

INTERNATIONAL COURT OF JUSTICE

**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 UNITED ARAB EMIRATES

25 JULY 2023

Written Statement of the United Arab Emirates

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I. INTRODUCTION

1. The United Arab Emirates (the “UAE”) has the honour to submit its written statement on the request for an advisory opinion addressed to the International Court of Justice (the “Court”) by the General Assembly of the United Nations (“General Assembly”) on 30 December 2022 in its Resolution 77/247, entitled “Israeli practices affecting the human rights of the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem”.¹ The present written statement is submitted in accordance with Article 105 of the Rules of Court and pursuant to the Order of the Court dated 3 February 2023, by which the Court fixed 25 July 2023 as the time-limit within which Member States of the United Nations (“UN”) may present written statements on the questions submitted by the General Assembly.
2. The UAE is a strong supporter of the international rule of law and of the role of the Court as the principal judicial organ of the United Nations. The UAE believes that the provision by the Court of an advisory opinion in response to the questions posed by the General Assembly will contribute to achieving a durable peace and security in our region, with an independent and sovereign Palestinian State based on the borders of 4 June 1967 (“1967 Borders”), having East Jerusalem as its capital, living in peace with the State of Israel.
3. In its capacity as an elected member of the Security Council of the United Nations (“Security Council”), the UAE notes that on 20 February 2023 the Security Council adopted a Presidential Statement put forward by the UAE, which reaffirmed the Council’s “unwavering commitment to the vision of the two-State solution where two democratic States, Israel and Palestine, live side by side in peace within secure and recognized borders, consistent with international law and relevant UN resolutions”.² The UAE is greatly concerned that the continued lack of a credible peace process and escalating provocations, tension, violence and violations of international law continue to erode the viability of the two-State solution to a degree that places it in peril.
4. It is these aforementioned factors which contributed to the UAE’s decisions to vote in favour of Resolution 77/247 to request an advisory opinion, and to participate in the present proceedings.
5. These proceedings are in a line of continuity with the advisory opinion rendered by the Court in 2004 in respect of *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory* (“Wall Advisory Opinion”).³ In light of such continuity, the UAE

¹ General Assembly Resolution 77/247, A/RES/77/247, 30 December 2022.

² Presidential Statement, S/PRST/2023/1, 20 February 2023.

³ *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, ICJ Reports 2004*, p. 136.

considers that the jurisdiction of the Court to render an advisory opinion in the present case, and the judicial propriety of it doing so, are beyond question. The same reasons underlying the Court's conclusion in the Wall Advisory Opinion that it was in a position to comply with the request for an advisory opinion in those proceedings are equally applicable to the present proceedings.

6. In particular, the fact that the Security Council is exercising its functions in respect of the Israeli-Palestinian conflict under the Charter of the United Nations⁴ (“UN Charter”) does not make the General Assembly's request to the Court *ultra vires*. This reflects the accepted practice with regard to Article 12, paragraph 1, of the UN Charter,⁵ as underlined by the Court in the Wall Advisory Opinion.⁶ Moreover, the questions posed to the Court are “legal questions”, as required by Article 96, paragraph 1 of the UN Charter⁷ and Article 65 of the Statute of the Court, because they are questions “directed to the legal consequences arising from a given factual situation considering the rules and principles of international law”.⁸ With that criterion being satisfied, the political implications of the questions posed to the Court are immaterial to the existence of the Court's jurisdiction to render an advisory opinion in the present proceedings. As the Court has previously stated, the fact that a legal question also has political aspects “does not suffice to deprive it of its character as a ‘legal question’ and to ‘deprive the Court of a competence expressly conferred on it by its Statute’”.⁹
7. The UAE is also convinced that the Court can and should exercise its jurisdiction to render an advisory opinion in response to the present request. The object of the request before the Court is to obtain from the Court an advisory opinion which the General Assembly has deemed to be of assistance to the proper exercise of its functions, in respect of a matter that has been, and remains, of particular concern to the UN as a whole.
8. The UAE considers that the exercise by the Court of its jurisdiction will provide important guidance to and will support—rather than impede—a negotiated solution to the Israeli-Palestinian conflict consistent with the two-State solution. This point will be elucidated throughout the UAE's written statement. For present purposes, the UAE notes that in the Wall

⁴ Charter of the United Nations, 24 October 1945, 1 *U.N.T.S.* XVI (“UN Charter”).

⁵ UN Charter, Article 12, para. 1.

⁶ *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion*, ICJ Reports 2004, p. 150, para. 28.

⁷ UN Charter, Article 96, para. 1.

⁸ *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion*, ICJ Reports 2004, p. 153, para. 37.

⁹ *Legality of the Use by a State of Nuclear Weapons in Armed Conflict, Advisory Opinion*, ICJ Reports 1996, p. 66, para. 16 citing *Application for Review of Judgement No. 158 of the United Nations Administrative Tribunal, Advisory Opinion*, ICJ Reports 1973, p. 172, para. 14; *Accordance with International Law of the Unilateral Declaration of Independence in Respect of Kosovo, Advisory Opinion*, ICJ Reports 2010, p. 403, para. 27.

Advisory Opinion, the Court stressed the need for “efforts to be encouraged with a view to achieving as soon as possible, on the basis of international law, a negotiated solution to the outstanding problems and the establishment of a Palestinian State, existing side by side with Israel and its other neighbours, with peace and security for all in the region”.¹⁰ Given the increasingly dire situation on the ground and the growing threats to the viability of a two-State solution, the Court’s opinion will provide an ever more critical foundation and impetus for achieving a just and lawful resolution to the conflict.

9. In the circumstances of the present case, the bedrock and foundation for a negotiated solution consists not only of the principles set out in Article 2, paragraph 3 and Article 33 of the UN Charter, in the “Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations” (“**Friendly Relations Declaration**”),¹¹ and in the Manila Declaration on the Peaceful Settlement of International Disputes.¹² It is also rooted in the numerous relevant UN resolutions that shape the framework for a two-State solution. An advisory opinion from the Court addressing the questions submitted by the General Assembly in the present proceedings may assist with additional identification and clarification of the legal parameters for a comprehensive settlement.
10. Finally, the UAE notes that in the Wall Advisory Opinion, the Court considered and rejected the argument that it was inappropriate for the Court to address the specific questions relating to the construction of the wall because those questions were part of a greater whole.¹³ Having regard to the breadth of the questions now posed by the General Assembly to the Court, the UAE considers that the Court’s reasoning as to the propriety of its exercise of jurisdiction in the Wall Advisory Opinion applies, *a fortiori*, in the present advisory proceedings.
11. In anticipation of the volume of written statements that these proceedings and the important legal questions involved will elicit from other States and international organisations, including organisations to which the UAE belongs, such as the League of Arab States and the Organisation of Islamic Cooperation, the UAE’s written statement is not intended to be exhaustive. The Court will undoubtedly have before it written statements that will enable it to take into account fully other important considerations, including the issues of violations of the

¹⁰ *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, ICJ Reports 2004*, p. 201, para. 162.

¹¹ General Assembly Resolution 2625 (XXV), *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) 24 October 1970.

¹² General Assembly Resolution 37/10, *Manila Declaration on the Peaceful Settlement of International Disputes*, A/RES/37/10, 15 November 1982.

¹³ *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, ICJ Reports 2004*, p. 160, para. 54.

right of the Palestinian people to self-determination and the adoption of discriminatory legislation and measures.

12. Accordingly, for the sake of assisting the Court in the efficient management of these advisory proceedings, and in an effort to keep this written statement concise, the UAE will focus its written statement on those violations of international law by Israel that it considers to have a special impact on the two-State solution—namely, those resulting from the Israeli settlements in the Occupied Palestinian Territory (“**OPT**”) since 1967 and those concerning the status of East Jerusalem. These important matters are inextricably tied to the viability of the two-State solution.
13. The UAE reaffirms its strong support for the two-State solution, which represents the international community’s vision for a peaceful settlement of the Israeli-Palestinian conflict.¹⁴

II. THE IMPORTANCE OF THE TWO-STATE SOLUTION

14. The question of Palestine was first brought before the General Assembly in 1947. By Resolution 181 (II) of 29 November 1947,¹⁵ the General Assembly adopted the Plan of Partition with Economic Union thereby mandating the partition of Palestine into two independent States.
15. Following the June 1967 armed conflict, the Security Council, by Resolution 242 (1967), “affirm[ed] that the fulfilment of Charter principles requires the establishment of a just and lasting peace in the Middle East” and set forth principles for such a peace.¹⁶ By Resolution 3236 (XXIX) of 22 November 1974, the General Assembly “[r]eaffirm[ed] the inalienable rights of the Palestinian People in Palestine, including: (a) The right to self-determination without external interference; (b) The right to national independence and sovereignty”.¹⁷ Subsequent to the signing of the 13 September 1993 Declaration of Principles on Interim Self-Government Arrangements, by Resolution 904 (1994), the Security Council “reaffirm[ed] its support for the peace process currently underway”.¹⁸
16. Following various other initiatives in the intervening years, on 7 May 2003, the UN Secretary-General presented to the Security Council a “Road Map” which outlined the applicable principles for a permanent two-State solution to the Israeli-Palestinian conflict (“**Road**

¹⁴ General Assembly Resolution 73/89, A/RES/73/89, 6 December 2018; Presidential Statement, S/PRST/2023/1, 20 February 2023; Security Council Resolution 2334 (2016), S/RES/2334 (2016), 23 December 2016, preamble.

¹⁵ General Assembly Resolution 181(II), A/RES/181(II), 29 November 1947.

¹⁶ Security Council Resolution 242 (1967), S/RES/242(1967), 22 November 1967, para. 1.

¹⁷ General Assembly Resolution 3326(XXIX), A/RES/3326(XXIX), 22 November 1973, para.1.

¹⁸ Security Council Resolution 904 (1994), S/RES/904(1994), 18 March 1994, para. 5.

Map).¹⁹ The Road Map, prepared by representatives of the United States of America, the European Union, the Russian Federation and the UN (the “**Quartet**”), sought to achieve the cessation of the conflict and the implementation of the two-State solution through a phased process and timeline.

