian population. In Palestine, the occupying regime's expansionism has consolidated into apartheid through the longest occupation in modern history.<sup>14</sup> It is well established that apartheid is a crime against conscience and dignity of mankind,<sup>15</sup> and is further in violation of fundamental principles of international law enshrined in the UN Charter and

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<sup>12</sup> A/76/333, 20 September 2021, Occupying Power's practices affecting the human rights of the Palestinian people in the Occupied Palestinian Territory, including Quds. It covers the period from 1 June 2020 to 31 May 2021 and includes a report on the construction and expansion of settlements, along with the restriction of Palestinians' movement and the revocation of residency permits, and altering the demographic and cultural character of the City.

<sup>13</sup> See A/77/356, 21 September 2022.

<sup>14</sup> *Ibid.*

<sup>15</sup> UNSC Res 473 (1980) of 13 June 1980, para. 3.

crystalized in international human rights law, and seriously threatens international peace and security.

The Special Rapporteur on the situation of human rights in the Palestine has concluded that the political system of entrenched rule in occupied Palestine which endows one racial-national-ethnic group with substantial rights, benefits and privileges while intentionally subjecting another group to live behind Walls and checkpoints under a permanent military rule “*sans droits, sans égalité, sans dignité et sans liberté*” satisfies the prevailing evidentiary standard for the existence of apartheid.<sup>16</sup> Many laws, policies, and practices adopted and implemented since 1948 by the Israeli occupying regime have been aimed at fragmenting the Palestinian people and dividing them into various groups; this clearly denies the Palestinian people its right to self-determination.

In tandem with the above, construction and expansion of settlements, segregated roads, barriers, and checkpoints has created a system of apartheid, effectively isolating Palestinian communities, which manifestly violates multiple provisions of the Convention on the Elimination of All Forms of Racial Discrimination.

The Court is, therefore, requested to opine that such policies and practices must be ceased immediately as they continue to violate the right of self-determination of the Palestinian people.

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<sup>16</sup> A/HRC/49/87, 21 March 2022, para. 52.

(v) *Violation of the right of the Palestinian people to permanent sovereignty over their natural resources*

**Mr. President, Members of the Court,**

The right to exercise permanent sovereignty over natural resources is an inevitable component of the right to self-determination. The two International Covenants of Human Rights<sup>17</sup> and a number of UN General Assembly resolutions recognize this right.<sup>18</sup> The UN General Assembly has expressed grave concern over a range of practices by the Israeli occupying regime negatively impacting Palestine's natural resources.<sup>19</sup>

It has been affirmed the right of the Palestinian people to permanent sovereignty over their natural wealth and resources as an integral component of the right to self-determination.<sup>20</sup> It has been further confirmed that the right should be used in the interest of their national development, the well-

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<sup>17</sup> International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 (ICCPR), Art. 1; International Covenant on Economic, Social and Cultural Rights (adopted 16 December 1966, entered into force 3 January 1976) UNTS 93 (ICESCR), Art. 1.

<sup>18</sup> UNGA RES 1803 (XVII), 12 December 1962, para. 7; UNGA RES 3281 (XXIX), 12 December 1974, Art. 2, para. 1; UNGA RES 41/128, 4 December 1986, para. 1 (2).

<sup>19</sup> 'Permanent Sovereignty of the Palestinian People in the Occupied Palestinian Territory, Including Quds, and of the Arab Population in the Occupied Syrian Golan Over Their Natural Resources: Resolution Adopted by the General Assembly on 22 December 2011' (29 March 2012) UN Doc A/RES/66/225. This includes the destruction of agricultural land and orchards, and the destruction of water pipelines and sewage networks, which negatively affects the water supply.

