

**LEGAL CONSEQUENCES ARISING FROM THE POLICIES AND PRACTICES OF  
ISRAEL IN THE OCCUPIED PALESTINIAN TERRITORY, INCLUDING EAST  
JERUSALEM**

**REQUEST FOR ADVISORY OPINION**

**WRITTEN STATEMENT**

**OF THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH**

## I. INTRODUCTION

1. By Resolution 77/247, adopted on 30 December 2022, the General Assembly of the United Nations requested that the International Court of Justice render an advisory opinion pursuant to Article 65 of the Statute of the Court on the following questions:<sup>1</sup>

(a) What are the legal consequences arising from the ongoing violation by Israel of the right of the Palestinian people to self-determination, from its prolonged occupation, settlement and annexation of the Palestinian territory occupied since 1967, including measures aimed at altering the demographic composition, character and status of the Holy City of Jerusalem, and from its adoption of related discriminatory legislation and measures? [**First Question**]

(b) How do the policies and practices of Israel referred to in paragraph 18 (a) above affect the legal status of the occupation, and what are the legal consequences that arise for all States and the United Nations from this status? (A/RES/77/247, Dossier no. 3). [**Second Question**]

2. The following observations are submitted by the Government of the People's Republic of **Bangladesh**, in response to the Order of the Court dated 3 February 2023 fixing the time-limit by which written statements relating to these questions may be submitted to the Court.

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3. The General Assembly's request is made against a backdrop of grave and tragically deteriorating conditions in the Occupied Palestinian Territory. The Israeli Occupation, now in its 56<sup>th</sup> year, has crossed the threshold of illegality. The repression, dispossession and control of Palestinians continues apace, rapidly eroding any realistic prospect of a viable State for a self-determining Palestinian people along pre-1967 borders.

4. It is in the context of increasing Palestinian fatalities, increasing State-sanctioned violence, increasing evictions and land annexation, increasing exploitation of Palestinian resources, open declarations by successive Israeli Prime Ministers on the permanence of

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<sup>1</sup> The Dossier numbers cited throughout this Statement correspond with the Dossier numbers contained in the Dossier of Materials Compiled by the Secretariat of the United Nations pursuant to Article 65, paragraph 2 of The Statute of the International Court of Justice.

Israel's occupation,<sup>2</sup> and the entrenchment of irreversible facts on the ground,<sup>3</sup> that the General Assembly has seized the Court of its advisory jurisdiction.

5. The Court is competent to provide an opinion on the two legal questions that have been put before it, and respectfully, it should exercise its discretion to do so. There are no "compelling reasons" justifying a refusal to render the opinion requested,<sup>4</sup> particularly in circumstances where the Court has never, by the exercise of its discretionary power, declined to respond to a request for an advisory opinion. The Court, respectfully, must heed the long overdue call to examine Israel's occupation holistically and to render an opinion on its legal status.
6. Insofar as objections might be raised as to the clarity of the questions posed, their political character, or the propriety of the Court exercising its judicial function in response to this particular request, the Court need not look any further than its Advisory Opinion on the Wall,<sup>5</sup> to resolve such well-worn objections.
7. Insofar as objections may be raised as to the adequacy of the evidence before the Court for the purpose of responding to the legal questions posed, Israel's policies and practices are now well-understood and contemporaneously (and voluminously) documented. The Court has before it over 1,800 documents concerning Israel's policies and practices in the Occupied Palestinian Territory. Those documents include contemporaneous UN Resolutions, reports from successive UN Special Rapporteurs, and reports of the UN Secretary General. The Court is thus amply equipped to render an advisory opinion on

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<sup>2</sup> See Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, Michael Lynk, A/HRC/49/87, 12 August 2022, fn 8: Prime Minister Benjamin Netanyahu stated in 2018 that the Palestinians could have a "State-minus", where Israel would maintain security control over all of the Palestinian territory. See Ben Sales, "Netanyahu says he supports a Palestinian 'state-minus' controlled by Israeli security", Jewish Telegraphic Agency, 24 October 2018. In 2022, Prime Minister Naftali Bennett said: "I oppose a Palestinian State, and I am making it impossible to conduct diplomatic negotiations that might lead to a Palestinian State." See Mazal Mualem, "Bennet, in interview blitz, reacts to Netanyahu criticisms", Al-Monitor, 31 January 2022.' (**Dossier, No. 1539**).