17. Both the Security Council and the General Assembly have endorsed and reaffirmed the two-State solution as being fundamental to achieving peace between Israel and Palestine. For instance, by Resolution ES-10/13 of 21 October 2003, the General Assembly “[c]all[ed] upon both parties to fulfil their obligations under relevant provisions of the road map”.²⁰ In Resolution 1515 (2003) of 19 November 2003, the Security Council similarly “[e]ndorse[d] the Quartet Performance-based Roadmap to a Permanent Two-State Solution to the Israeli-Palestinian Conflict” and “[c]all[ed] on the parties to fulfil their obligations under the Roadmap in cooperation with the Quartet and to achieve the vision of two States living side by side in peace and security”.²¹
18. Thereafter, in Resolution ES-10/14 of 8 December 2003,²² the General Assembly “affirm[ed] the necessity of ending the conflict on the basis of the two-State solution of Israel and Palestine living side by side in peace and security based on the Armistice Line of 1949, in accordance with relevant Security Council and General Assembly resolutions”.
19. More recently, in Resolution 2334 (2016) of 23 December 2016, the Security Council “reiterat[ed] its vision of a region where two democratic States, Israel and Palestine, live side by side in peace within secure and recognized borders”.²³ In recent years, the Security Council and the General Assembly have continued to express their commitment to the two-State solution. By Resolution 77/25 of 30 November 2022, the General Assembly “[r]eaffirm[ed] its commitment, in accordance with international law, to the two-State solution of Israel and Palestine, living side by side in peace and security within recognized borders, based on the pre-1967 borders”.²⁴
20. On 20 February 2023, the Security Council adopted a Presidential Statement, in which it stated:

¹⁹ Letter dated 7 May 2003 from the Secretary-General addressed to the President of the Security Council, S/2003/529, 7 May 2003.

²⁰ General Assembly Resolution ES-10/13, A/RES/ES-10/13, 21 October 2003, para. 2.

²¹ Security Council Resolution 1515 (2003), S/RES/1515(2003), 19 November 2003 paras. 1, 2.

²² General Assembly Resolution ES-10/14, A/RES/ES-10/14, 8 December 2003, preamble.

²³ Security Council Resolution 2334 (2016), S/RES/2334(2016), 23 December 2016.

²⁴ General Assembly Resolution 77/25, A/RES/77/25, 30 November 2022, para. 10.

“The Security Council reaffirms the right of all States to live in peace within secure and internationally recognized borders, and stresses that both the Israeli and Palestinian people are entitled to equal measures of freedom, security, prosperity, justice, and dignity.

“The Security Council reaffirms its unwavering commitment to the vision of the two-State solution where two democratic States, Israel and Palestine, live side by side in peace within secure and recognized borders, consistent with international law and relevant UN resolutions”.²⁵

21. The framework endorsed and relied upon by the Security Council and the General Assembly for resolving the Israeli-Palestinian conflict remains the two-State solution. The UAE fully endorses this framework,²⁶ and considers the violations of international law committed by Israel to be gravely alarming because they severely undermine the viability of the two-State solution.
22. The following sections of this statement focus on such violations in particular as regards:
 - (a) actions altering or purporting to alter the status, character and demographic composition of East Jerusalem; and
 - (b) the establishment and continued presence of Israeli settlements and the increasing number of settlers in the OPT.

III. THE OCCUPATION OF EAST JERUSALEM AND ISRAEL’S ACTIONS TO ALTER ITS STATUS, CHARACTER AND DEMOGRAPHIC COMPOSITION

23. Israel has imposed and implemented measures which are aimed at altering the demographic composition, character and status of East Jerusalem. This is of grave concern for two distinct reasons.
24. First, East Jerusalem, which has been occupied by Israel since 1967, is inextricably tied to the viability of the two-State solution, with an independent Palestinian State based on the 1967 Borders with East Jerusalem as its capital, and living side by side with Israel, in peace, security and mutual recognition. As such, the measures and actions taken by Israel having as their aim the alteration of the status, character or demographic composition of East Jerusalem, in

²⁵ Presidential Statement, S/PRST/2023/1, 20 February 2023.

²⁶ See e.g., Provisional Verbatim Record of the 9361st Meeting of the Security Council, S/PV.9361, 27 June 2023, pp. 16-17.

addition to being unlawful, “constitute a serious obstruction to achieving a comprehensive, just and lasting peace in the Middle East”.²⁷

25. Second, the international community has a legitimate interest in protecting the unique spiritual, religious and cultural character and dimensions of Jerusalem.²⁸ Changes to the legal and historic status quo in East Jerusalem jeopardize not just the rights, presence, and identity of Palestinian residents of East Jerusalem, but also risk inciting broader violence which continues to erupt as a result of provocations and unilateral actions at the Holy Places in East Jerusalem.

A. Israel has undermined the character and historical status quo of East Jerusalem

26. Jerusalem has a unique character and heritage for humanity that is of significance to the entire international community.²⁹ It is a sacred city for the three Abrahamic religions: Islam, Christianity, and Judaism. As home to many Holy Places, Jerusalem holds immense religious value for hundreds of millions of worshippers worldwide.
27. The unique religious, cultural and human heritage of Jerusalem has consistently been recognised by the UN. The Security Council has emphasised “the need to preserve the unique spiritual and religious dimension of the Holy Places in the city”.³⁰ Similarly, the General Assembly has underlined the “need to protect and preserve the unique spiritual and religious character and dimensions of the Holy City”³¹ and affirmed “the importance and holiness of the City of Jerusalem for the three monotheistic religions”.³²

²⁷ Security Council Resolution 465 (1980), S/RES/465(1980), 1 March 1980, para. 5; Security Council Resolution 471 (1980), S/RES/471 (1980), 5 June 1980, preamble; Security Council Resolution 476 (1980), S/RES/476(1980), 30 June 1980, para. 3. See also Security Council Resolution 298(1971), S/RES/298(1971), 25 September 1971; Security Council Resolution 478 (1980), S/RES/478(1980), 20 August 1980.

²⁸ General Assembly Resolution 77/247, A/RES/77/247, 30 December 2022, preamble; General Assembly Resolution 76/12, A/RES/76/12, 1 December 2021, preamble.

²⁹ Most recently, General Assembly Resolution 77/247, A/RES/77/247, 30 December 2022, preamble; General Assembly Resolution 76/12, A/RES/76/12, 1 December 2021, preamble.

³⁰ See e.g., Security Council Resolution 452 (1979), A/RES/452(1979), 20 July 1979, preamble; Security Council Resolution 465 (1980), S/RES/465(1980), 1 March 1980, preamble; Security Council Resolution 476 (1980), S/RES/476(1980), 30 June 1980, preamble.

³¹ General Assembly Resolution 36/15, A/RES/36/15, 28 October 1981, preamble. See also General Assembly Resolution ES-10/19, A/RES/ES-10/19, 21 December 2017, preamble.

³² Most recently in General Assembly Resolution 76/12, 6 December 2021, preamble. See also General Assembly Resolution 77/247, A/RES/77/247, 30 December 2022, preamble.

28. It is because of its unique character that the General Assembly has referred to “the obligation to respect the historic status quo” of Jerusalem”,³³ and has “call[ed] for respect for the historic status quo at the holy places of Jerusalem, in word and in practice”.³⁴
29. The Hashemite Kingdom of Jordan plays a vital role as the Custodian of the Holy Places in Jerusalem. The 1949 Armistice Agreement between Israel and Jordan recorded the States’ agreement in respect of “free access to the Holy Places and cultural institutions”.³⁵ Subsequently, in 1994, pursuant to the Jordan-Israel Peace Agreement, both States undertook to “provide freedom of access to places of religious and historical significance”,³⁶ and Israel committed to respect the role of the Hashemite Kingdom of Jordan.³⁷
30. In the Wall Advisory Opinion, the Court placed specific emphasis on the obligations deriving from Israel’s commitments under these agreements. The Court noted that under the 1949 Armistice Agreement, Israel undertook “to guarantee freedom of access to the Holy Places” and that “this undertaking by Israel has remained valid for the Holy Places which came under its control in 1967”, as also confirmed by the 1994 Peace Treaty.³⁸ The Court emphasised that “account must [...] be taken of specific guarantees of access to the Christian, Jewish and Islamic Holy Places” given that Israel had committed to the principle of “free access to the Holy Places”, which the Court considered to extend to all Holy Places located in Jerusalem.³⁹
31. In a similar vein, the Security Council was unequivocal when in its Presidential Statement of 20 February 2023, it “call[ed] for upholding unchanged the historic status quo at the holy sites in Jerusalem in word and in practice, and emphasiz[ed] in this regard the special role of the Hashemite Kingdom of Jordan”.⁴⁰
32. It is therefore a matter of great concern that Israel has taken and continues to take various measures which undermine the special character of East Jerusalem. The UAE has strongly condemned such actions and has consistently stressed the need to ensure the protection of

³³ General Assembly Resolution 77/247, A/RES/77/247, 30 December 2022, preamble.

³⁴ General Assembly Resolution 76/12, A/RES/76/12, 1 December 2021, para. 4.

³⁵ Israel-Jordan General Armistice Agreement, 3 April 1949, 656 *U.N.T.S.* 194, Article VIII.

³⁶ Treaty of Peace between the State of Israel and the Hashemite Kingdom of Jordan, 26 October 1994, 2042 *U.N.T.S.* 393, Article 9, para. 1.

³⁷ Treaty of Peace between the State of Israel and the Hashemite Kingdom of Jordan, 26 October 1994, 2042 *U.N.T.S.* 393, Article 9, para. 2.

³⁸ *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, ICJ Reports 2004*, p. 189, para. 129.

³⁹ *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, ICJ Reports 2004*, p. 189, para. 129.

⁴⁰ Presidential Statement, S/PRST/2023/1, 20 February 2023, para. 2.

worshippers, to allow their free access and to maintain the legal and historic status quo of Jerusalem and its Holy Places.⁴¹

33. In Jerusalem, Israel has hindered freedom of access to the Holy Places by actively preventing access to or unduly interfering with the long-established arrangements governing the Holy Places in the city. These actions have included repeated violent incursions, including by Israeli state actors, into the Al-Aqsa Mosque compound as well as the imposition of access restrictions on Muslim worshippers.⁴²
34. Furthermore, as indicated by UN reporting,⁴³ Israel's excavation activities in Jerusalem threaten its historic and religious character. The General Assembly,⁴⁴ the League of Arab States,⁴⁵ and the Organisation of Islamic Cooperation⁴⁶ have variously condemned and expressed concern about Israeli excavations, including in and around religious sites in the Old City of Jerusalem. Moreover, the General Assembly has noted with alarm that Israeli excavations and transformations "seriously endanger the historical, cultural and religious sites of Jerusalem", and has determined that these activities "constitute a flagrant violation of the principles of international law and the relevant provisions of the Geneva Convention relative

⁴¹ Provisional Verbatim Record of the 9021st Meeting of the Security Council, S/PV.9021, 25 April 2022.

