



PLURINATIONAL STATE OF BOLIVIA

**ADVISORY OPINION OF THE INTERNATIONAL
COURT OF JUSTICE ON THE LEGAL
CONSEQUENCES ARISING OUT OF ISRAEL'S
POLICIES AND PRACTICES IN THE OCCUPIED
PALESTINIAN TERRITORY, INCLUDING EAST
JERUSALEM**



PLURINATIONAL STATE OF BOLIVIA

ADVISORY OPINION OF THE INTERNATIONAL COURT OF JUSTICE ON THE LEGAL CONSEQUENCES ARISING OUT OF ISRAEL'S POLICIES AND PRACTICES IN THE OCCUPIED PALESTINIAN TERRITORY, INCLUDING EAST JERUSALEM

In response to note No. 2023/7 sent by the International Court of Justice to States parties, in which written statements are requested regarding the advisory opinion petitioned by the United Nations General Assembly through Resolution A/RES/77/247, approved on December 30, 2022 regarding the legal consequences derived from Israel's policies and practices in the occupied Palestinian territory, including East Jerusalem; The Plurinational State of Bolivia is pleased to issue this written statement before the International Court of Justice, responding to the questions transmitted in the communication circulated by the Court through the Order of February 3, 2023.

A) WHAT ARE THE LEGAL CONSEQUENCES THAT DERIVE FROM ISRAEL'S CONTINUING VIOLATION OF THE RIGHT OF THE PALESTINIAN PEOPLE TO SELF-DETERMINATION, FROM ITS PROLONGED ACTS OF OCCUPATION, SETTLEMENT AND ANNEXATION OF THE PALESTINIAN TERRITORY OCCUPIED SINCE 1967, INCLUDING MEASURES AIMED AT ALTERING THE DEMOGRAPHIC COMPOSITION, CHARACTER AND STATUS OF THE HOLY CITY OF JERUSALEM, AND ISRAEL'S PASSAGE OF LEGISLATION AND RELATED DISCRIMINATORY MEASURES?

APPLICABLE LAW

Customary International Law
United Nations Charter
International Human Right
International Law of human rights
International Covenant on Civil and Political Rights;
International Covenant on Economic, Social and Cultural Rights;
International Convention for the Elimination of Racial Discrimination;
Convention on the Elimination of all Forms of Discrimination against Women;
Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
Convention on the Rights of the Child;
Resolutions issued by the Security Council, the General Assembly and the Human Rights Council.

Resolution 2625 (XXV) of October 24, 1970 of the General Assembly, which approves the "Declaration on the principles of international law regarding friendly relations and cooperation between States in accordance with the Charter of the United Nations", which establishes the illegality of any territorial acquisition derived from the threat or use of force and reaffirms the right of peoples to self-determination.

Security Council Resolutions 242 (1967) of November 22, 1967, 338 (1973) of October 22, 1973, 446 (1979) of March 22, 1979, 478 (1980) of August 20, 1980, 1397 (2002) of March



12, 2002, 1515 (2003), of November 19, 2003, and 1850 (2008), of December 16, 2008, 2334 (2016) of December 23, 2016.

The right to self-determination enshrines the right to self-determination in Article 1(2) of the United Nations Charter. It includes, according to the UNGA Declaration on the Principles of International Law in Matters of Friendly Relations between States, the duty for each State "to refrain from any forced action that deprives peoples [...] of their right to self-determination and to freedom and independence" and "to promote, through joint actions and separate actions, realization of the principle of determination of persons".

The right to self-determination is defined as the freedom of all peoples to determine their political status and to pursue their economic, social and cultural development without external interference and is considered to be a fundamental right for which no exception is allowed. Respecting that right is also an obligation for all because all States have a legal interest and a duty to protect that right.

The legal consequences for Israel: Israel is obligated to fulfill its obligation to **respect the Palestinian people's right to self-determination**. Israel must immediately put an end to the violation of its international obligation to respect the right of the Palestinian people to self-determination, ceasing all acts and measures that impede and/or impede the exercise of the right to self-determination by the Palestinian people, including immediately ending the occupation in all its manifestations.

BACKGROUND ON TERRITORIAL DELIMITATION

Bolivia highlights that the International Court of Justice in its Advisory Opinion on the legal consequences of the construction of a wall in the occupied Palestinian territory (A/ES-10/273) of July 13, 2004, established the illegality of the Israeli occupation as a historical precedent, citing, among other things, the Rhodes Agreement of April 3, 1949 between Israel and Jordan, whose articles V and VI established the line of demarcation of the armistice between the Israeli forces and Arab forces (later often called the Green Line, due to the color it was drawn on maps); noting that in paragraph 2 of article III of said Agreement that no element of the military or paramilitary forces of either party shall cross or traverse, for any reason, the demarcation lines of the armistice; clarifying that this provision in no case may be interpreted to the detriment of a final political solution between the parties.

