

**WRITTEN STATEMENT
OF
THE REPUBLIC OF YEMEN
25 July 2023**

INTRODUCTION

1. The Republic of Yemen has the honour to submit this Written Statement in accordance with the Order of the International Court of Justice of 3 February 2023 in the matter concerning *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*. This Written Statement briefly addresses the issues referred to the Court by the United Nations General Assembly in resolution 77/247 of 30 December 2022.
2. To that end, following this introduction this Written Statement is divided into six parts, as follows: (A) Terms of the request; (B) Jurisdiction and admissibility; (C) Applicable Law; (D) Policies and practices of Israel against the Palestinian people; (E) The legal status of the Israeli occupation's continued presence in the occupied Palestinian territory in light of its policies and practices therein; and (F) The legal consequences arising for all States, and the United Nations, from this status.

A. TERMS OF THE REQUEST

3. The General Assembly has requested the Court via its resolution 77/246 to furnish an advisory opinion on the following questions:
 - (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?

(b) How do the policies and practices of Israel 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?

4. The terms of these questions clearly go beyond the Occupied Palestinian Territory, including East Jerusalem (OPT). As such, although this Written Statement will focus itself on the relevant legal issues in respect of the OPT, it will also touch on those that go beyond that territory.

B. JURISDICTION AND ADMISSIBILITY

5. Article 96, paragraph 1, of the United Nations Charter provides that “[t]he General Assembly or the Security Council may request the International Court of Justice to give an advisory opinion on any legal question.”¹
6. Article 65, paragraph 1, of the Court’s Statute further provides that “[t]he Court may give an advisory opinion on any legal question at the request of whatever body may be authorized by or in accordance with the Charter of the United Nations to make such a request.”²
7. General Assembly resolution 77/247, which provided for the present request, was adopted by a large majority of the members of the United Nations present and voting. As such, the request was made by a duly authorized organ of the United Nations, validly adopted from the procedural point of view.

¹ UN Charter, art. 96(1).

² Statute of the International Court of Justice, art. 65(1).

8. Notwithstanding the ability of the Court to decline to give an advisory opinion under article 65, paragraph 1, of its Statute, it has never done so. The Court's jurisprudence has affirmed that for any such refusal to be justified, there must exist "compelling reasons" to do so.³ In this case, no such reasons exist. On the contrary, the inordinately prolonged nature of the legal matters at issue in this case render it vitally important for the Court to provide the General Assembly with legal guidance on the questions posed, all of which continue to impact the Palestinian people, whose dire condition is increasingly worsening by the day.
9. In addition, no compelling reasons exist for the Court to refuse to give its opinion in this matter because of its importance for the role of the United Nations, given that the question of Palestine has remained on the agenda of the Organization since its establishment without resolution. The United Nations has a permanent responsibility for the question of Palestine until it is resolved in all of its aspects in accordance with international law.⁴ This permanent responsibility was confirmed by this Court in its 2004 Advisory Opinion concerning *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory* ['*Wall Opinion*'].⁵
10. For the reasons above, it is clear that the Court has jurisdiction to give an advisory opinion in this case on the basis that the General Assembly is competent to request an advisory opinion from this Court on the subject-matter of the request, and that there are no compelling reasons preventing the Court from giving its opinion on the questions submitted to it.

³ See e.g. *Accordance with International Law of the Unilateral Declaration of Independence in Respect of Kosovo*, Advisory Opinion, I.C.J. Reports 2010, p. 416, para. 30; *Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965*, Advisory Opinion, I.C.J. Reports 2019, p. 113, para. 65.

⁴ ES- 10/18, "General Assembly resolution supporting the immediate ceasefire according to Security Council resolution 1860 (2009)", 16 January 2009, preamble "Stressing the permanent responsibility of the United Nations with regard to the question of Palestine until it is solved in all its aspects, in accordance with international law";

⁵ *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Advisory Opinion, I.C.J. Reports 2004, p. 165, para. 49 ['*Wall Opinion*'].