⁴² See e.g., Implementation of Security Council Resolution 2334 (2016), Report of the Secretary-General, S/2023/458, 21 June 2023, para. 21; Implementation of Security Council Resolution 2334 (2016), Report of the Secretary-General, S/2022/504, 22 June 2022, para. 36; Implementation of Security Council Resolution 2334 (2016), Report of the Secretary-General, S/2021/584, 18 June 2021, paras. 12-14; General Assembly, Report of the Committee on the Exercise of the Inalienable Rights of the Palestinian People, A/76/35, 31 August 2021 para. 10, Implementation of Security Council Resolution 2334 (2016), Report of the Secretary-General, S/2021/584, 18 June 2021, para. 12.

⁴³ See e.g., General Assembly, Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories, A/10272, 27 October 1975, para. 27(d); General Assembly, Report of the Secretary-General: Permanent sovereignty over national resources in the occupied Arab territories, A/10290, 3 November 1975, Annex V, para. 15; General Assembly, Report of the Committee on the Exercise of the Inalienable Rights of the Palestinian People, A/36/35, 16 October 1981, paras. 21, 28; General Assembly, Report of the Secretary-General: Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and the occupied Syrian Golan, A/69/348, 25 August 2014, para. 33; General Assembly, 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/70/406, 5 October 2015, paras. 6, 39; General Assembly, Report of the Committee on the Exercise of the Inalienable Rights of the Palestinian People, A/70/35, 6 October 2015, para. 3.

⁴⁴ See e.g., General Assembly Resolution 69/23, A/RES/69/23, 25 November 2014, preamble; General Assembly Resolution 71/23, A/RES/71/23, 30 November 2016, preamble; General Assembly Resolution 76/12, A/RES/76/12, 1 December 2021, preamble.

⁴⁵ See e.g., League of Arab States, Summit Resolution 455 on Developments on the Palestinian question, 21st ordinary session, 30 March 2009, para. 8; League of Arab States, Resolution 8600 on Developments and Israeli violations in the occupied city of Jerusalem, 155th extraordinary session, 3 March 2021, para. 4.

⁴⁶ See e.g., Organisation of Islamic Cooperation, Resolution No. 1/48-PAL on The Cause of Palestine, 48th session of the Council of Foreign Ministers, 22-23 March 2022, para. 23.

to the Protection of Civilian Persons in Time of War, of 12 August 1949”.⁴⁷ Undertaking, approving, or failing to prevent such abuses, all of which severely impact the integrity of Holy Places in Jerusalem, undermines the Islamic and Christian characters of East Jerusalem. Reports of planned and executed excavations and related activities near Holy Places are particularly concerning in this regard.⁴⁸

35. Apart from demonstrating disregard for the historical, religious and cultural significance of the Holy Places and the Hashemite custodianship, the actions described above further constitute a violation of Israel’s obligations under Article 27 of the Convention (IV) relative to the Protection of Civilian Persons in Time of War, 1949 (“**Fourth Geneva Convention**”). This provides that “[p]rotected persons are entitled, in all circumstances, to respect for [...] their religious convictions and practices, and their manners and customs”.⁴⁹

B. Israel has altered or purported to alter the status and demographic composition of East Jerusalem

36. Since the occupation of East Jerusalem by Israel in 1967,⁵⁰ the Security Council and General Assembly have consistently and repeatedly affirmed that its status, character, and demographic composition must be preserved.⁵¹

⁴⁷ General Assembly Resolution 36/15, A/RES/36/15, 28 October 1981, preamble, para. 1.

⁴⁸ For example, recent projects for the construction of an elevator, and a cable car connecting West Jerusalem to a settler organisation centre near a gate in the Old City. See UNESCO, General Conference, 41 C/16, 8 November 2021, para. 3; General Assembly, Report of the Secretary-General: Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and the Occupied Syrian Golan, A/77/493, 3 October 2022, para. 15. Israel has also approved certain construction works on a park near the Yusufiya Islamic cemetery, and an Israeli court declined the Islamic Waqf’s petition for an order halting construction following the discovery of human remains which were unearthed during the works. See Implementation of Security Council Resolution 2334(2016), Report of the Secretary-General, S/2021/1047, 15 December 2021, para. 41.

⁴⁹ Convention (IV) relative to the Protection of Civilian Persons in Time of War, 12 August 1949 (“**Fourth Geneva Convention**”), Article 27.

⁵⁰ *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, ICJ Reports 2004*, p. 167, para. 78.

⁵¹ See e.g., Security Council Resolution 252 (1968), S/RES/252(1968), 21 May 1968, paras. 2, 3; Security Council Resolution 267 (1969), S/RES/267(1969), 3 July 1969, paras. 3, 4, 5; Security Council Resolution 298 (1971), S/RES/298(1971), 25 September 1971, preamble, paras. 3, 4; Security Council Resolution 476 (1980), S/RES/476(1980), 30 June 1980, preamble, paras. 3, 4, 5; Security Council Resolution 2334 (2016), S/RES/2334(2016), 23 December 2016, preamble, para. 3; General Assembly Resolution 2253 (ES-V), A/RES/2253(ES-V), 4 July 1967, preamble, paras. 1, 2; General Assembly Resolution 32/91(C), A/RES/32/91(C), 13 December 1977, para. 6; General Assembly Resolution 35/207, A/RES/35/207, 16 December 1980, para. 6; General Assembly Resolution 36/120(E), A/RES/36/120(E), 10 December 1981, preamble, paras. 1, 3; General Assembly Resolution 42/209(B), A/RES/42/209(B), 11 December 1987, para. 7; General Assembly Resolution 49/87(A), A/RES/49/87(A), 16 December 1994, preamble, para. 1; General Assembly Resolution 70/15, A/RES/70/15, 24 November 2015, preamble, paras. 9, 15.

37. By altering or purporting to alter the status and the demographic composition of occupied East Jerusalem, Israel has breached its obligations under the Fourth Geneva Convention, and its obligation to respect the right to self-determination of the Palestinian people.
38. The unlawful nature of Israel's conduct, and the Security Council's characterisation thereof, were addressed by this Court in the Wall Advisory Opinion. As the Court found, "[f]rom 1967 onwards, Israel took a number of measures in the territory it occupied, [...] aimed at changing the status of the City of Jerusalem".⁵² The Court recognised that, by stating in Resolution 298 (1971) that "all legislative and administrative actions taken by Israel to change the status of the City of Jerusalem, including expropriation of land and properties, transfer of populations and legislation aimed at the incorporation of the occupied section, are totally invalid and cannot change that status",⁵³ the Security Council had conveyed its response to Israel's actions in "the clearest possible terms".⁵⁴
39. Yet, Israel has repeatedly taken measures with a view to extending and expanding its administration and legislation to East Jerusalem, in contravention of the Fourth Geneva Convention.⁵⁵ In response, the Security Council has repeatedly and urgently called upon Israel to rescind all previous measures and actions which affect or purport to affect the status of East Jerusalem.⁵⁶
40. In particular, in 1980, Israel enacted legislation (the Basic Law: Jerusalem, Capital of Israel) to make Jerusalem the "complete and united" capital of Israel.⁵⁷ Following the introduction of the draft legislation in the Knesset, the Security Council adopted Resolution 476 (1980), in which it deplored "the persistence of Israel in changing the physical character, demographic composition, institutional structure and the status of the Holy City of Jerusalem" and stated that it was "gravely concerned about the legislative steps initiated in the Israeli Knesset with the aim of changing the character and status of the Holy City of Jerusalem".⁵⁸ Reconfirming that any such measures "constitute a flagrant violation" of the Fourth Geneva Convention and are "null and void and must be rescinded", the Council urgently called on Israel "to abide by

⁵² *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, ICJ Reports 2004*, p. 166, para. 75.

⁵³ Security Council Resolution 298 (1971), S/RES/298(1971), 25 September 1971, para. 3.

⁵⁴ *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, ICJ Reports 2004*, p. 166, para. 75.

⁵⁵ Fourth Geneva Convention, Article 47.

⁵⁶ Security Council Resolution 252(1968), S/RES/252(1968), 21 May 1968, para. 3; Security Council Resolution 267 (1967), S/RES/267(1969), 3 July 1969, para. 5; Security Council Resolution 298(1971), S/RES/298(1971), 25 September 1971, para. 4; Security Council Resolution 476(1980), S/RES/476(1980), 30 June 1980, para. 4.

⁵⁷ The Basic Law: Jerusalem the Capital of Israel (available at: knesset.gov.il).

⁵⁸ Security Council Resolution 476(1980), S/RES/476(1980), 30 June 1980, Preamble.

the present and previous Security Council resolutions and to desist forthwith”.⁵⁹ Moreover, “in the event of non-compliance by Israel”, the Security Council foreshadowed that it would examine “practical ways and means in accordance with the relevant provisions of the Charter of the United Nations to secure full implementation of the present resolution”.⁶⁰

41. Subsequently, a few weeks after Israel’s enactment of the legislation, the Security Council expressed its deep concern over “the enactment of a ‘basic law’ in the Israeli Knesset proclaiming a change in the character and status of the Holy City of Jerusalem”.⁶¹ In Resolution 478 (1980), the Council went on to state that it:

“2. *Affirms* that the enactment of the ‘basic law’ by Israel constitutes a violation of international law and does not affect the continued application of the Geneva Convention relative to the Protection to Civilian Persons in Time of War, of 12 August 1949, in the Palestinian and other Arab territories occupied since June 1967, including Jerusalem;

“3. *Determines* 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;

“4. *Affirms* also that this action constitutes a serious obstruction to achieving a comprehensive, just and lasting peace in the Middle East;

“5. *Decides* not to recognize the ‘basic law’ and such other actions by Israel that, as a result of this law, seek to alter the character and status of Jerusalem and calls upon: (a) All Member States to accept this decision [...]”.⁶²

42. The aforementioned Basic Law, and the other legislative and administrative measures since adopted by Israel in an attempt to alter the character and status of East Jerusalem, have been widely and consistently condemned by the international community as being in violation of international law.⁶³

⁵⁹ Security Council Resolution 476(1980), S/RES/476(1980), 30 June 1980, paras. 3, 5.

⁶⁰ Security Council Resolution 476(1980), S/RES/476(1980), 30 June 1980, para. 6.

⁶¹ Security Council Resolution 478(1980), S/RES/478(1980), 20 August 1980, preamble.