<sup>20</sup> The right to self-determination, well established in international law, embodies the inherent right of all people to fully utilize their natural resources for the benefit of their societies. In the same vein, the Human Rights Council has confirmed that the right of the Palestinian people to permanent sovereignty over their natural wealth and resources must be used in the interest of their national development, the well-being of the Palestinian people and as part of the realization of their right to self-determination, calls upon all States to ensure their obligations of non-recognition, non-aid or assistance with regard to the serious breaches of international law by the occupying Power which was reflected in A/HRC/RES/49/28, 11 April 2022, Resolution adopted by the Human Rights Council on 1 April 2022.

being of the Palestinian people and as part of their right to self-determination.<sup>21</sup>

Yet, Palestinians do not enjoy their own natural resources which include land, fresh water and mineral resources. Imposing restrictions, by the Israeli regime, on access of Palestinians to water resources, groundwater and hydrocarbon deposits are all instances of flagrant violation of the right to self-determination.<sup>22</sup>

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<sup>21</sup> In this context, the rampant exploitation, endangerment, and depletion of Palestinian natural resources perpetrated by the occupying Power undermines the very essence of self-determination. The occupying Power's relentless exploitation of Palestinian natural resources, particularly land and water, has resulted in severe environmental degradation and an alarming economic disparity between the two parties. For instance, water shortages continue to disrupt daily life and impede development interventions in the West Bank and Gaza Strip. About 1.8 million Palestinians are in need of humanitarian water, and sanitation and hygiene assistance. Tragically, the Palestinian people have been systematically deprived of these rights through the actions of the occupying Power particularly related to water, pollution, access to agricultural land and exploitation of mineral resources as expressed in A/73/87-E/2018/69, 25 May 2018.; The occupying Power, through the establishment of illegal settlements, has seized vast amounts of Palestinian land, usurping the Palestinians' right to control and utilize their own territory. This land confiscation has not only deprived Palestinians of their ancestral homes but has also severely restricted their ability to develop a sustainable economy and achieve self-sufficiency.

Moreover, the wanton endangerment of Palestinian natural resources by the occupying Power poses grave threats to the health and well-being of the Palestinian population. The military operations of the occupying Power and the construction of a separation barrier have caused irreparable damage to agricultural lands, polluting fertile soil and contaminating water sources, rendering them unfit for human consumption. Twenty-two per cent of the West Bank Palestinian population — 649,000 people — suffer from either lack of access to water or poor quality of water. Around 156,000 people are either not connected to a water network or receive water less than once a week. And also, Between January and November 2017, the occupying Power authorities demolished or seized 19 structures related to water, sanitation and hygiene in Area C of the West Bank, including cisterns, water pipes and mobile latrines, claiming that they had been installed without permits. The resulting scarcity of clean water, coupled with restrictions on access to vital resources, has forced Palestinians into dire living conditions, depriving them of their basic human rights, including the right to life, health, and adequate standards of living.

In addition to exploitation and endangerment, the occupying Power's policies have led to the depletion of Palestinian natural resources, further impeding the Palestinians' ability to exercise their right to self-determination. Official Palestinian sources have claimed that practices by the occupying Power authorities and settlers, including the illegal transfer of hazardous waste to the West Bank and the allocation of parts of the Jordan Valley to an occupying Power dumpsite devoted to industrial waste, have gravely damaged Palestinian agricultural land, health, animals and biodiversity which was reflected in several UN documents such as A/72/90-E/2017/71, para. 61

<sup>22</sup> According to UN estimates, without occupation, the West Bank's gross domestic product (GDP) per capita 2019 would have been 44 percent higher than its actual value. Meanwhile, a network of national and international businesses operates in the Palestine. The use of agricultural land, stone mining, mineral extraction, and drilling for oil and natural gas and the allocation of resources are almost under the monopoly

#### **IV. Legal consequences that arise for all States and the United Nations from this status**

##### **Mr. President, Members of the Court,**

This Court has, in several cases, in particular in the *Wall* case, identified the obligation to respect the right to self-determination having an *erga omnes* character as “one of the essential principles of contemporary international law”.<sup>23</sup>

As a general rule, where *erga omnes* obligations of international law are breached, third states have mainly three obligations: firstly, “non-assistance” secondly, “non-recognition”, and lastly “cooperation to bring to an end such a violation”. In this context, an “interested” or “third” state in accordance with the jurisprudence of the ICJ could be defined as one which is not directly affected or injured by an internationally wrongful act, and which has yet a legal interest in the protection and compliance of the rights by the very reason “of the importance of the rights involved...and their very nature” which makes them “*the concern of all States*”.<sup>24</sup>

As regards the primary obligations of third States towards prolonged occupation of the Palestine, the three obligations mentioned above remain

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of the occupying Power. See A/77/356, situation of human rights in the Palestinian territories occupied. 21 sep, 2022, para 51.