C. APPLICABLE LAW

11. Israel's prolonged occupation, settlement, and annexation of the OPT, including measures aimed at altering the demographic composition, character and status of the Holy City of Jerusalem are governed by general international law, international humanitarian law and international human rights law.

12. With regard to general international law, most important is the general prohibition on the threat or use of force in international relations. Article 2(4) of the UN Charter provides that:

“All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the Purposes of the United Nations.”⁶

13. In *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda)*, the Court held that “the prohibition against the use of force is a cornerstone of the United Nations Charter.”⁷ The International Law Commission has affirmed the prohibition on the use of force (i.e. aggression) as a peremptory norm of general international law, derogation from which is not permitted.⁸ This prohibition has been affirmed by the General Assembly in resolution 2625 (XXV) of 24 October 1970, entitled “Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States”.⁹ Accordingly, the *Friendly Relations Declaration* affirms the following principles, namely that: (1) “[t]he territory of a State shall not be the object of acquisition by another State resulting from the threat or use of force;” and (2) “[n]o territorial acquisition resulting from the threat or use of force shall be recognized as legal”.¹⁰

⁶ UN Charter, art. 2(4).

⁷ *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda)*, Judgment, ICJ Reports 2005, p. 168, para. 148 [hereinafter ‘*Armed Activities*’].

⁸ *Draft Conclusions on Identification and Legal Consequences of Peremptory Norms of General International Law (Jus Cogens)*, Report of the International Law Commission, 73rd Sess., 18 April-3 June & 4 July-5 August 2022, A/77/10 [‘ILC Draft Conclusions on Peremptory Norms’], para. 44, Annex.

⁹ Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States A/RES/2625, 24 October 1970, Annex, para. 1 [hereinafter ‘*Friendly Relations Declaration*’].

¹⁰ *Id.*

14. With regard to international humanitarian law, the situation in the OPT is governed by conventional and customary international humanitarian law, the “basic rules” of which amount to peremptory norms of international law according to the International Law Commission.¹¹ This includes the 1907 *Hague Convention IV Respecting the Laws and Customs of War on Land*, with its annexed Regulations,¹² and the 1949 *Geneva Convention Relative to the Protection of Civilian Persons in Time of War*,¹³ which, as affirmed by this Court, both apply to the OPT.¹⁴ In addition, the *Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Civilian Victims of International Armed Conflicts of 8 June 1977* also applies to the extent that its provisions amount to custom.¹⁵ Both before and after the *Wall Opinion*, numerous resolutions of the Security Council, General Assembly, and Human Rights Council have affirmed the continued applicability of the Fourth Geneva Convention to the OPT.¹⁶ Likewise, in several Declarations, the Conference of High Contracting Parties reaffirmed the applicability of the Fourth Geneva Convention to the OPT¹⁷.
15. With regard to international human rights law, core international human rights treaties apply to these proceedings. These include the International Covenant on Civil and Political Rights (ICCPR),¹⁸ and the International Covenant on Economic, Social and Cultural Rights (ICESCR),¹⁹ and the International Convention on the Elimination of all forms of Racial Discrimination (CERD).²⁰ In the *Wall Opinion*, this Court found that international human

¹¹ ILC Draft Conclusions on Peremptory Norms, para. 44, Annex.

¹² *Convention Respecting the Laws and Customs of War on Land*, 18 October 1907, 36 Stat. 2277, 1 Bevans 631 (entered into force 26 January 1910), annex.

¹³ *Geneva Convention Relative to the Protection of Civilian Persons in Time of War*, 12 August 1949, 75 UNTS 287 (entered into force 21 October 1950) [hereinafter ‘Fourth Geneva Convention’].

¹⁴ *Wall Opinion*, paras. 89 & 101.

¹⁵ *Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Civilian Victims of International Armed Conflicts of 8 June 1977*, 1125 UNTS 3 [‘Additional Protocol I’].

¹⁶ For some of the most recent of these, see e.g. S/RES/2334 (2016), 23 December 2016, preamble; A/RES/77/247, 30 December 2022, preamble; and A/HRC/RES/49/4, 31 March 2022, preamble.