⁶² Security Council Resolution 478(1980), S/RES/478(1980), 20 August 1980, paras. 2-5

⁶³ See e.g., General Assembly Resolution 36/120(E), A/RES/36/120E, 10 December 1981; General Assembly Resolution 41/162(C), A/RES/41/162C, 4 December 1986; General Assembly Resolution 46/82(B), A/RES/46/82B, 16 December 1991; General Assembly Resolution 52/53, A/RES/52/53, 9 December 1997; General Assembly Resolution 57/111, A/RES/57/111, 3 December 2002; General Assembly Resolution 62/84, A/RES/62/84, 10 December 2007; General Assembly Resolution 68/16, A/RES/68/16, 26 November 2013; General Assembly

43. The unambiguous text of the Security Council's decision in Resolution 478 (1980), read in the context of its preceding resolutions including Resolution 476 (1980), leaves no possible margin for doubt that it was intended to be legally binding on Israel and all other UN Member States. As this Court stated in its Advisory Opinion on *Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970)*, once confronted with such an internationally unlawful situation, as declared by the Security Council, UN Member States "would be expected to act in consequence of the declaration made on their behalf".⁶⁴ Thus, the Security Council's decisions in Resolution 478 (1980) were, and remain, binding on all UN Member States, because "[t]o hold otherwise would be to deprive this principal organ of its essential functions and powers under the Charter".⁶⁵
44. Accordingly, all legislative and administrative measures and actions taken by Israel in the context of its occupation of East Jerusalem, which affect or aim to alter the status of East Jerusalem, constitute violations of international law, are null and void and have no legal effect on the status of East Jerusalem under international law.
45. In addition to taking such measures that aim at altering the status of East Jerusalem, Israel has continued to undermine the Arab identity of East Jerusalem by altering its demographic composition, in contravention of its obligations under international law and relevant Security Council resolutions.
46. This Court has previously determined that the construction of the wall and the establishment of Israeli settlements "severely impede[s] the exercise by the Palestinian people of its right to self-determination",⁶⁶ result in "alterations to the demographic composition of the [OPT]",⁶⁷ and "contravene[s] Article 49, paragraph 6, of the Fourth Geneva Convention and the Security Council resolutions [446 (1979) of 22 March 1979, 452 (1979) of 20 July 1979 and 465 (1980) of 1 March 1980]".⁶⁸

Resolution 73/22, A/RES/73/22, 30 November 2018; General Assembly Resolution 76/12, A/RES/76/12, 1 December 2021.

⁶⁴ *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, p. 52, para. 112.

⁶⁵ *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. 53-54, para. 116.

⁶⁶ *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Advisory Opinion, ICJ Reports 2004, p. 184, para. 122.

⁶⁷ *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Advisory Opinion, ICJ Reports 2004, p. 184, para. 122.

⁶⁸ *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Advisory Opinion, ICJ Reports 2004, p. 192, para. 134.

47. Notwithstanding the Wall Advisory Opinion, Israel's illegal practices have not stopped in the years since; and have, in fact, escalated. As recently as 21 June 2023, the Report of the Secretary-General on the implementation of Security Council Resolution 2334 (2016) covering the period between 14 March and 14 June 2023 noted that "Israeli authorities advanced plans for 920 housing units in occupied East Jerusalem" and tenders for a further 90 housing units in East Jerusalem were announced.⁶⁹
48. The violations by Israel of its international obligations arising from the illegal construction of settlements are addressed in Section IV of this statement. Certain matters bear noting, however, in the specific context of East Jerusalem.
49. First, the continued construction and consolidation of the "ring"⁷⁰ settlements that encircle East Jerusalem violate Article 49, paragraph 6 of the Fourth Geneva Convention. These settlements effectively isolate East Jerusalem from the remainder of the West Bank,⁷¹ thereby wholly undermining its viability as the capital of an independent Palestinian State and, more broadly, the viability of an independent and contiguous Palestine. The General Assembly has recently deplored "the further isolation of the city from the rest of the Occupied Palestinian Territory".⁷²
50. Second, Israel continued to displace Palestinians in East Jerusalem, in violation of Article 49, paragraph 1 of the Fourth Geneva Convention, as a corollary of the construction of settlements and its seizure of Palestinian land for the construction of infrastructure.⁷³
51. The notable impact of these practices in East Jerusalem is the irreversible alteration of the demographic composition of the city. Since 2009, Israel has demolished over 1,900

⁶⁹ Implementation of Security Council Resolution 2334 (2016), Report of the Secretary-General, S/2023/458, 21 June 2023, para. 3.

⁷⁰ General Assembly, Report of the Secretary-General: Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and the Occupied Syrian Golan, A/77/493, 3 October 2022, para. 6; Implementation of Security Council Resolution 2334 (2016), Report of the Secretary-General, S/2021/1047, 15 December 2021, para. 5; General Assembly, Report of the Secretary-General: Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and the occupied Syrian Golan, A/75/376, 1 October 2020, paras. 40-42; Implementation of Security Council Resolution 2334 (2016), Report of the Secretary-General, S/2020/555, 18 June 2020, para. 3.

⁷¹ General Assembly, Report of the Secretary-General: Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and the Occupied Syrian Golan, A/77/493, 3 October 2022, para. 6; Implementation of Security Council Resolution 2334 (2016), Report of the Secretary-General, S/2021/1047, 15 December 2021, para. 5; General Assembly, Report of the Secretary-General: Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and the occupied Syrian Golan, A/75/376, 1 October 2020, paras. 40-42; Implementation of Security Council Resolution 2334 (2016), Report of the Secretary-General, S/2020/555, 18 June 2020, para. 3.

⁷² General Assembly Resolution 76/12, A/RES/76/12, 1 December 2021, preamble.

⁷³ General Assembly, Report of the Secretary-General: Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and the Occupied Syrian Golan, A/77/493, 3 October 2022, para. 13.

Palestinian structures, leading to the displacement of 3,658 Palestinians in East Jerusalem.⁷⁴ These measures are compounded by zoning restrictions considering that, as of December 2017, only 13 per cent of East Jerusalem is designated for Palestinian construction, much of which is already built up; and that over a third of Palestinian homes lack difficult-to-obtain Israeli building permits, placing over 100,000 residents at risk of displacement.⁷⁵ Through these interlinked practices of forcible displacement and the expansion of illegal settlements or infrastructure, Israel continues to unlawfully erode the Arab identity of East Jerusalem.

52. The indisputable cumulative effect of the above-described violations of international law is that Israel's ongoing, unlawful practices alter the status, character, and demographic composition of East Jerusalem. As a result, these violations threaten the viability of a two-State solution with East Jerusalem as the capital of an independent Palestinian State.

IV. THE CONSTRUCTION AND EXPANSION OF ISRAELI SETTLEMENTS IN THE OCCUPIED PALESTINIAN TERRITORY

53. In the Wall Advisory Opinion, the Court concluded that international humanitarian law and international human rights law apply concurrently to the situation of occupation in the OPT.⁷⁶ Israel's continued occupation of the OPT and its concomitant activities in constructing and expanding Israeli settlements there are inconsistent with established principles of international law, including the principle that occupation of territory must be a temporary situation. Simultaneously, they also constitute a serious threat and impediment to the future viability and realisation of an independent Palestinian State based on the 1967 Borders.
54. On 12 December 2022, the impact of the violations of international law resulting from Israel's settlement activity on the two-State solution was emphasised by the General Assembly in its Resolution 77/126, in which the General Assembly stressed "the urgent need to reverse negative trends on the ground, including the building of settlements and the demolition of Palestinian homes, which are imperilling the viability of the two-State solution".⁷⁷
55. In the same vein, the Security Council has consistently denounced Israel's establishment and expansion of Israeli settlements in the OPT as a violation of international law, and it has also expressed its concern about the impact of the settlements on the two-State solution. In its

⁷⁴ UN Office for the Coordination of Humanitarian Affairs, Data on demolition and displacement in the West Bank, updated on 19 July 2023 (available at: <https://www.ochaopt.org/data/demolition>).

⁷⁵ UN Office for the Coordination of Humanitarian Affairs, West Bank-East Jerusalem: key humanitarian concerns, 21 December 2017 (available at: <https://www.ochaopt.org/content/west-bank-east-jerusalem-key-humanitarian-concerns>).

⁷⁶ *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, ICJ Reports 2004*, p. 177, para. 101, pp. 180-181, paras. 112-113.

⁷⁷ General Assembly Resolution 77/126, A/RES/77/126, 12 December 2022, para. 5.

Resolution 446 (1979), the Security Council determined “that the policy and practices of Israel in establishing settlements in the Palestinian and other Arab territories occupied since 1967 have no legal validity and constitute a serious obstruction to achieving a comprehensive, just and lasting peace in the Middle East”.⁷⁸ The Security Council has repeated this message on several occasions in the years which have followed.⁷⁹

56. More recently, Israel’s conduct in respect of the construction and expansion of settlements was condemned by the Security Council in its Resolution 2334 (2016), in which the Security Council reaffirmed “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”.⁸⁰
57. The Security Council’s position on this matter has remained firm. In its Presidential Statement adopted on 20 February 2023,⁸¹ the Security Council expressed “deep concern and dismay with Israel’s announcement on February 12, 2023, announcing further construction and expansion of settlements and the ‘legalization’ of settlement outposts”, and reiterated “that continuing Israeli settlement activities are dangerously imperilling the viability of the two-State solution based on the 1967 lines”. The Security Council also stated its strong opposition to “all unilateral measures that impede peace, including, inter alia, Israeli construction and expansion of settlements, confiscation of Palestinians’ land, and the ‘legalization’ of settlement outposts, demolition of Palestinians’ homes and displacement of Palestinian civilians”.⁸²
58. The UAE shares the concerns expressed by the Security Council, and has consistently condemned Israel’s continued construction, expansion and attempts to legalise Israeli settlements in the OPT. In this regard, the UAE has highlighted the unlawful nature of those settlements under international law, and has called on Israel to immediately cease all its settlement activities and to reverse the negative trends on the ground.⁸³ The UAE has also

⁷⁸ Security Council Resolution 446 (1979), S/RES/446(1979), 22 March 1979, para. 1.

⁷⁹ Security Council Resolution 452 (1979), S/RES/452(1979), 20 July 1979, preamble; Security Council Resolution 465 (1980), S/RES/465(1980), 1 March 1980, para. 5.

⁸⁰ Security Council Resolution 2334 (2016), S/RES/2334(2016), 23 December 2016, para. 1.

⁸¹ Presidential Statement, S/PRST/2023/1, 20 February 2023.

⁸² Presidential Statement, S/PRST/2023/1, 20 February 2023, paras. 3-5.