<sup>3</sup> See Michael Lynk, Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, A/73/447, 22 October 2018, para. 30 (**Dossier No. 1425**).

<sup>4</sup> *Certain Expenses of the United Nations (Article 17, paragraph 2, of the Charter)*, Advisory Opinion, I.C.J. Reports 1962, p. 155; see also, *Difference Relating to Immunity from Legal Process of a Special Rapporteur of the Commission on Human Rights*, Advisory Opinion, I.C.J. Reports 1999 (I), pp. 78-79, para. 29; *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Advisory Opinion, I.C.J. Reports 2004, p. 156, para. 44.

<sup>5</sup> *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Advisory Opinion, I.C.J. Reports 2004, p. 136.

the legal consequences of such practices and policies, and perhaps most fundamentally, on the proper legal status of Israel's occupation.

8. Finally, any objections to the effect that an advisory opinion would threaten to undermine political peace negotiations, that conventional wisdom: (i) runs contrary to the law of state responsibility in circumstances where Israel's conduct is unlawful; and (ii) to date, has been nothing short of an abject failure. International law must dictate the terms of any future solution to the plight of the Palestinian people. The Palestinian people must not be compelled to negotiate their freedom in the face of unlawful conduct.
9. The balance of this submission makes some brief remarks primarily relating to the Second Question before the Court. For the reasons that follow, Bangladesh submits that the Court should conclude that Israel's occupation is illegal.<sup>6</sup>

## II. ISRAEL'S OCCUPATION OF THE OCCUPIED PALESTINIAN TERRITORY IS ILLEGAL

10. The Israeli occupation of the Palestinian Territory has long been conceived as a humanitarian issue, monitored and analysed against prevailing international humanitarian and international human rights law standards in a piecemeal fashion.<sup>7</sup> The legality of the occupation as a whole, save in the context of early General Assembly resolutions,<sup>8</sup> is yet to be interrogated authoritatively. Conventional wisdom has been to treat Israel as the lawful occupying power, albeit one that commits grave breaches of international law.<sup>9</sup> In a break from that wholly inadequate tradition, the Second Question put to the Court squarely asks the Court to opine on the legality of Israel's occupation *as a whole*, and the consequences that arise therefrom.
11. Bangladesh submits that the legal status of the occupation is in turn critically important.

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<sup>6</sup> For the avoidance of doubt, Bangladesh does not squarely address the First Question put to the Court. However, Bangladesh's position is that Israel's policies and practices, described therein, are unlawful.

<sup>7</sup> Ardi Imseis, 'Negotiating the Illegal: On the United Nations and the Illegal Occupation of Palestine, 1967–2020' (2020) *The European Journal of International Law* (31), p. 1059.

<sup>8</sup> See, for example: A/RES/32/20, 25 November 1977; A/RES/33/29, 7 December 1978; A/RES/34/70, 6 December 1979; A/RES/35/122E, 11 December 1980; GA Res. 35/207, 16 December 1980; GA Res. 36/147E, 16 December 1981.

<sup>9</sup> See Michael Lynk, Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, "Situation of human rights in the Palestinian territories occupied since 1967", A/72/556, 23 October 2017 (**Dossier, no. 1424**).