¹⁷ Conference of High Contracting Parties to the Fourth Geneva Convention, Declaration, 5 December 2001 and [Conference of High Contracting Parties to the Fourth Geneva Convention, Declaration](#), 17 December 2014.

¹⁸ *International Covenant on Civil and Political Rights*, 16 December 1966 (entry into force 23 March 1976) 999 UNTS 171.

¹⁹ *International Covenant on Economic, Social and Cultural Rights*, 16 December 1966 (entry into force 3 January 1976) 993 UNTS 3.

²⁰ *International Convention on the Elimination of all forms of Racial Discrimination*, 7 March 1966 (entry into force 4 January 1969), 660 UNTS 195.

rights law applies to the Israeli occupation's administration of the OPT, including the ICCPR and the ICESCR.²¹ In addition, the customary international law of human rights applies, including as codified in the *International Convention on the Suppression and Punishment of the Crime of Apartheid*.²² The prohibition of racial discrimination has been affirmed by this Court as a norm of *erga omnes* character.²³ In addition, racial discrimination and apartheid have also been confirmed by the ILC as peremptory norms of general international law, derogation from which is not permitted.²⁴

D. POLICIES AND PRACTICES OF ISRAEL AGAINST THE PALESTINIAN PEOPLE

16. The relevant policies and practices referred to by the General Assembly in part (a) of its questions are “the 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 its “adoption of related discriminatory legislation and measures.” Each of these is briefly addressed below.

Israel's Prolonged Occupation, Settlement and Annexation of the OPT, including measures aimed at altering the demographic composition, character and status of the Holy City of Jerusalem

17. In 1948, Israeli forces seized militarily the Western part of the Holy City of Jerusalem and proceeded to alter the demographic composition, character and status of the Holy City, in breach of international law and UN resolutions.

²¹ *Wall Opinion*, paras. 111, 112 & 113.

²² International Convention on the Suppression and Punishment of the Crime of Apartheid, 30 November 1973 (entry into force 18 July 1976), 1015 UNTS 243 [hereinafter '*Apartheid Convention*'].

²³ *Barcelona Traction, Light and Power Company, Limited* (New Application: 1962) (Belgium v. Spain), Second phase, Judgment, I.C.J. Reports 1970, p. 32, para. 34.

²⁴ ILC Draft Conclusions on Peremptory Norms, para. 44, Annex.

18. In 1967, Israeli forces proceeded to unlawfully acquire more territory, occupying the West Bank, including East Jerusalem, and the Gaza Strip. Israeli authorities unlawfully annexed the Holy City of Jerusalem and its environs.²⁵
19. Israeli violations of the UN Charter, namely the acquisition of territory by force, prompted the General Assembly to adopt resolutions declaring Israeli annexation and measures “invalid” and calling on it “to rescind all measures already taken and to desist forthwith from taking action which could alter the status of Jerusalem.” Similarly, the Security Council also condemned Israeli annexation of Jerusalem. In its resolution 252 (1968), it “[r]eaffirm[ed] that acquisition of territory by military conquest its inadmissible” and that “all legislative and administrative measures and actions taken by Israel, including expropriation of land and properties thereon, which tend to change the legal status of Jerusalem are invalid and cannot change the status.”
20. During the years that followed, and faced with Israeli violations of UN resolutions, both the General Assembly and the Security Council adopted resolutions declaring that “policies of Israel constitute not only a direct contravention to, and violation of, the purposes and principles of the Charter of the United Nations, in particular the principles of sovereignty and territorial integrity, the principles and provisions of the applicable international law concerning occupation and the basic human rights of the people.”²⁶
21. Israeli violations of UN resolutions continued and in 1980, it enacted legislation formally declaring Jerusalem as the “capital of Israel”.²⁷ In response, the Security Council adopted resolution 476, “[d]eplor[ing] the persistence of Israel in changing the...institutional structure and the status of the Holy City of Jerusalem...with the aim of changing the character and status of the Holy City of Jerusalem.”²⁸ Israeli enactment of the Basic Law triggered international condemnations which led to the adoption of several UN resolutions.