⁸³ See e.g., Provisional Verbatim Record of the 9309th Meeting of the Security Council, S/PV.9309, 25 April 2023, p. 11 (“we reiterate our call on Israel to immediately cease all its settlement activities, reverse the negative trends on the ground and uphold its responsibilities in accordance with international law, including international humanitarian law”); Provisional Verbatim Record of the 9290th Meeting of the Security Council, S/PV.9290, 22 March 2023, p. 13 (“It is imperative for Israel to fully cease all settlement activities, since they constitute flagrant violation of

affirmed its rejection of any steps taken by Israel having as their aim the annexation of Palestinian territory.⁸⁴

A. Israel's activities in constructing and expanding Israeli settlements in the Occupied Palestinian Territory

59. Since 1967, Israel has planned and facilitated the transfer of its nationals to the OPT, including East Jerusalem, by establishing and supporting a significant number of settlements or outposts in the OPT. Israel's construction and expansion of settlements in the OPT has increased quickly and steadily over the last decade. This has occurred despite the unequivocal condemnation of such activities by the Security Council, the General Assembly and the wider international community. For the sake of brevity and expediency, this section does not address the historical development of Israeli settlements in the OPT, but focusses instead on some of the most recent developments, in order to set the factual background relevant for the UAE's legal observations that follow.
60. Numerous independent UN reports addressing the Israeli occupation attest to Israel's progressive expansion of settlements in the OPT.⁸⁵ This expansion has been implemented

international law and Council resolutions"); Provisional Verbatim Record of the 9263rd Meeting of the Security Council, S/PV.9263, 20 February 2023, p. 17 ("First, de-escalation is key. That must include reversing, in addition to suspending, unilateral actions such as settlement activities, which undermine the prospects for a two-State solution and constitute a clear violation of international law and the Council's resolutions"); Provisional Verbatim Record of the 9224th Meeting of the Security Council, S/PV.9224, 19 December 2022, p. 13 ("First, in the context of our discussion on resolution 2334 (2016) today, we reiterate our demand that Israel must stop all of its continuing settlement activities in the [O]ccupied Palestinian [T]erritory, which constitute a violation of international law and undermine peace efforts"). See also Provisional Verbatim Record of the 9139th Meeting of the Security Council, S/PV.9139 28 September 2022, p. 13; Provisional Verbatim Record of the 9116th Meeting of the Security Council, S/PV.9116, 25 August 2022, p. 13; Provisional Verbatim Record of the 9099th Meeting of the Security Council, S/PV.9099, 26 July 2022, p. 18; Provisional Verbatim Record of the 9077th Meeting of the Security Council, S/PV.9077, 27 June 2022, p. 15; Provisional Verbatim Record of the 9000th Meeting of the Security Council, S/PV.9000, 22 March 2022, p. 18; Provisional Verbatim Record of the 8973rd Meeting of the Security Council, S/PV.8973, 23 February 2022, pp. 13-14; Provisional Verbatim Record of the 8950th Meeting of the Security Council, S/PV.8950, 19 January 2022, p. 16.

⁸⁴ Provisional Verbatim Record of the 9224th Meeting of the Security Council, S/PV.9224, 19 December 2022, p. 13.

⁸⁵ See e.g., Implementation of Security Council Resolution 2334 (2016), Report of the Secretary-General, S/2023/458, 21 June 2023, paras. 3, 61; Provisional Verbatim Record of the 9290th Meeting of the Security Council, S/PV.9290, 22 March 2023, p. 2; Implementation of Security Council Resolution 2334(2016), Report of the Secretary-General, S/2022/504, 22 June 2022, para. 9; Implementation of Security Council Resolution 2334 (2016), Report of the Secretary-General, S/2022/945, 14 December 2022, para. 3; General Assembly, 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/70/406, 5 October 2015, paras. 11-12.

alongside the simultaneous displacement of significant numbers of Palestinians,⁸⁶ and the seizure and demolition of their property as well as of critical infrastructure.⁸⁷

61. It is also well documented that the expansion of Israeli settlements has the potential to alter, and has in fact resulted in the alteration of the demographic composition of the OPT.⁸⁸ This further exacerbates the plight of the Palestinian people, who are victimised by continuous episodes of settler-related violence,⁸⁹ and restricted in their movements as well as in their access to basic services and resources.⁹⁰
62. The situation for individual Palestinians has continued to deteriorate. On 21 June 2023, in his most recent report on the implementation of Security Council Resolution 2334 (2016), covering the period from 14 March 2023 to 14 June 2023, the UN Secretary-General observed that the “Israeli authorities advanced plans for 920 housing units in occupied East Jerusalem and approved 1,890 housing units in Area C, 45 per cent of which are deep in the occupied West Bank”,⁹¹ and stated that he remained “deeply troubled by the relentless expansion of Israeli settlements in the occupied West Bank, including East Jerusalem, that is impeding

⁸⁶ Implementation of Security Council Resolution 2334 (2016), Report of the Secretary-General, S/2022/504, 22 June 2022, para. 11; Implementation of Security Council Resolution 2334 (2016), Report of the Secretary-General, S/2023/458, 21 June 2023, para. 11; Provisional Verbatim Record of the 9290th Meeting of the Security Council, S/PV.9290, 22 March 2023, p. 2; Implementation of Security Council Resolution 2334 (2016), Report of the Secretary-General, S/2022/945, 14 December 2022, paras. 4, 9-10; Provisional Verbatim Record of the 9139th Meeting of the Security Council, S/PV.9139, 28 September 2022, p. 4.

⁸⁷ Implementation of Security Council Resolution 2334 (2016), Report of the Secretary-General, S/2022/945, 14 December 2022, paras. 4-5; Implementation of Security Council Resolution 2334(2016), Report of the Secretary-General, 22 June 2022, S/2022/504, paras. 11-12, 17-18; Implementation of Security Council Resolution 2334 (2016), Report of the Secretary-General, 21 June 2023, S/2023/458, paras. 7-9.

⁸⁸ Provisional Verbatim Record of the 9000th Meeting of the Security Council, S/PV.9000, 22 March 2022, p. 5-6; Implementation of Security Council Resolution 2334 (2016), Report of the Secretary-General, 21 June 2023, S/2023/458, para. 61; Provisional Verbatim Record of the 9290th Meeting of the Security Council, S/PV.9290, 22 March 2023, p. 2; *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, ICJ Reports 2004*, p. 190, para. 133; Security Council Resolution, 446 (1979), S/RES/446(1979), 22 March 1979, para. 3.

⁸⁹ Implementation of Security Council Resolution 2334 (2016), Report of the Secretary-General, S/2022/945, 14 December 2022, paras. 12, 41-47, 73; Implementation of Security Council Resolution 2334 (2016), Report of the Secretary-General, S/2022/504, 22 June 2022, paras. 59-60, 62-65.

⁹⁰ Implementation of Security Council Resolution 2334 (2016), Report of the Secretary-General, S/2023/458, 21 June 2023, paras. 9, 61, 64; Implementation of Security Council Resolution 2334 (2016), Report of the Secretary-General, S/2022/945, 14 December 2022, paras. 8, 68, 70; Implementation of Security Council Resolution 2334 (2016), Report of the Secretary-General, S/2022/504, 22 June 2022, paras. 93, 95.

⁹¹ Implementation of Security Council Resolution 2334 (2016), Report of the Secretary-General, S/2023/458, 21 June 2023, para. 3.

access by Palestinians to their land and resources, reshaping the geography of the occupied West Bank and threatening the viability of a future Palestinian State”.⁹²

B. Israel’s conduct in constructing and expanding Israeli settlements in the Occupied Palestinian Territory constitutes a violation of international law

63. Israel’s establishment and expansion of settlements in the OPT since 1967 constitutes a serious and continuing breach of fundamental principles of international law. While the rules and principles of international law engaged by Israel’s conduct in relation to the Israeli settlements are various, the UAE’s written statement focuses on the specific violations of fundamental *erga omnes* obligations underpinning international humanitarian law and the right to self-determination of the Palestinian people.

i. Israel’s conduct violates international humanitarian law

64. It is well established, including by the Court, that the Fourth Geneva Convention applies to Israel’s occupation of the OPT.⁹³ In this regard, Israel’s conduct in constructing and expanding settlements in the OPT, and its transfer of Israeli settlers to said territory, constitutes a clear and serious violation of the Fourth Geneva Convention.

65. Article 49, paragraph 6, of the Fourth Geneva Convention provides that “[t]he Occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies”. As stated in the International Committee of the Red Cross’ Commentary to the Fourth Geneva Convention, the object and purpose of Article 49, paragraph 6 is “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”.⁹⁴

66. Article 49, paragraph 6, does not require the transfer of a population to the occupied territory to be *compulsory* in character.⁹⁵ The transfer can be effected directly or indirectly, *i.e.* through

⁹² Implementation of Security Council Resolution 2334 (2016), Report of the Secretary-General, S/2023/458, 21 June 2023, para. 61.

⁹³ *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, ICJ Reports 2004*, p. 177, para. 101. See also Theodore Meron, “The West Bank and International Humanitarian Law on the Eve of the Fiftieth Anniversary of the Six-Day War” in *American Journal of International Law*, 111(2), (2017) 357-375, at 361-364.

⁹⁴ Commentary: Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War, Geneva: ICRC, 1958, p. 283.

⁹⁵ Theodore Meron, “The West Bank and International Humanitarian Law on the Eve of the Fiftieth Anniversary of the Six-Day War” in *American Journal of International Law*, 111(2), (2017) 357-375, at 373-374.

measures aimed at encouraging such a transfer.⁹⁶ In the Wall Advisory Opinion, the Court observed that Article 49, paragraph 6 of the Fourth Geneva Convention “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”.⁹⁷

67. As the Court previously concluded,⁹⁸ Israel’s measures and policies establishing and facilitating the construction and expansion of Israeli settlements in the OPT, including East Jerusalem, constitute a patent breach of international humanitarian law and, in particular, of Article 49, paragraph 6 of the Fourth Geneva Convention.
68. As noted above, Israel’s policy of establishing, facilitating, and supporting the construction and expansion of Israeli settlements in the OPT has continued unabated since 1967, without any regard for the numerous calls for cessation in Security Council resolutions. Notably, the reports of the UN Secretary-General concerning the Implementation of Security Council Resolution 2334 (2016)⁹⁹ reflect Israel’s continuous advancement in recent years of its agenda to increase the number of Israeli settlers and settlements in the OPT, to the detriment of Palestine and the Palestinian people.¹⁰⁰ Both in East Jerusalem and the West Bank, Israel has continued to advance plans for the construction of new housing units and residential buildings.

⁹⁶ *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, ICJ Reports 2004*, p. 183, para. 120. Cf. Theodore Meron, “The West Bank and International Humanitarian Law on the Eve of the Fiftieth Anniversary of the Six-Day War” in *American Journal of International Law*, 111(2), (2017) 357-375, at 373-374.