12. In the event the occupation is found to be illegal, that finding will inevitably be “the first, necessary step in an endeavour to bring the illegal situation to an end”,<sup>10</sup> in accordance with the law of state responsibility.<sup>11</sup> A finding of illegality would mandate Israel to, at a minimum, terminate its occupation. Dismantling the occupation would in turn address the “root cause”<sup>12</sup> of Israel’s violent subjugation of the Palestinian people and bring an end to Israel’s practices in the Occupied Palestinian Territory.
13. Moreover, a finding of illegality would extricate Palestinians from the stranglehold of the so-called peace process. Israel would be obligated to withdraw from the Occupied Palestinian Territory and make reparation as a matter of law, rather than political negotiation – it would be precluded from negotiating the consequences of its unlawful conduct.<sup>13</sup>
14. The promise of a Palestinian state based on a diplomatic settlement grounded in law has featured prominently on the international agenda since 1948. Today there is a vast body of state practice and *opinio juris* supporting the right of the Palestinian people to an independent state. The UN Security Council and General Assembly have adopted countless resolutions since 1948 on the “Question of Palestine”, recognising among other rights, the right of return of Palestine’s refugees and the right of Palestinians to establish an independent state along pre-1967 borders.<sup>14</sup> The General Assembly and the Human Rights Council have recognised the right of the Palestinian people to self-determination.<sup>15</sup>

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<sup>10</sup> *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, para. 111.

<sup>11</sup> See Articles on Responsibility of States for Internationally Wrongful Acts, Report of the International Law Commission on the Work of its 53rd Session (23 April–1 June and 2 July–10 August 2001), II(2) Yearbook of the International Law Commission (2001), UN Doc. A/CN.4/SER.A/2001/Add.1 (Part 2), 26–30 (“ARSIWA”), Art. 30(a).

<sup>12</sup> To use the terminology espoused by Francesca Albanese, Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, A/77/356, 21 September 2022, para. 10 (**Dossier, No. 1429**).

<sup>13</sup> As Imseis observes, above n 5, 1066: “an elemental foundation” of the law of state responsibility for internationally wrongful acts is the proposition that “states may not negotiate the consequences of their illegal actions”. The codified obligations incumbent on states responsible for internationally wrongful acts make clear that those obligations are not contingent on negotiation. And they do not leave any room for negotiation. Likewise, the obligation of non-recognition in ARSIWA, Art. 41 would preclude negotiating the consequences of a state of affairs declared to be illegal.

<sup>14</sup> See, for example, A/RES/194(III), 11 December 1948; S/RES/2334, 23 December 2016 (**Dossier, No. 1372**).

<sup>15</sup> See, for example, GA Res. 2672(XXV)(C), 8 December 1970 (**Dossier, No. 946**); GA Res. 3070(XXVIII), 30 November 1973 (**Dossier, No. 289**). See also, most recently A/RES/77/208, 15 December 2022 (**Dossier, No. 381**). See also **Dossier Nos. 353 to 380**.

Most significantly, the Court in its Advisory Opinion on the Wall expressly affirmed the right of the Palestinian people to self-determination under international law.<sup>16</sup>

15. Notwithstanding the recognition of such rights, the law has in practice been hopelessly marginalised in favour of a political solution for over 75 years. One only needs to read the objections put to the Court in response to the General Assembly's request for an Advisory Opinion on the Wall to see the disproportionate emphasis placed on a negotiated outcome, regardless of the illegality of Israel's actions.<sup>17</sup> That misplaced emphasis has proved utterly futile.<sup>18</sup>
16. A determination by the Court of the legal status of the occupation, and consequences that arise from such status, would have real practical effect for the future of the Palestinian people.

#### **A. Normative framework for determining the legal status of the occupation**

17. Turning to the substance of the Second Question before the Court, Bangladesh submits that Israel's occupation is illegal, however it is understood or analysed.
18. The concept of an "illegal occupation" has been acknowledged, to some degree, by the "international community acting collectively"<sup>19</sup> by way of Security Council and General Assembly resolutions.<sup>20</sup> It has also been recognised as an internationally wrongful act by this Court.<sup>21</sup> The parameters for determining the legality of an occupation, however, remain subject to debate. A key preliminary issue for the Court to determine, albeit one that is implied, is therefore the applicable normative framework for assessing the legal status of Israel's occupation (although the Court does not need to articulate a universally applicable framework).

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<sup>16</sup> *Advisory Opinion on the Wall*, para. 118.

<sup>17</sup> See, for example, Written Statement of the Government of Australia dated 29 January 2004.

<sup>18</sup> See Naseer H. Aruri, 'Is the Two-State Settlement Still Viable?' in *The Failure of the Two-State Solution: The Prospects of One State in the Israel-Palestine Conflict*, Hani A. Faris (ed. 2013), 63 at 65-66.