Likewise, it is necessary to underscore that on November 22, 1967, the Security Council unanimously approved Resolution 242 (1967), in which it insisted on the inadmissibility of the acquisition of territory by means of war and called for the withdrawal of the Israeli armed forces from the territories they occupied during the recent conflict, and the termination of all situations of belligerence or allegations of its existence.

By resolution 252 (1968) of May 21, 1968, the Security Council reiterated that all legislative and administrative measures and actions taken by Israel, including the expropriation of land and property therein, which tend to change the legal status of Jerusalem are invalid and cannot change that status; and along the same lines, Resolution 271 (1969), of September 15, 1969, urged Israel to scrupulously observe the provisions of the Geneva Conventions and international law governing military occupation and to refrain from hindering the performance of the established functions of the Supreme Muslim Council of Jerusalem, in



addition to recognizing that any act of destruction or desecration of holy places, buildings and religious sites in Jerusalem or any encouragement or collusion to carry out such acts may seriously endanger international peace and security.

In the same regard, the Security Council constantly reiterated that the acquisition of territory by military conquest is inadmissible; aspect that was ratified in its resolution 298 (1971) of September 25, 1971, in which it reaffirmed in the most unequivocal terms that all measures of a legislative and administrative nature that Israel has taken in order to alter the status of the city of Jerusalem, including the expropriation of lands and property, the transfer of inhabitants and the legislation intended to incorporate the occupied sector, are totally null and cannot modify that status; subsequently ignoring all legislative and administrative measures that alter that status.”

On the other hand, it is imperative to remember that the Security Council urged Israel to scrupulously observe the provisions of the Geneva Conventions and international law on military occupation¹, also reiterating that the August 12, 1949 Geneva Convention on the protection of civilians in time of war was applicable to the Arab territories occupied by Israel since 1967, including Jerusalem. In addition, it repeatedly urged Israel, in its capacity as occupying Power, to scrupulously respect said Convention².

ON THE ILLEGALITY OF THE ISRAELI OCCUPATION OF PALESTINIAN TERRITORY AND THE INADMISSIBILITY OF FORCED ACQUISITION OF TERRITORY

The critical issue is the **illegality of the Israeli occupation of the Palestinian territory** as a whole, and not just the illegal aspects or features that comprise it. Such persistent occupation with settlements has been deliberately constructed with the intention of acquiring the territory by force, through de facto and de jure annexation, including through colonization, confinement and fragmentation of the Occupied Palestinian Territories (OPT). The settlements and their associated regime, involving the transfer of Israeli citizens to the settlements while forcibly displacing Palestinian families and communities, implementing a policy of population engineering of the occupied territory, and violating and denying the Palestinian people's right to self-determination, including subjugating Palestinian people through a system of foreign military rule and Apartheid designed to persecute and discriminate against them constitute a violation of international law.

Since the beginning of the occupation, Israel has taken deliberate steps and adopted policies and practices to ensure full and permanent control over the occupied Palestinian territories.

These policies and practices, which are seriously detrimental to the fundamental rights of the Palestinian people and constitute a serious breach/violation of an international norm (particularly International Humanitarian Law (IHL) and Human Rights Law), are further aggravated by their calculated cumulative effect. They are designed, when combined, to result in the displacement and replacement of the Palestinian people, serving the ultimate goal of acquiring the territory by force.

Therefore, these acts of occupation are a clear violation of the UN Charter. This violation must be countered with serious and direct consequences, including the actions of third States.

¹ Resolución 271 (1969) de 15 de septiembre de 1969.

² Resolución 681 (1990), de 20 de diciembre de 1990.



The UN General Assembly, Security Council, and the Human Rights Council reaffirmed the principle of the inadmissibility of the acquisition of territory by force, and condemned and rejected Israeli measures aimed at altering the demographic composition, character and status of Jerusalem and the Occupied Palestinian Territory as a whole.

Likewise, through Resolution 242 (1967), of November 22, 1967, the Security Council confirmed that compliance with the principles of the Charter requires that a just and lasting peace be established in the Middle East that circumscribes the application of the following two principles:

- I. Withdrawal of the Israeli armed forces from the territories they occupied during the recent conflict (Six-Day War);
- II. Termination of all situations of belligerence or allegations of its existence, and respect and recognition of the sovereignty, territorial integrity and political independence of all the States in the area and of their right to live in peace within secure and recognized borders and free from threats or acts of force.”