⁹⁷ *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, ICJ Reports 2004*, p. 183, para. 120.

⁹⁸ *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, ICJ Reports 2004*, p. 183, para. 120.

⁹⁹ Implementation of Security Council Resolution 2334 (2016), Report of the Secretary-General, S/2023/458, 21 June 2023, para. 3; Provisional Verbatim Record of the 9290th Meeting of the Security Council, S/PV.9290, 22 March 2023, p. 2; Implementation of Security Council Resolution 2334 (2016), Report of the Secretary-General, S/2022/504, 22 June 2022, para. 9; Implementation of Security Council Resolution 2334 (2016), Report of the Secretary-General, S/2022/945, 14 December 2022, para. 3; Provisional Verbatim Record of the 9000th Meeting of the Security Council, 22 March 2022, S/PV.9000, p. 5-6; Implementation of Security Council Resolution 2334 (2016), Report of the Secretary-General, S/2021/584, 18 June 2021, paras. 48-49; Implementation of Security Council Resolution 2334(2016), Report of the Secretary-General, S/2020/1234, 12 December 2020, para. 80; Implementation of Security Council Resolution 2334 (2016), Report of the Secretary-General, S/2019/938, 12 December 2019, paras. 48-49; Implementation of Security Council Resolution 2334 (2016), Report of the Secretary-General, S/2019/251, 20 March 2019, para. 54; Implementation of Security Council Resolution 2334 (2016), Report of the Secretary-General, S/2018/614, 18 June 2018, para. 61; Provisional Verbatim Record of the 7977th Meeting of the Security Council, S/PV.7977, 20 June 2017, pp. 2-3.

¹⁰⁰ Security Council Resolution 446 (1979), S/RES/446(1979), 22 March 1979, para. 3; Security Council Resolution 452 (1979), S/RES/452(1979), 20 July 1979, para. 3; Security Council Resolution 465 (1980), S/RES/465(1980), 1 March 1980, para. 6; Security Council Resolution 2334 (2016), S/RES/2334(2016), 23 December 2016, para. 1; Presidential Statement, PRST 2023/1, 20 February 2023, paras. 3-5.

Most recently, Israel has taken steps to retroactively legalise such outposts and settlements through the enactment of legislation.¹⁰¹ Currently, there are around 279 settlements in the OPT, with a total of 700,000 Israeli settlers living in Palestine.¹⁰² East Jerusalem counts 14 Israeli settlements and a total population of more than 229,000 Israeli settlers.¹⁰³

69. The continuous growth of Israeli settlements in the OPT is consistent with the pattern of expansion and illegality which began in 1967. In light of Israel's pattern of conduct, the Court's findings in the Wall Advisory Opinion that such activities constitute a violation of Article 49, paragraph 6 of the Fourth Geneva Convention apply *a fortiori* to Israel's conduct in constructing, establishing, expanding and supporting Israeli settlements in the OPT from 2004 to date.
70. Likewise, the destruction and demolition of Palestinian property, the forced displacement, and settler violence against the life and bodily integrity of Palestinians¹⁰⁴ trigger a further series of additional breaches of international humanitarian law. These acts and conduct constitute breaches of relevant obligations under the Fourth Geneva Convention applicable in a situation of occupation, including: (1) the obligation under Article 27 to protect civilians against all acts of violence or threats thereof; (2) the obligation under Article 49, paragraph 1 not to subject the population of the occupied territory to forcible transfer or deportation within or outside this territory;¹⁰⁵ and (3) the obligation under Article 53 not to destroy personal property.

ii. *Israel's conduct constitutes a breach of the obligation to respect the right to self-determination of the Palestinian people*

71. Israel's conduct relating to the construction, establishment, support and expansion of Israeli settlements in the OPT also constitutes a violation of Israel's obligations *vis-à-vis* the right to

¹⁰¹ Provisional Verbatim Record of the 9290th Meeting of the Security Council, S/PV.9290, 22 March 2023, p. 2; Presidential Statement, PRST 2023/1, 20 February 2023, para. 3.

¹⁰² Human Rights Council, 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, A/HRC/52/76, 15 March 2023, para. 5.

¹⁰³ Human Rights Council, 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, A/HRC/52/76, 15 March 2023, para. 5.

¹⁰⁴ See above, paras. 60-61.

¹⁰⁵ Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977 ("Additional Protocol I"), Article 85, para. 4, letter (a) ("In addition to the grave breaches defined in the preceding paragraphs and in the Conventions, the following shall be regarded as grave breaches of this Protocol [...]: (a) [...] the deportation or transfer of all or parts of the population of the occupied territory *within or outside this territory*, in violation of Article 49 of the Fourth Convention") (emphasis added).

self-determination of the Palestinian people.¹⁰⁶ Enshrined in multiple instruments including in Article 1, paragraph 2 of the UN Charter and the Friendly Relations Declaration,¹⁰⁷ the right to self-determination has the status of customary international law.¹⁰⁸ The right to self-determination guarantees the freedom of all peoples to, *inter alia*, determine their status without external intervention that may impair such status.¹⁰⁹

72. In the Wall Advisory Opinion, the Court found that Israel's construction of the wall violated the right to self-determination of the Palestinian people in light of, *inter alia*: (1) the risk of alterations to the demographic composition of the OPT, contributing to the departure of Palestinian populations from certain areas therein; (2) the restrictions on the freedom of movement and access to basic services; and (3) the negative impact on the agriculture of the area.¹¹⁰
73. Assessed over the period from 1967 to date, those same factors apply *a fortiori* in the present proceedings, establishing a violation by Israel of the Palestinian people's right to self-determination as a result of the Israeli settlements. Indeed, the scale of the violation arising from the construction and expansion of the Israeli settlements is of much greater magnitude compared to that determined by the Court in the Wall Advisory Opinion, in light of the narrower scope of that case.
74. Over the years, Israel's practices and policies have had a cumulative impact on the demographic composition of the OPT, freedom of movement (including through forcible transfer of the Palestinian population), and the security of the Palestinian people, as well as on their agriculture and economy.¹¹¹ These factors, when considered together with the negative impact of Israel's conduct in respect of Israeli settlements on the two-State solution,

¹⁰⁶ *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, ICJ Reports 2004*, pp. 182-183, para. 118 (“As regards the principle of the right of peoples to self-determination, the Court observes that the existence of a ‘Palestinian people’ is no longer in issue”), p. 197, para. 149 (“Israel 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”).

¹⁰⁷ General Assembly Resolution 2625 (XXV), *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), 24 October 1970, Annex.

¹⁰⁸ *Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965, Advisory Opinion, ICJ Reports 2019*, p. 132, para. 152.

¹⁰⁹ General Assembly Resolution 2625 (XXV), *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), 24 October 1970, Annex.

¹¹⁰ *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, ICJ Reports 2004*, p. 184, para. 122, pp. 189-191, para. 133.

¹¹¹ See above, paras. 60-61.

have impaired the right to self-determination of the Palestinian people for many decades, and show no sign of abating.

V. LEGAL CONSEQUENCES OF ISRAEL'S VIOLATION OF ITS INTERNATIONAL OBLIGATIONS

75. Israel's breaches of its obligations give rise to legal consequences under international law for Israel itself, and also entail obligations for all other States. In addition, the violations have implications for international organisations, including the UN.

A. Legal consequences for Israel

76. In light of the fact that Israel's actions in the OPT are contrary to its obligations under international law, it follows that its international responsibility is engaged.¹¹²

77. As a consequence, whilst Israel remains bound by, and under an obligation to comply with, the various primary obligations it has breached,¹¹³ in light of the continuing character of the relevant violations, Israel is also under a secondary obligation to ensure cessation of those breaches.¹¹⁴

78. In the Wall Advisory Opinion, the Court held that Israel's violation of multiple international obligations resulted both from the actual construction of the wall and from the associated regime.¹¹⁵ As a consequence of that finding, the Court held that Israel was under an obligation of cessation which "entails the dismantling forthwith of those parts of [the wall] situated within the Occupied Palestinian Territory, including in and around East Jerusalem", and that, save to the extent necessary to ensure the provision of compensation to Palestinian landowners for the harm they had suffered, "[a]ll legislative and regulatory acts adopted with a view to its

¹¹² *Legal Consequences of the Construction of a Wall in the Occupied Palestine Territory, Advisory Opinion, ICJ Reports 2004*, p. 197, para. 147; *Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965, Advisory Opinion, ICJ Reports 2019*, p. 138, para. 177; see also Articles on Responsibility of States for Internationally Wrongful Acts, *Yearbook of the International Law Commission*, 2001, vol. II (Part Two), p. 26, Article 1.

¹¹³ *Legal Consequences of the Construction of a Wall in the Occupied Palestine Territory, Advisory Opinion, ICJ Reports 2004*, p. 197, para. 149; *Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965, Advisory Opinion, ICJ Reports 2019*, p. 139, para. 178.

¹¹⁴ *Legal Consequences of the Construction of a Wall in the Occupied Palestine Territory, Advisory Opinion, ICJ Reports 2004*, p. 197, para. 150; see also Articles on Responsibility of States for Internationally Wrongful Acts, *Yearbook of the International Law Commission*, 2001, vol. II (Part Two), p. 28, Article 31.

¹¹⁵ *Legal Consequences of the Construction of a Wall in the Occupied Palestine Territory, Advisory Opinion, ICJ Reports 2004*, p. 195, para. 143, p. 198, para. 151.

construction, and to the establishment of its associated régime, must forthwith be repealed or rendered ineffective”.¹¹⁶

79. In a similar manner, Israel is bound by obligations of cessation in respect of the violations of its international obligations resulting from its other continuing wrongful acts, policies and practices. These notably include, *inter alia*, the obligation to bring to an end the breaches resulting from its activities altering the status, character and demographic composition of the OPT, including Israel’s settlements activities and the transfer of Israeli settlers to East Jerusalem and the rest of the OPT, as well as those resulting from Israel’s confiscation of land, demolition of homes and forced displacement of Palestinian civilians in the OPT.
80. Israel is likewise under an obligation to bring to an end the violations of its international obligations resulting from its actions taken to alter the character, status and demographic composition of East Jerusalem. Notably, insofar as Israel’s actions result in an ongoing violation of the right of the Palestinian people to self-determination, and of its obligations under Articles 27, 49 and 53 of the Fourth Geneva Convention, Israel is under an obligation to bring the conduct resulting in those violations to an end.
81. Finally, insofar as Israel continues to be in breach of the obligations identified by the Court in the Wall Advisory Opinion, and to the extent that it has failed in the years since to ensure cessation of the breaches resulting from the construction of the wall in the OPT, the legal consequences identified by the Court in 2004 remain fully applicable.