²⁵ See e.g. Law and Administration Ordinance (Amendment No. 11) Law, 5727-1967, Article 1; Municipalities Ordinance (Amendment No. 6) Law, 5727-1967; Government and Law Procedures Ordinance No. 1 of 5727-1967, Israeli Collection of Regulations, No. 2064, 28 June 1967, p. 2690

²⁶ General Assembly, Resolution 3240 A (XXIX), 29 November 1974; see also: General Assembly, Resolution 3414 (XXX), 5 December 1975, para. 2; General Assembly, Resolution 3525 A (XXX), 15 December 1975, paras. 5 and 9; Security Council, Resolution 298 (1971), 25 September 1971, para. 4.

²⁷ Basic Law: Jerusalem, Capital of Israel, Israeli Collection of Regulations, 5740-1980

²⁸ Security Council, Resolution 476 (1980), 30 June 1980.

22. The Security Council, in resolution 478 of 20 August 1980, determined that “all legislative and administrative measures and actions taken by Israel, the occupying Power, which have altered or purport to alter the character and status of the Holy City of Jerusalem, and in particular the recent ‘basic law’ on Jerusalem, are null and void and must be rescinded forthwith.”²⁹ The General Assembly also determined that “Israel’s decision to annex Jerusalem and to annex it as its ‘capital’ as well as the measures to alter its physical character, demographic composition, institutional structure and status are null and void” and must “be rescinded immediately.”³⁰

23. The Israeli occupation unlawfully colonized and attempted to annex as much territory for the exclusive benefit of its Jewish Israeli settlers. The prime vehicle through which this goal has been pursued has been the illegal transfer of over 700,000 Israeli Jewish settlers into the OPT, including East Jerusalem. Thus, according to a 1980 plan prepared by Matityahu Drobles of the Settlement Department of the World Zionist Organization (the so-called “Drobles Plan”):

“The best and most effective way of removing every shadow of doubt about our intention to hold on to Judea and Samaria [i.e., the West Bank] forever is by speeding up the [Jewish colonial] settlement momentum in these territories. The purpose of settling the areas between and around the centers occupied by the minorities [that is, the Palestinian majority in the West Bank] is to reduce to the minimum the danger of an additional Arab state being established in these territories. Being cut off by Jewish settlements, the minority population will find it difficult to form a territorial and political continuity.”³¹

24. Article 49, paragraph 6, of the *Fourth Geneva Convention* affirms that an “Occupying Power shall not...transfer parts of its own civilian population into the territory it

²⁹ Security Council, Resolution 478 (1980), 20 August 1980, paras. 2-3.

³⁰ General Assembly, Resolution 36/120 D, 10 December 1981, para. 6.

³¹ Matityahu Drobles, *Master Plan for the Development of Settlement in Judea and Samaria* (1980), as quoted in Playfair, E. (ed.) *International Law and the Administration of Occupied Territories* (Oxford, 1992), at 446.

occupies.”³² This prohibition has been affirmed in both the *Additional Protocol I*,³³ as well as the Rome Statute of the International Criminal Court.³⁴ The ICRC commentary on article 49, paragraph 6 of the Fourth Geneva Convention makes it abundantly clear that it:

“is intended to prevent a practice adopted during the Second World War by certain Powers, which transferred portions of their own population to occupied territory for political and racial reasons or in order, as they claimed, to colonize those territories.”³⁵

Despite this clear law, and the fact that all relevant United Nations organs– including this Court³⁶ – have denounced Israeli settlement of the OPT it continued to flagrantly and publicly breach its obligations and persisted in colonizing the OPT.

25. As part of this process, the Israeli occupation has undertaken a series of legislative and administrative measures to annex, both *de jure* and *de facto*, the West Bank, including East Jerusalem.

26. Since 1967, the Israel occupation has extended and applied its domestic law and jurisdiction to the West Bank through over 1800 military orders,³⁷ legislations, and judicial decisions, pertaining to all aspects of life.³⁸ This includes the extension of Israeli domestic law to Israeli settlers illegally colonizing the territory, the continued construction, maintenance and extension of the annexation Wall and its associated régime, the establishment and maintenance of Israeli only zones (i.e. settlement regional areas; nature reserves, closed military areas, etc.), and the corralling of the Palestinian population into

³² *Fourth Geneva Convention*, art. 49.