In addition to reiterate the territorial inviolability and political independence of all States in the area through the establishment of demilitarized zones.

On the other hand, Resolution 2625 (XXV) of October 24, 1970, that approves the "Declaration on the principles of international law regarding friendly relations and cooperation between States in accordance with the Charter of the United Nations", establishes, among others, the principle that "*States in their international relations shall refrain from resorting to the threat or use of force against the territorial integrity or political independence of any State or in any other way incompatible with the purposes of the United Nations*".

Precisely in accordance with these purposes and principles, States have the duty to refrain from making propaganda in favor of aggressive wars; in addition to refraining from resorting to the threat or use of force to violate international demarcation lines, such as the armistice lines established by an international agreement that is obligated to respect. Likewise, it establishes that the territory of a State will not be subject to military occupation derived from the use of force in contravention of the provisions of the Charter; and that the territory of a State will not be the object of acquisition by another State as a result of the threat or use of force; establishing clearly that no territorial acquisition derived from the application of these conducts will be recognized as legal.

On the other hand, the Declaration provides that no State may apply or promote the use of economic, political or any other type of measures to coerce another State to subordinate it in the exercise of its sovereign rights and obtain from it advantages of any kind; in addition to determining that the use of force to deprive the peoples of their national identity constitutes a violation of their inalienable rights and of the principle of non-intervention.

In this context, it is necessary to highlight that since 1977; Israel has applied a policy and developed practices that involve the establishment of settlements in the occupied Palestinian territory, in contravention of the terms of paragraph 6 of article 49 of the Fourth Geneva Convention.



Paragraph 6 of Article 49 of the Fourth Geneva Convention provides that: "*The occupying Power may not carry out the evacuation or transfer of a part of its own civilian population to the territory occupied by it.*" This provision prohibits not only deportations or forced population transfers, such as those carried out during the Second World War, but also all measures taken by an occupying power in order to organize or promote transfers of parts of its own population to the occupied territory.

The Security Council has reiterated that these policies and practices have no legal validity and has repeatedly called on Israel to respect the Fourth Geneva Convention and to desist from taking any action that would change the legal status and geographical nature of the Arab territories occupied since 1967, including Jerusalem, and in particular not to transfer parts of its own civilian population to the occupied Arab territories and significantly affect the demographic composition, reiterating that the expropriation of land and property, the transfer of populations and the legislation directed to the incorporation of the occupied section, are totally invalid³.

The Council reaffirmed its position in resolutions 452 (1979), of July 20, 1979, and 465 (1980), of March 1, 1980, declaring that the policies and practices of settlement of groups of its population and new immigrants in the occupied territories implemented by Israel as a manifest violation of the Fourth Geneva Convention.

In that regard, Bolivia deems that the Israeli settlements in the occupied Palestinian territory, including East Jerusalem, the West Bank, the Gaza Strip and the Syrian Golan, have been built in contravention of international law, and therefore are illegal in light of the relevant international treaties and conventions.

Likewise, Bolivia considers that the acquisition of territory by force, the transgression of the territorial delimitations made by the United Nations and accepted by both parties; and the consequent forced displacement of the Palestinian population from their lands, homes and properties to encourage the settlement of settlers backed by military forces using disproportionate force and committing violations of human rights, which could constitute crimes against humanity, are manifestly illegal acts that also constitute violations of international humanitarian law.

In addition, the expansion acts legitimized by Israel through its internal legislation constitute a flagrant disregard and contempt for the resolutions approved by the United Nations Security Council, to the detriment of the two-State solution, and of the independence, sovereignty and self-determination of the Palestinian people.

Bolivia notes with concern that these actions have been accompanied by systematic violations of human rights that have been observed by both the Security Council and the Human Rights Council, as well as relevant treaty bodies to which Israel has acceded through the ratification of different conventions on the protection of human rights.

ON VIOLATIONS TO HUMAN RIGHTS IN THE CONDUCT OF THE OCCUPATION

³ Resolución 446 (1979) de 22 de marzo de 1979; Resolución 298 (1971) de 25 de septiembre de 1971; Resolución 446 (1979) de 22 de marzo de 1979; 465 (1980) de 01 de marzo de 1980; 478 (1980) de 20 de agosto de 1980; Resolución 592 (1986) de 08 de diciembre de 1986.