<sup>19</sup> Yael Ronen, 'Illegal Occupation and its Consequences' *Israel Law Review*, Vol. 41 Nos. 1 & 2, 2008, 201 at 203-204.

<sup>20</sup> See *The 1970 Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in Accordance with the Charter of the United Nations*, A/RES/2625 (XXV), A/8082 24 October 1970, A/RES/2542 (XXIV), art. 26, A/7630 11 December 1969; A/RES/42/22 18 November 1987.

<sup>21</sup> *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda)*, Judgment, *I.C.J. Reports 2005*, para. 345.

19. Bangladesh submits that the approaches advanced by the former UN Special Rapporteur, Michael **Lynk**, in his 2017 report to the General Assembly, and the current Rapporteur, Francesca **Albanese**, in her 2022 report are apposite and, one or both, should be adopted by the Court. The two approaches overlap and interrelate, but ultimately provide two pathways for determining the legal status of the occupation.

20. In his 2017 report to the General Assembly, Lynk proposed a four-part test for determining the legality, or illegality, of an occupation, the elements of which are as follows:

- i. the belligerent occupier cannot annex any of the occupied territory;
- ii. the belligerent occupation must be temporary, and cannot be either permanent or indefinite – the occupant must seek to end the occupation and return the territory to the Sovereign as soon as reasonably possible;
- iii. during the occupation, the belligerent occupier is to act in the best interests of the people under occupation; and
- iv. the belligerent occupier must administer the occupied territory in good faith, which is measured by: (a) satisfaction of the three core principles at (i) to (iii) above; and (b) compliance with its duties and obligations under international humanitarian and human rights law, and as a member of the United Nations.

21. Lynk’s four-part test has force for at least three reasons. *First*, it is grounded in uncontroversial principles of international law.<sup>22</sup>

22. *Secondly*, it is eminently logical in its reliance on the core tenets of the law of occupation to establish illegality. Lynk’s approach proceeds from the premise that a violation by the occupying power of the principal obligations incumbent upon it amounts to an excess of power and renders the occupation illegal.<sup>23</sup> It is hard to conceive a simpler, more cogent basis for impugning the legality of an occupation. If an occupation is administered in direct contravention of the belligerent occupier’s core obligations, the occupier cannot logically be acting *within* power. Further, an occupation that is dependent on unlawful

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<sup>22</sup> See Lynk, above n 7, paras 20-37 (**Dossier, No. 1424**).

<sup>23</sup> *Ibid.*, paras 26-28.

conduct, and can only be maintained in violation of international law, must be intrinsically illegal.<sup>24</sup> Any other conclusion would impermissibly sanction the system by which the unlawful conduct is perpetrated, and therefore legitimise that conduct.

23. *Thirdly*, Lynk’s approach fits within the parameters the Court’s Advisory Opinion on *The Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa)*. That opinion arose out of a Security Council Resolution declaring South Africa’s continued presence in Namibia “illegal”, and related to the former mandate system. However, as Lynk observed in his 2017 report: “the overriding similarities” between Palestine and Namibia, and the obligations incumbent on the relevant powers, means that:<sup>25</sup>

the legal principles pertaining to the illegal continuation by a mandatory of a mandate apply, *mutatis mutandis*, to the determination of whether an occupying power’s ongoing occupation has become illegal.

24. In turn, the Court articulated a number of principles relevant to Lynk’s analysis, including in particular the principles that:

- i. the deliberate and persistent violation of a party’s obligations destroys the very object and purpose of the relationship or vested power, and the party cannot thereby claim any of the rights which derive from that relationship;<sup>26</sup> and
- ii. the breach of the mandatory’s fundamental obligations under international law can render its continuing presence in the mandate territory illegal.<sup>27</sup>

25. Those conclusions, notwithstanding that they were articulated in the context of the mandate system, must apply *mutatis mutandis* to a belligerent occupier: if South Africa’s mandate could be found to be illegal due to its violation of the applicable international

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<sup>24</sup> Orna Ben-Naftali, et al, ‘Illegal Occupation: Framing the Occupied Palestinian Territory’, [2005] *Berkeley Journal of International Law* [23:3], p. 559; see also Ronen, above n 17, p. 205.