B. Legal consequences for all other States and international organisations, including the United Nations

82. Given the character and importance of the obligations violated, Israel’s conduct also entails legal consequences for all other States. Notably, no State may recognise as lawful the situation resulting from Israel’s unlawful conduct, nor render aid or assistance in maintaining such a situation. At the same time, States are under an obligation to cooperate, including with the UN, with a view to bringing to an end, through lawful means, the serious breaches by Israel of its obligations. Israel’s breaches also have implications for international organisations, including for the UN and its organs.
83. These consequences for all States result from the fact that a number of the obligations violated by Israel have an *erga omnes* character. As held by the Court in the Wall Advisory Opinion,

¹¹⁶ *Legal Consequences of the Construction of a Wall in the Occupied Palestine Territory, Advisory Opinion, ICJ Reports 2004*, p. 198, para. 151.

that is notably the case as regards “the obligation to respect the right of the Palestinian people to self-determination” and certain obligations under international humanitarian law.¹¹⁷

84. In respect of relevant obligations under international humanitarian law, the Court observed that certain such obligations “constitute intransgressible principles of international customary law”, and that the relevant rules in this regard “incorporate obligations which are of an essentially *erga omnes* character”.¹¹⁸ This is particularly the case in respect of the obligations under Articles 27, 49 and 53 of the Fourth Geneva Convention, the violation of which constitutes grave breaches of the Convention.¹¹⁹
85. As has been previously noted by the Court, it is also relevant in this connection that, pursuant to Common Article 1 of the Geneva Conventions, every State party is bound by an explicit primary obligation “to respect and ensure respect” for the Conventions in all circumstances.¹²⁰
86. As concerns the obligation to respect the right of peoples to self-determination, the Court has repeatedly affirmed its *erga omnes* character.¹²¹ Further, as reflected in the Friendly Relations Declaration, the obligation to respect the right to self-determination is complemented by a primary obligation requiring all States:

“to promote, through joint and separate action, realization of the principle of equal rights and self-determination of peoples, in accordance with the provisions of the Charter, and to render assistance to the United Nations in carrying out the responsibilities entrusted to it by the Charter regarding the implementation of the principle [...]”.¹²²

¹¹⁷ *Legal Consequences of the Construction of a Wall in the Occupied Palestine Territory, Advisory Opinion, ICJ Reports 2004*, p. 199, para. 155.

¹¹⁸ *Legal Consequences of the Construction of a Wall in the Occupied Palestine Territory, Advisory Opinion, ICJ Reports 2004*, p. 199, para. 157.

¹¹⁹ Article 147 of the Fourth Geneva Convention; Article 85(4)(a) of Additional Protocol I. The obligations reflected in Article 27 of the Fourth Geneva Convention, including the protection of physical integrity of civilians, mirror equivalent guarantees conferred upon the categories of protected persons under the other Geneva Conventions, namely Article 12 of the First Geneva Convention (Wounded and Sick), Article 12 of the Second Geneva Convention (Wounded, Sick and Shipwrecked), Articles 13 and 14 of the Third Geneva Convention (Prisoners of War).

¹²⁰ Cf. *Legal Consequences of the Construction of a Wall in the Occupied Palestine Territory, Advisory Opinion, ICJ Reports 2004*, pp. 199-200, para. 158.

¹²¹ *East Timor (Portugal v Australia), Judgment, ICJ Reports 1995*, p. 90, para. 29; *Legal Consequences of the Construction of a Wall in the Occupied Palestine Territory, Advisory Opinion, ICJ Reports 2004*, p. 136, para. 156; *Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965, Advisory Opinion, ICJ Reports 2019*, p. 95, para. 180.

¹²² General Assembly Resolution 2625 (XXV), *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), 24 October 1970, Annex.

87. The Court recognised in the Wall Advisory Opinion that, in light of the character and importance of the obligations concerned, all States are under international legal obligations not to recognise the illegal situation resulting from their breach, not to render aid or assistance in maintaining the situation created, and to take appropriate steps to ensure compliance by Israel with its obligations.¹²³
88. The obligation of non-recognition operates in tandem with, and gives concrete effect to, the nullity and lack of legal effect under international law of Israeli action in breach of its international obligations, including the adoption of relevant legislation.¹²⁴ As already noted, the Security Council has declared, for example, that “all legislative and administrative measures and actions taken by Israel, the occupying Power, which purport to alter the character and status of the Holy City of Jerusalem have no legal validity [...]” and that “all such measures which have altered the geographic, demographic and historical character and status of the Holy City of Jerusalem are null and void and must be rescinded in compliance with the relevant resolutions of the Security Council”.¹²⁵
89. Further, to the extent that the relevant obligations arise under peremptory norms of general international law (*jus cogens*), and the conduct of Israel constitutes a serious breach of such norms, the same obligations apply to all States under the principles reflected in Articles 40 and 41 of the Articles on State Responsibility for Internationally Wrongful Acts (“**ARSIWA**”).¹²⁶
90. In the view of the UAE, at a minimum, the principal rules of international humanitarian law at issue (the obligations pursuant to Article 49 of the Fourth Geneva Convention not to modify the demographic composition of occupied areas, the violation of which constitutes a grave breach of the Convention) must be considered to constitute peremptory norms, including insofar as the Court has previously referred to those obligations as constituting “intransgressible principles of international customary law”.¹²⁷ The UAE considers that the same conclusion is equally applicable in respect of the obligations under Articles 27 and 53 of the Fourth Geneva Convention, which protect the life, physical integrity and property of

¹²³ *Legal Consequences of the Construction of a Wall in the Occupied Palestine Territory, Advisory Opinion, ICJ Reports 2004*, p. 200, para. 159.

¹²⁴ See above, paras. 40-42.

¹²⁵ Security Council Resolution 476 (1980), S/RES/476(1980), 30 June 1980, paras. 3-4.

¹²⁶ Articles on Responsibility of States for Internationally Wrongful Acts, *Yearbook of the International Law Commission*, 2001, vol. II (Part Two), p. 29, Articles 40-41.

¹²⁷ *Legal Consequences of the Construction of a Wall in the Occupied Palestine Territory, Advisory Opinion, ICJ Reports 2004*, p. 199, para. 157, citing *Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion, ICJ Reports 1996*, p. 257, para. 79.

protected persons in occupied territory, and violation of which likewise constitutes a grave breach.

91. For these purposes, a serious breach of a peremptory norm is defined in Article 40, paragraph 2, ARSIWA as “a gross or systemic failure by the responsible State to fulfil the obligation” concerned.¹²⁸ In this regard, the International Law Commission’s Commentary to Article 40 notes that:

“To be regarded as systematic, a violation would have to be carried out in an organized and deliberate way. In contrast, the term “gross” refers to the intensity of the violation or its effects; it denotes violations of a flagrant nature, amounting to a direct and outright assault on the values protected by the rule. [...] Factors which may establish the seriousness of a violation would include the intent to violate the norm; the scope and number of individual violations, and the gravity of their consequences for the victims. [...]”¹²⁹

92. In light of the systematic and continuous nature of Israel’s actions, and the extent of their effects on both Palestine and its population, there can be little doubt that Israel’s conduct rises to the level of a serious breach.
93. Pursuant to the principles enshrined in Article 41 ARSIWA, all States are under an obligation to cooperate in order to bring to an end a grave breach of a peremptory norm, and not to recognise the illegal situation resulting from such a breach or to render aid or assistance in maintenance of such a situation. The existence of the latter obligation, reflected in Article 41, paragraph 2 (i.e. the obligation not to recognise situations resulting from grave breaches, and not to render aid or assistance in their maintenance) has been acknowledged and recognised by the Court.¹³⁰
94. Although all States are also obliged to ensure compliance and to cooperate to bring to an end such breaches through lawful means, individual States have discretion to determine the most appropriate action to achieve those ends; particular action is not prescribed.

¹²⁸ Articles on Responsibility of States for Internationally Wrongful Acts, *Yearbook of the International Law Commission*, 2001, vol. II (Part Two), p. 29, Articles 40, para. 2. See also Report of International Law Commission 73rd Session of the General Assembly, A/77/10, 2022, Chapter IV: Peremptory Norms of General International Law (*jus cogens*), Draft Conclusions on identification and legal consequences of peremptory norms of general international law (*jus cogens*), with commentaries, Conclusion 19, para. 3, and commentary to Conclusion 19, p.70.

¹²⁹ Articles on Responsibility of States for Internationally Wrongful Acts, *Yearbook of the International Law Commission*, 2001, vol. II (Part Two), p. 113.

¹³⁰ *Jurisdictional Immunities of the State (Germany v Italy; Greece Intervening)*, ICJ Reports 2012, p. 99, para. 93. Cf. *Legal Consequences of the Construction of a Wall in the Occupied Palestine Territory, Advisory Opinion*, ICJ Reports 2004, p. 200, para. 159.

95. There are a range of potential actions that individual States can take to contribute to the aforementioned objectives in a given situation, depending on their particular circumstances and their relationships.
96. One such approach is to use direct political and diplomatic engagement and dialogue, including on a bilateral basis, to encourage compliance and cessation of unlawful conduct, and to foster dialogue and trust between the parties. Such methods can be particularly effective when undertaken by countries with particular influence in the relevant situation, either individually or in coordination with other such influential actors. The sustained engagement by certain small groups of States has been shown to be beneficial in the past in regards to the Israeli-Palestinian conflict, for example the recent efforts by the Hashemite Kingdom of Jordan, Arab Republic of Egypt and the United States to engage the parties.¹³¹ The Security Council has recognised the role that States can play by exerting their influence to induce the cessation of illegal acts and compliance with its resolutions.¹³²
97. In terms of the implications for international organisations, whilst again no particular approach is mandated,¹³³ in previous similar cases the Court has highlighted steps that it considered might appropriately be taken. For instance, in the Wall Advisory Opinion, the Court drew to the attention of the General Assembly the need to encourage efforts:

“with a view to achieving as soon as possible, on the basis of international law, a negotiated solution to the outstanding problems and the establishment of a Palestinian State, existing side by side with Israel and its other neighbours, with peace and security for all in the region”.¹³⁴

98. More generally, in the *dispositif*, the Court recognised that:

¹³¹ See e.g., Aqaba Joint Communiqué dated 26 February 2023 (available at: <https://www.state.gov/aqaba-joint-communicue/>); Sharm-el-Sheikh Joint communiqué, dated 19 March 2023 (available at: <https://eg.usembassy.gov/joint-communicue-from-the-march-19-meeting-in-sharm-el-sheikh/>).