³³ *Additional Protocol I*, art. 85(4)(a).

³⁴ *Rome Statute of the International Criminal Court*, 17 July 1998, 37 ILM 999, art. 8(2)(b)(viii).

³⁵ Pictet, *supra* note 41, at 283.

³⁶ *Wall Opinion*, para. 120.

³⁷ 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”, 30 January 2019, A/HRC/40/42, para. 12

³⁸ 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. 46.

isolated, besieged and disconnected Bantustans, leaving the only territorially contiguous portion of the territory under the exclusive control of the occupying Power. To this has been added repeated affirmations of the political leadership of the occupying Power that it will never leave the OPT.

27. Throughout the West Bank, including East Jerusalem, Israel has implanted over 700,000 settlers in 287 settlements, in an attempt to establish and entrench its permanent authority over the territory.³⁹

28. Despite numerous UN resolutions calling on the Israeli occupation to cease its settlement activities, it continued and in fact accelerated its colonization of the Palestinian territory, which led the Security Council to adopt resolution 465 in 1980:

“ Strongly deplor[ing] the continuation and persistence of Israel in pursuing those policies and practices and call[ing] upon the Government and people of Israel to rescind those measures, to dismantle the existing settlements and in particular to cease, on an urgent basis, the establishment, construction and planning of settlements in the Arab territories occupied since 1967, including Jerusalem.”⁴⁰

29. The Security Council, the General Assembly and the Human Rights Council condemned settlement activities over decades.

30. The Court addressed the illegality of Israeli settlements in its Wall Opinion. After recalling Article 49, paragraph 6 of the Fourth Geneva Convention, the Court observed that, “the information provided to the Court shows that ... Israel has conducted a policy and developed practices involving the establishment of settlements in the Occupied Palestinian Territory, contrary to the terms of Article 49, paragraph 6”. The Court concluded that “ the Israeli settlements in the occupied Palestinian Territory (including East Jerusalem) have been established in breach of international law.”⁴¹

³⁹ Peace Now, Settlements Map 2023, 5 January 2023, p. 2 (http://peacenow.org.il/wp-content/uploads/2023/01/settlements_map_En_2023_.pdf).

⁴⁰ Security Council, Resolution 465 (1980), 1 March 1980, para. 5.

⁴¹ Wall Opinion, p. 184, para. 120.

31. Yet, Israeli settlement building and expansion continued, leading the Security Council in 2016 to adopt resolution 2334, recalling the advisory opinion on the Wall and:

“Condemning all measures aimed at altering the demographic composition, character and status of the Palestinian Territory occupied since 1967, including East Jerusalem, including, inter alia, the construction and expansion of settlements, transfer of Israeli settlers, confiscation of land, demolition of homes and displacement of Palestinian civilians, in violation of international humanitarian law and relevant resolutions,”

“Reaffirm[ing] that the establishment by Israel of settlements in the Palestinian territory occupied since 1967, including East Jerusalem, has no legal validity and constitutes a flagrant violation under international law and a major obstacle to the achievement of the two-State solution and a just, lasting and comprehensive peace; [and]

“Reiterate[d] its demand that Israel immediately and completely cease all settlement activities in the occupied Palestinian territory, including East Jerusalem, and that it fully respect all of its legal obligations in this regard.”⁴²

32. In the *Wall Opinion*, this Court expressed its 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.”⁴³ Events on the ground have not only vindicated this view, but they have demonstrated that the occupying Power’s purportedly temporary presence in the whole of the West Bank amounts to *de facto* annexation, in addition to its continuing *de jure* annexation of Jerusalem. As found in September 2022 by the United Nations International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel:

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

⁴² Security Council, Resolution 2334 (2016), 23 December 2016, paras. 1 and 2.

⁴³ *Wall Opinion*, para. 121.