<sup>25</sup> Lynk, above n 7, paras 41-44. Relevantly, as Ronen observes (above n 17, p. 214), while the Court did not use the term “illegal occupation” in its Advisory Opinion, following that opinion, the Security Council and General Assembly began referring to Namibia as “illegally occupied” and to the situation as “illegal occupation”.

<sup>26</sup> See Lynk, above n 7, para. 43(e) citing *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, paras 84, 91, 95, 96, 98, 100 and 102.

<sup>27</sup> *Ibid.*, para. 43(f), citing paras 108, 109, 111, 115, 117, 122 and 123.



instruments, so too can Israel's occupation by reason of its violation of customary international law.

26. Albanese endorses Lynk's approach but also contends that Israel's occupation is illegal because of its:<sup>28</sup>

systematic violation of at least three peremptory norms of international law: the prohibition on the acquisition of territory through the use of force; the prohibition on imposing regimes of alien subjugation, domination and exploitation, including racial discrimination and apartheid; and the obligation of States to respect the right of peoples to self-determination.

27. The three peremptory norms cited by Albanese themselves underpin the law of occupation (a violation of those norms would therefore likely engage most, if not all, of Lynk's four-part test). Albanese, however, focuses her analysis on Israel's violation of the Palestinian people's uncontroversial right to self-determination.

28. Albanese contends that Israel's "de-Palestinianization" of the Occupied Palestinian Territory violates the right of self-determination by:<sup>29</sup>

- i. settling its civilian population in the Occupied Territory;
- ii. strategically fragmenting the Occupied Territory enabling Israel to variably contain, control, and deploy differing administrative and military regimes across the West Bank, East Jerusalem and the Gaza Strip;
- iii. exploiting Palestine's natural resources;
- iv. erasing Palestinian cultural and civil rights; and
- v. preventing the formation and expression of a functioning, cohesive Palestinian body politic.

29. On the basis of these actions Albanese concludes that Israel's occupation is illegal.<sup>30</sup>

Albanese's approach, much like Lynk's, has force in its simplicity and intuitiveness. It is premised on the idea that an occupation which rests on the violation of a non-derogable *jus cogens* norm with *erga omnes* effect is illegal.<sup>31</sup> It is hard to see how a regime which

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<sup>28</sup> Albanese, above n 10, para, 9(b).

<sup>29</sup> Albanese, above n 10, paras 37-62.

<sup>30</sup> *Ibid.*, paras 35 and 63.

<sup>31</sup> For an explanation on the reasons why, and the circumstances in which, the violation of *jus cogens* norms should found a finding that an occupation is legal, see for example, Yael Ronen, above n 17, at 204-205.

depends upon, and perpetuates, the violation of *jus cogens* norms could be legally or morally defensible.

### **B. The legal status of Israel’s occupation in light of the proposed normative frameworks**

30. Bangladesh submits that Israel’s occupation is illegal by reason of its policies and practices in the Occupied Palestinian Territory (as identified in the First Question put to the Court).<sup>32</sup> That conclusion follows from the application of both of the normative frameworks set out above.

31. This is borne out by several of Israel’s policies and practices, even when considered in isolation and independently of the balance of the policies and practices identified in the First Question. By way of example:

- i. Israel’s settlement and *de facto* annexation of the Occupied Territory has been pursued by way of a twin strategy which leads inexorably to the conclusion that Israel’s occupation is illegal. On the one hand, Israel has forcibly confined and displaced Palestinians, while appropriating their land. On the other, it has built and expanded settlements on that appropriated land, and transferred Israeli citizens into the Occupied Territory.<sup>33</sup> Israel has no intention of reversing the facts on the ground that it has established by way of those strategies.<sup>34</sup> Israel’s settler colonial project undoubtedly violates each element of Lynk’s four-part test. It also violates the right to self-determination (i.e., a relevant peremptory norm on Albanese’s approach).<sup>35</sup> Thus on both approaches, the occupation is illegal.