<sup>23</sup> See *Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970)*, Advisory Opinion, ICJ Reports 1971, pp. 31-32, paras. 52-53; *Western Sahara*, Advisory Opinion, ICJ Reports 1975, pp. 31-33, paras. 54-59; *East Timor (Portugal v Australia)*, Judgment, ICJ Reports 1995, p. 102, para. 28; *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Advisory Opinion, ICJ Reports 2004, pp. 199-200, paras. 155-159.

<sup>24</sup> *Barcelona Traction, Light and Power Company, Limited Case*, I.C.J. Reports 1970, p. 32, paras 33-34.

relevant in accordance with paragraph 146 of the 2004 ICJ Advisory Opinion in the *Wall case*.<sup>25</sup>

In addition to the jurisprudence of the ICJ, the primary triple obligations of third states towards serious breaches of *erga omnes* obligations finds support in the practice of other United Nations organs as well. In its resolution 2334 (2016), the UN Security Council unequivocally reiterated the importance of States abstaining from recognizing Occupying Power's internationally wrongful acts.<sup>26</sup>

The International Law Commission, in Draft Article 41(1) of its 2001 Draft Articles on Responsibility of States for Internationally Wrongful Acts, along with underlining the duty of States to not recognize as lawful a situation created by a serious breach of *erga omnes* rules, and not render aid or assistance in maintaining that situation, emphasized the duty of all States to cooperate through lawful means, in a joint and coordinated effort, to counteract the effects of these breaches.<sup>27</sup>

**Mr. President, Members of the Court,**

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<sup>25</sup> The Court held that: “[...] States are under an obligation not to recognize the illegal situation arising from the construction of the Wall, not to render aid or assistance in maintaining that situation and to cooperate with a view to putting an end to the alleged violations and to ensuring that reparation will be made therefor[...]”. *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Advisory Opinion, ICJ Reports 2004, pp. 196-197, para. 146.

<sup>26</sup> UNSC RES S/RES/2334, 23 December 2016, para. 5; See also: UNSC RES S/RES/242, 22 November 1967; UNSC RES S/RES/338, 22 October 1973; UNSC RES S/RES/446, 22 March 1979; UNSC RES S/RES/452, 20 July 1979; UNSC RES S/RES/465, 1 March 1980; UNSC RES S/RES/476, 20 August 1980; UNSC RES S/RES/478, 20 August 1980; UNSC RES S/RES/1397, 12 March 2002; UNSC RES S/RES/1515, 22 May 2003; and UNSC RES S/RES/1850, 16 December 2008.

<sup>27</sup> UNGA Document A/56/10 Supplement No 10, *Report of the International Law Commission on the Work of Its Fifty-Third Session (23 April-1 June and 2 July-10 August 2001)*, (November 2001), Chapter IV (E: ‘Draft Articles on Responsibility of States for Internationally Wrongful Acts, with Commentaries’), pp. 113-114.

In light of the above mentioned, the Court is requested to remind all States of their obligations under international law of the following:

First, not to aid or assist, directly or indirectly, the Israeli occupying regime enable it to continue its prolonged occupation of the Palestine and/or any of its continued policies and practices that violate the right to self-determination of the Palestinian people; this may include in particular avoiding any kind of political, military, economic or other cooperation with the Israeli regime enabling it to continue such violations;

Second, not to recognize the illegal situation resulting from prolonged occupation, by the Israeli occupying regime, of the Palestinian territory and/or any of its continued measures that violate the right to self-determination of the Palestinian people; and

Third, to cooperate effectively with one another in all relevant fields and forums to bring to an end any impediment, resulting from the ongoing violation by the Israeli occupying regime of the right of the Palestinian people to self-determination, including from its prolonged occupation, and any of its measures aimed at altering the demographic composition, character and status of the Holy City of Al-Quds;<sup>28</sup> obviously, such cooperation is of utmost urgency and importance given the ongoing situation in the Gaza Strip, where, according to one estimate, Israel's military is killing

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<sup>28</sup> Almost a similar call was made by the Court in paragraph 159 of its Wall Advisory Opinion, stating that "It is also for all States, while respecting the United Nations Charter and international law, to see to it that any impediment, resulting from the construction of the Wall, to the exercise by the Palestinian people of its right to self-determination is brought to an end". Additionally, the Court is requested to make a similar conclusion to that it made in paragraph 149 of its Wall Advisory Opinion, and declare that the Israeli occupying regime "is bound to comply with its obligation to respect the right of the Palestinian people to self-determination and its obligations under international humanitarian law and international human rights law".