Bank. The International Court of Justice anticipated such a scenario in its 2004 advisory opinion, in which it stated that the wall was creating a fait accompli on the ground that could well become permanent and tantamount to de facto annexation. This has now become the reality.”⁴⁴

33. The General Assembly also stressed 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, recall[ing] in this regard the 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, undermines the viability of the two-State solution and challenges the prospects for a just, lasting and comprehensive peace settlement.”

Adoption of Related discriminatory legislation and measures

The General Assembly’s reference to the occupying Power’s “adoption of related discriminatory legislation and measures” requires the examination of relevant provisions of CERD and the *Apartheid Convention*. As noted, the prohibition of racial discrimination and Apartheid qualify as peremptory norms of general international law, derogation from which is not permitted.

34. Based on CERD and the *Apartheid Convention*, the presence of apartheid is established if the conditions of a particular situation of racial discrimination satisfy three elements:

- i. There exists an institutionalized regime of systematic racial oppression and discrimination;
- ii. The regime was established with the intent to maintain the domination of one racial group over another; and
- iii. The regime features inhuman(e) acts committed as an integral part of the regime.

⁴⁴ *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.

35. All three of these elements of the governing test for the presence of apartheid are found in the occupying Power's rule over the Palestinian people in the OPT. In this regard it is useful to quote the United Nations Special Rapporteur for the situation of human rights in the territories occupied by Israel since 1967, who in 2022 examined this issue at length:

“[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 (without rights, without equality, without dignity and without freedom) satisfies the prevailing evidentiary standard for the existence of apartheid

First, an institutionalized regime of systematic racial oppression and discrimination has been established. Israeli Jews and Palestinian Arabs in East Jerusalem and the West Bank live their lives under a single regime that differentiates its distribution of rights and benefits on the basis of national and ethnic identity, and that ensures the supremacy of one group over, and to the detriment of, the other. (The Palestinian Authority exercises restricted jurisdiction and provides services in limited parts of the West Bank that Israel has no interest in delivering.) The differences in living conditions and citizenship rights and benefits are stark, deeply discriminatory and maintained through systematic and institutionalized oppression.

Second, this system of alien rule has been established with the intent to maintain the domination of one racial-national-ethnic group over another. Israeli political leaders, past and present, have repeatedly stated that they intend to retain control over all of the occupied territory in order to enlarge the blocs of land for present and future Jewish settlement while confining the Palestinians to barricaded population reserves. This is a two-sided coin: the plans for more Jewish settlers and larger Jewish settlements on greater tracts of occupied land cannot be accomplished without the expropriation of more Palestinian property together with harsher and more sophisticated methods of population control to manage the inevitable

resistance. Under this system, the freedoms of one group are inextricably bound up in the subjugation of the other.

Third, the imposition of this system of institutionalized discrimination with the intent of permanent domination has been built upon the regular practice of inhumane and inhuman acts. Arbitrary and extrajudicial killings. Torture. The violent deaths of children. The denial of fundamental human rights. A fundamentally flawed military court system and the lack of criminal due process. Arbitrary detention. Collective punishment. The repetition of these acts over long periods of time, and their endorsement by the Knesset and the Israeli judicial system, indicate that they are not the result of random and isolated acts but integral to the system of rule by Israel.”⁴⁵

The UN Special Rapporteur concluded in his August 2022 report that: “With the eyes of the international community wide open, Israel has imposed upon Palestine an apartheid reality in a post-apartheid world.”⁴⁶

36. Policies pursued by successive Israeli governments over the course of the occupation have divided the OPT into a series of non-contiguous enclaves into which Palestinians are effectively confined and isolated.
37. The Gaza Strip is the ultimate expression of this policy. The Israeli occupying Power has brought about “[t]he transformation of the Gaza Strip into a heavily populated, impoverished enclave controlled by Israel through suffocating sea, land and air blockade.”⁴⁷ The Israeli occupation has thus “barricaded the 2 million Palestinians into ...’an open-air prison’, a method of population control unique in the modern world” leading to “the indefinite warehousing of an unwanted population of 2 million Palestinians,

⁴⁵ Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, 12 August 2022, A/HRC/49/87, paras. 53-55 (<https://undocs.org/A/HRC/49/87>).