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<sup>32</sup> Bangladesh observes that some of the policies and practices described in the First Question stipulate a legal conclusion; most notably, whether Israel is violating the right of the Palestinian people to self-determination. This is no barrier to the Court providing an opinion in response to both questions. It simply necessitates a preliminary assessment by the Court in answering the First Question as to the violation of that right.

<sup>33</sup> For recent developments and statistics see: Report of the Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel, A/77/328, 14 September 2022 (**Dossier No. 1408**); Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories, A/77/501, 3 October 2022; Report of the Secretary General on Israeli Settlements in the Occupied Palestinian Territory, including East Jerusalem, and the Occupied Syrian Golan, A/77/493, 3 October 2022 (**Dossier, No. 72**).

<sup>34</sup> See Lynk, above n 2, fn 8.

<sup>35</sup> Albanese, above n 10, paras 35 and 42. Aside from Albanese’s report, *see also, for example*: “Report of the Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel”, UN Doc. A/77/328, 14 September 2022, (**Dossier No. 1408**); Report of the Special

- ii. Likewise, Israel’s creation and maintenance of a dual legal and political system, which on the one hand secures the rights, freedoms and living conditions of Jewish Israeli settlers, and on the other subjects Palestinians to military rule and control devoid of the basic protections under international law, can only be understood as violating Lynk’s four-part test. Further, insofar as Israel’s discriminatory measures rise to the level of apartheid, as is increasingly apparent,<sup>36</sup> the occupation would be illegal on Albanese’s approach by violating, and indeed being contingent upon, the violation of a peremptory norm of international law.<sup>37</sup>

### III. CONSEQUENCES OF ILLEGALITY AND CONCLUSION

32. The consequences that flow from any conclusion by the Court that Israel’s occupation is illegal – particularly insofar as any third State is concerned – necessarily depend on the bases on which the Court makes a finding of illegality. At a minimum, however, Israel must terminate its occupation (in all of its manifestations), provide appropriate assurances and guarantees of non-repetition (which, atypically, would likely be required in this context), and make full reparation for the injury caused by the occupation.<sup>38</sup> Importantly, none of these consequences should be conditioned upon negotiation, for the reasons explained above.
33. In conclusion, Bangladesh strongly urges the Court to render an advisory opinion on the questions before the Court, and in doing so, to conclude that Israel’s occupation of the Occupied Palestinian Territory is illegal.

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Political and Decolonization Committee, “Israeli practices and settlement activities affecting the rights of the Palestinian people and other Arabs of the occupied territories”, A/77/400, 14 November 2022 (**Dossier, No. 2**); Human Rights Council, A/HRC/RES/49/28 “The Right of the Palestinian People to Self-Determination”, 1 April 2022 (**Dossier No. 1561**); Report of the Independent International Fact-Finding Mission to Investigate the Implications of Israeli settlements on the civil, political, economic, social, and cultural rights of the Palestinian people throughout the Occupied Palestinian Territory, including East Jerusalem, A/HRC/22/63, 7 February 2013 (**Dossier No. 1563**).

<sup>36</sup> See, for example, Lynk, above n 2; ESCWA, ‘Israeli Practices towards the Palestinian People and the Question of Apartheid: Palestine and the Israeli Occupation, issue No. 1, E/ESCWA/ECRI/2017/; Al-Haq and others, ‘Israeli Apartheid: Tool of Zionist Settler Colonialism’, (2022); Human Rights Watch, ‘A Threshold Crossed: Israeli Authorities and the Crimes of Apartheid and Persecution’ 27 April 2021; John Dugard, ‘Lifting the Guise of Occupation and Recourse to Action before the ICJ and ICC’ (2014) *The Palestine Yearbook of International Law Online*, p. 9; Virginia Tilley, *Beyond Occupation: Apartheid, Colonialism and International Law in the Occupied Palestinian Territories* (2012), pp. 107-215.

<sup>37</sup> Albanese, above n 10, para. 9(b).

<sup>38</sup> ARSIWA, Art. 30.