Palestinians at an average rate of 250 people a day which exceeds the daily death toll of any other major conflict of recent years.<sup>29</sup>

In this context, I recall this Honorable Court's important Order of 26 January 2024, on the request by South Africa for the indication of provisional measures. The Order Concerns Application of the Convention on the Prevention and Punishment of the Crime of Genocide, and as such, all States, in particular those providing support to Israel are legally under the duty to prevent genocide, particularly, by ceasing to provide any aid to the *genocider*. They are also under a duty to punish perpetrators of the crime of genocide. Given the current extremely tragic conditions in the Gaza Strip, the Court is respectfully requested to once again call on the occupying regime to fully comply with the Order. Evidently, in practical terms, even the partial compliance of the Israeli regime with only subparagraph 1 of paragraph 86 of that Order is possible only through complete termination of all its military operations in the Gaza Strip.

**Mr. President, Members of the Court,**

I would like to recall the primary responsibility of the Security Council for the maintenance of international peace and security under Article 24(1) of the UN Charter. I submit that the inaction and/or the insufficient action of the Security Council, if not the main, is one of the main causes of the prolonged occupation of the Palestinian territory. All the atrocities and crimes committed by the Israeli regime in the past almost 80 years are a

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<sup>29</sup> <https://www.oxfam.org/en/press-releases/daily-death-rate-gaza-higher-any-other-major-21st-century-conflict>oxfam#:~:text=Israel's%20military%20is%20killing%20Palestinians,hostilities%20nears%20its%20100th%20day.

consequence of such inaction. Even today, the Security Council is paralyzed due to the stalemate caused by a certain permanent member. Other relevant United Nations bodies have also the responsibility to monitor and document human rights violations, and to facilitate bringing the perpetrators to justice.

This fact alone underscores how essential it is for the Court to remind the Security Council of its Charter-based obligations. It must also be made clear that such an obligation cannot be fulfilled by convening meetings or issuing certain impotent procedural resolutions; rather, it needs conclusive decisions under Chapter VII of the UN Charter and a follow-up mechanism to ensure its full and prompt implementation by the Israeli regime.

## **V. Conclusion**

### **Mr. President, Members of the Court,**

As our Supreme Leader said: “The calamity of Gaza is the calamity of humanity and the international community as a whole”. Therefore, each and every State and relevant international organization has its own legal and moral responsibility to act urgently and decisively to prevent the ongoing crimes of the Israeli regime in the Gaza Strip.

Definitely, as “the principal judicial organ of the United Nations”, this Court has an important role to play. Now, the world nations expect the Court to render its advisory opinion in a manner that effectively and practically consolidates the rule of law to the detriment of the rule of power, and to bring hope to Palestinians that justice will ultimately prevail. We should not leave them alone and let them down in days that they need the support and

assistance of the humanity the most. This is a collective legal and moral responsibility and we must fulfill it responsibly.

Finally, **Mr. President**, I must stress that our participation in this hearing and the content of our statement here is without prejudice to the longstanding position of the Islamic Republic of Iran regarding the question of Palestine. In view of the Islamic Republic of Iran, the only legal, practical, democratic and just method to effectively realize the inherent right to self-determination of the Palestinian people is to hold a national referendum in the Palestine. The details of this plan are contained in an official document of the United Nations issued in 2019.<sup>30</sup>

Lastly, this statement shall, in no way, imply our recognition of Israel.

**I thank you, Mr. President.**

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<sup>30</sup> Letter dated 1 November 2019 from the Permanent Representative of the Islamic Republic of Iran to the United Nations addressed to the Secretary-General contained in document S/2019/862, UNSC, 4 Nov 2019.