¹³² Security Council Resolution 190 (1964), S/RES/190(1964), 9 June 1964, para. 2; Security Council Resolution 264 (1969), S/RES/264(1969), 20 March 1969, para. 7; Security Council Resolution 290 (1970), S/RES/290(1970), 8 December 1970, para. 10; Security Council Resolution 437 (1978), S/RES/437(1978), 10 October 1978, para. 4.

¹³³ *Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965, Advisory Opinion, ICJ Reports 2019*, p. 139, para. 180.

¹³⁴ *Legal Consequences of the Construction of a Wall in the Occupied Palestine Territory, Advisory Opinion, ICJ Reports 2004*, p. 201, para. 162.

“The United Nations, and especially the General Assembly and the Security Council, should consider what further action is required to bring to an end the illegal situation resulting from the construction of the wall”.¹³⁵

99. It remains, however, for the relevant bodies, and their members, to consider how and to what extent these and other steps should be taken, consistent with the mandate of the body, with a view to ensuring that serious breaches are brought to an end.
100. Focussing specifically upon the Security Council, as the organ having primary responsibility for the maintenance of international peace and security, Chapters VI and VII of the UN Charter provide the Council with a range of tools which can be employed in exercising its mandate. Such measures include, most obviously, the adoption of decisions, in accordance with Article 27 of the UN Charter, by which the Security Council may, *inter alia*, demand the cessation of conduct in breach of international legal obligations. UN Member States are to carry out the decisions of the Security Council in accordance with the UN Charter.¹³⁶ In this regard, the UAE underscores the need for full implementation of all previous Security Council resolutions relating to the Israeli-Palestinian conflict.¹³⁷
101. During its tenure as an elected member of the Security Council, the UAE has actively endeavoured to ensure that the Security Council accords due attention and takes appropriate action with respect to the situation in the OPT including in relation to the tensions and violence which have escalated since the beginning of 2023 as a result of provocative statements, violent actions, incitement, and the further expansion of settlements. These efforts by the UAE include putting forward a decision of the Security Council¹³⁸ as well as less formal messages of the Security Council¹³⁹ and requesting to convene meetings to consider developments as they unfold.¹⁴⁰ The UAE will endeavour to ensure that the Security Council continues to devote attention to the situation and takes appropriate action.

¹³⁵ *Legal Consequences of the Construction of a Wall in the Occupied Palestine Territory, Advisory Opinion, ICJ Reports 2004*, p. 200, para. 163.

¹³⁶ UN Charter, Article 25.

¹³⁷ Provisional Verbatim Record of the 9290th Meeting of the Security Council, 22 March 2023 (S/PV.9290), p. 13.

¹³⁸ Presidential Statement, S/PRST/2023/1, 20 February 2023.

¹³⁹ Security Council Press Statement on the Killing of Journalist Shireen Abu Akleh, SC/14891, 13 May 2022. Oral remarks (“press elements”) on the situation at issue were conveyed on 27 June 2023 by the President of the Security Council Lana Zaki Nusseibeh (UAE), as an outcome of the Council’s informal consultations of the whole on the situation in the Middle East, including the Palestinian Question, held on 23 June 2023.

¹⁴⁰ Formal meetings of the Security Council: e.g. the Council met in open briefing format on 8 August 2022 in response to the request of China, France, Ireland, Norway and the UAE (Provisional Verbatim Record of the 9107th Meeting of the Security Council, S/PV.9107, 8 August 2022); the Council met in open briefing format on 5 January 2023 in response to the request of China, France, Malta and the UAE (Provisional Verbatim Record of the 9236th Meeting of

VI. CONCLUSION

102. The UAE submits that the Court should provide the advisory opinion requested by the General Assembly and that the Court should confirm the continued and ongoing violations of Israel's obligations under international law *vis-à-vis* the Palestinian people and the OPT.
103. The UAE's written statement has focused on Jerusalem and the impact of settlements in the OPT, for reasons previously explained, while recognising that there is a much broader suite of legal matters to be considered in relation to the present proceedings. In this broader context, the UAE takes the opportunity to recall that Palestinians have a right to return¹⁴¹ and to emphasise that, as a matter of international law, occupation has not and cannot result in any transfer of sovereignty over any part of the OPT, and neither the policies and practices adopted by Israel, nor the length of the occupation, are liable to have any impact upon the status of the OPT.¹⁴²
104. Israel's acts, policies and practices which constitute a violation of its international obligations strike at the heart of the core pillars of the two-State solution.
105. The continuous expansion of the Israeli settlements, as well as the transfer and facilitation of Israeli settlers serve to entrench the occupation of the OPT by Israel. Such actions risk undermining the prospect of a viable independent Palestinian State.
106. Further, they undermine the prospect of "secure and recognized borders"¹⁴³ of Palestine based on the 1967 Borders. They also impair the concretization of an independent Palestinian state that is contiguous on the West Bank. The settlements have indeed fragmented and

the Security Council, S/PV.9236, 5 January 2023). Informal consultations of the whole: e.g. consultations were convened on 19 April 2022 at the request of China, France, Ireland, Norway and the UAE to discuss the situation in Jerusalem (Letter dated 16 November 2022 from the Permanent Representative of the United Kingdom of Great Britain and Northern Ireland to the United Nations addressed to the President of the Security Council, S/2022/868, 17 November 2022, Annex, p. 8).

¹⁴¹ See e.g., General Assembly Resolution 35/169, A/RES/35/169, 15 December 1980, para. 2.

¹⁴² See in this sense General Assembly Resolution 77/126, A/RES/77/126, 12 December 2022, para. 7 ("Stresses 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, recalls 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, and expresses its grave concern at recent statements calling for the annexation by Israel of areas in the Occupied Palestinian Territory"). See similarly Security Council Resolution 478 (1980), S/RES/478(1980), 20 August 1980; Security Council Resolution 681 (1990), S/RES/681(1990), 20 December 1990; Security Council Resolution 2334 (2016), S/RES/2334 (2016), 23 December 2016.

¹⁴³ Presidential Statement, S/PRST/2023/1, 20 February 2023, para. 1.

disarticulated Palestine's territory, separating Palestinians from their lands and from other Palestinian communities.¹⁴⁴

107. As regards East Jerusalem, the settlements that encircle it effectively isolate the city from the remainder of the West Bank, thereby undermining its viability as a capital.¹⁴⁵

108. In addition to the attempts to physically separate East Jerusalem from the West Bank, Israel's policies and measures implemented with a view to altering its status, character and demographic composition represent another attempt to break the existential bonds between East Jerusalem and the rest of Palestine. Such measures risk, over time, drastically altering the cultural and religious character of East Jerusalem, deepening the separation of the city from the rest of Palestine and its population.

109. The UAE is deeply concerned by the measures undertaken unilaterally by Israel that create facts on the ground that could become both irreversible and irremediable, and dangerously imperil the possibility of the two-State solution.¹⁴⁶

110. The UAE's stance in this regard aligns with the position of the Security Council,¹⁴⁷ including in respect of its reiterated appeals that the parties return to negotiations as the way forward to remedy the present state of affairs.

111. The UAE notes, in this regard, Article 2, paragraph 3 of the UN Charter, by which all Members have an obligation to settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered. Article 33 of the UN Charter, which complements and provides substance to Article 2, paragraph 3, further provides that "the parties to any dispute, the continuance of which is likely to endanger the maintenance of international peace and security, shall, first of all, seek a solution by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice". This is the overarching

¹⁴⁴ General Assembly Resolution, 77/126, A/RES/77/126, 12 December 2022, preamble.

¹⁴⁵ See also General Assembly, Report of the Secretary-General: Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and the Occupied Syrian Golan, A/77/493, 3 October 2022, para. 6.

¹⁴⁶ Provisional Verbatim Record of the 9236th Meeting of the Security Council, S/PV.9263, 20 February 2023.

¹⁴⁷ Security Council Resolution 2334 (2016), S/RES/2334(2016), 23 December 2016, preamble ("Expressing grave concern that continuing Israeli settlement activities are dangerously imperiling the viability of the two-State solution based on the 1967 lines"), paras. 3-4; Presidential Statement, S/PRST/2023/1, 20 February 2023, para. 4 ("The Security Council reiterates that continuing Israeli settlement activities are dangerously imperiling the viability of the two-State solution based on the 1967 lines"); Security Council Resolution 1073 (1996), S/RES/1073(1996), 28 September 1996, para. 3 ("*Calls for* the immediate resumption of negotiations within the Middle East peace process [...]"); Security Council Resolution 476 (1980), S/RES/476(1980), 30 June 1980, preamble, paras. 3-5; Security Council Resolution 478 (1980), S/RES/478(1980), 20 August 1980, preamble, paras. 3, 5.

framework within which States are obligated by international law to conduct themselves in the resolution of international disputes.¹⁴⁸

112. In this context, it is crucial to recall that Israel must negotiate meaningfully, in good faith, and in a manner that does not aggravate or extend the conflict. Yet Israel's unilateral policies and *faits accomplis* are inconsistent with this duty, and to a more severe extent than was at issue in the Wall Advisory Opinion.

113. The Security Council has on numerous occasions stressed the need for a negotiated process. In response to Israel's violations the Security Council has reiterated that "continuing Israeli settlement activities are dangerously imperilling the viability of the two-State solution";¹⁴⁹ it has called "for affirmative steps to be taken immediately to reverse the negative trends on the ground that are imperilling the two-State solution";¹⁵⁰ and it has further called upon "all parties to continue [...] to exert collective efforts to launch credible negotiations on all final status issues in the Middle East peace process [...]".¹⁵¹ In the UAE's view, this is indeed the path forward.

¹⁴⁸ *Application of the Interim Accord of 13 September 1995 (the former Yugoslav Republic of Macedonia v. Greece)*, Judgment of 5 December 2011, ICJ Reports 2011, p. 685, para. 132.

¹⁴⁹ Presidential Statement, S/PRST/2023/1, 20 February 2023, para. 4.

¹⁵⁰ Security Council Resolution 2334(2016), S/RES/2334(2016), 23 December 2016, para. 4. See also Presidential Statement, S/PRST/2023/1, 20 February 2023, para. 4 ("The Security Council reiterates that continuing Israeli settlement activities are dangerously imperiling the viability of the two-State solution based on the 1967 lines").

¹⁵¹ Security Council Resolution 2334(2016), S/RES/2334(2016), 23 December 2016, para. 8. See also Security Council Resolution 1073(1996), S/RES/1073(1996), 28 September 1996, para. 3.