⁴⁶ UNHCR, ‘Report of the Special Rapporteur on the Situation of Human Rights in the Palestinian Territory occupied since 1967, Michael Lynk’ (12 August 2022) A/HRC/49/87, at para. 56.

⁴⁷ Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, 21 September 2022, A/77/356, para. 46

whom it has confined to a narrow strip of land through its comprehensive 15-year old air, land and sea blockade.”⁴⁸

38. The existence of a systematic regime of racial discrimination amounting to apartheid is clear on both sides of the Green Line. Widespread and systematic discrimination against Palestinian Arabs is institutionalized and systematic, established with the intent to maintain the domination of one racial group (Israeli Jews) over another (Palestinian Arabs), and includes features of inhumane acts as an integral part of the regime. This includes the deprivation of the most basic rights for Palestinians, including to return to their homes and property. As noted, the apartheid reality faced by Palestinian refugees was long ago consolidated by Israel through the passage of legislation that purported to denationalize them *en masse*, forbid their return, and usurp their property.⁴⁹

E. THE LEGAL STATUS OF ISRAELI CONTINUED PRESENCE IN THE OCCUPIED PALESTINIAN TERRITORY

39. In part (b) of the question submitted to the Court in resolution 77/246, the General Assembly has asked for an opinion on how “the policies and practices of Israel affect the legal status of the occupation?”
40. It is clear from the foregoing that the policies and practices of Israel, the occupying power, in the OPT, that when examined as a whole, involve the gross and systematic violation of at least these peremptory norms of general international law:
- (1) the prohibition of aggression, which its corollary prohibiting the acquisition of territory through the use of force; and
 - (2) the imposition of a regime of widespread and systematic racial discrimination amounting to Apartheid.

⁴⁸ Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, 12 August 2022, A/HRC/49/87, para. 45

⁴⁹ See, e.g. Law of Return (1950), Absentee Property Law (1950), and Nationality Law (1952).

41. The evidence demonstrates that the occupying Power does not itself regard its presence in the OPT as anything but permanent. This permanence has been reified through the multiplicity of violations of the above noted peremptory norms by the occupying Power.

F. LEGAL CONSEQUENCES

42. As a consequence of its serious breaches, the Israeli occupying Power is bound:

- a. To withdraw immediately and unconditionally from all the Occupied Palestinian Territory. This means, *inter alia*, that Israel is obligated to reverse its policy of annexation of Jerusalem and the rest of the West Bank, remove its illegal settlements and related infrastructure from OPT, end its blockade of the Gaza Strip, repeal and render ineffective all legislative and administrative acts that underpin its internationally wrongful acts, including discriminatory legislation, measures and actions against the Palestinian people, and cease any further violations of the fundamental rights of the Palestinian people under international law;
- b. To provide assurances and guarantees of non-repetition of the above-mentioned violations;
- c. To make full reparation of the injury caused by its internationally wrongful acts, and to wipe out all the consequences of its policies and practices to the State of Palestine and the Palestinian people.

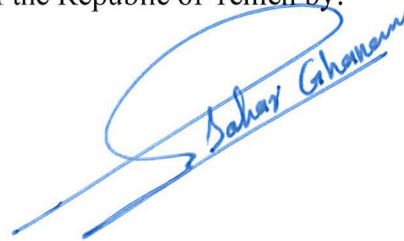
43. All States and the United Nations, are bound:

- a. Not to recognize the illegal situation resulting from Israel's serious breaches of obligations arising under peremptory norms of general international law;

- b. Not to render aid or assistance to violations of the rights of the Palestinian people;
and
- c. To cooperate to effectively ensure and protect the rights of the Palestinian people
and to end Israeli violations of those rights,

44. The Republic of Yemen submits the foregoing Written Statement to the International Court of Justice as information to assist the Court to render an Advisory Opinion on the question posed by the General Assembly.

Signed and submitted on behalf of the Government of the Republic of Yemen by:



(Sahar Mohammed Ghanem)
Ambassador of the Republic of Yemen to
The Kingdom of the Netherlands

The Hague: 25 July 2023