The policies and practices implemented in conducting the occupation and in pursuit of the illegal objective of annexation infringe and violate a multitude of rights of the Palestinian people protected by human rights law and international humanitarian law.

These violations have not diminished despite repeated condemnations from the international community. The rights of the Palestinian people that are being constantly and daily violated include the "freedom of self-determination, non-discrimination, freedom of movement, equality, due process, a fair trial, not to be arbitrarily detained, the freedom and security of the person, freedom of expression, freedom of access to places of worship, education, water, housing, adequate standard of living, property, access to natural resources and effective reparation"⁴. These violations are factual and are committed during the continuous and permanent occupation of Palestinian territory

The Security Council repeatedly identified violations of human rights, strongly deploring Israel's policies and practices, which violate the human rights of the Palestinian people in the occupied territories, and in particular the opening of fire by the Israeli army resulting in the death and wounding of defenseless Palestinian civilians⁵; urging the occupying power to immediately and scrupulously respect the Geneva Convention on the due protection of civilians in time of war⁶ and to immediately desist of its policies and practices that contravene the provisions of the Convention.

In addition, the Security Council called on Israel, the occupying power, to refrain from expelling any Palestinian civilians from the occupied territories⁷, and to guarantee the safe and immediate return to the occupied Palestinian territories of those who have already been deported⁸; also urged it to take and implement measures, including but not limited to the confiscation of weapons, in order to prevent illegal acts of violence and massacres by Israeli settlers⁹; also demanding the immediate cessation of the *de facto* measures implemented, including the destruction of Palestinian civilian and security infrastructure¹⁰.

The Human Rights Council has expressed on several occasions its concern and rejection of the violations of Human Rights committed by Israel against the Palestinian population; among them, the murder of Palestinian civilians, including women and children, as well as doctors in Palestinian cities and towns¹¹; in addition to having expressed its alarm and concern about the serious and systematic violations of human rights committed against the Palestinian people in the occupied territories, including those that emanate from the incessant and repeated Israeli military incursions¹².

In this context, the Human Rights Council has repeatedly called for the immediate protection of Palestinian civilians in the Occupied Palestinian Territory in accordance with human rights

⁴ Resolución 694 (1991) de 24 de mayo de 1991; Resolución 726 (1992) de 06 de enero de 1992.

⁵ Resolución 605 (1987) de 22 de diciembre de 1987.

⁶ Resolución 672 (1990) de 12 de octubre de 1990.

⁷ Resolución 607 (1988) de 05 de enero de 1988.

⁸ Resolución 608 (1988) de 14 de enero de 1988; Resolución 363 (1989) de 06 de julio de 1989.

⁹ Resolución 904 (1994) de 18 de marzo de 1994; Resolución 1322 (2000) de 07 de octubre de 2000.

¹⁰ Resolución 1435 (2002) de 24 de septiembre de 2002; Resolución 1544 (2004) de 19 de mayo de 2004.

¹¹ Op. 2 y 4 – Resolución A/HRC/S-3/2 de 15 de noviembre de 2006.

¹² Resolución A/HRC/S-6/2 de 24 de enero de 2008.



standards and international humanitarian law¹³, in addition to stressing that all policies and measures taken by Israel to limit Palestinian access to its holy sites, in particular in occupied East Jerusalem, on the basis of their national origin, religion, birth, sex or any other status, violate the provisions set forth in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and the Fourth Geneva Convention on the Protection of Civilians in Time of War; therefore calling for its immediate cessation¹⁴.

Likewise, the Human Rights Council has expressed its dismay at the Israeli bombardment of Palestinian homes and the killing of civilians in them, in addition to describing the Israeli policy of inflicting collective punishment on the civilian population as contrary to international humanitarian law¹⁵, and has demanded that it stop attacking civilians, facilities and medical personnel, and the systematic destruction of the cultural heritage of the Palestinian people, in addition to the destruction of public and private property, calling on it to comply with the provisions of the Fourth Geneva Convention¹⁶.

Furthermore, at the time to uphold the right of the Palestinian people to self-determination in accordance with the provisions of the United Nations Charter and relevant United Nations resolutions and declarations, the Human Rights Council, through its Resolution A/HRC/10/29 of March 26, 2009, reaffirmed the inalienable, permanent and unconditional right of the Palestinian people to self-determination¹⁷, including their right to live in freedom, justice and dignity; their right to establish their own sovereign, independent, democratic and viable, state; reiterating the need to respect and preserve the territorial unity, contiguity and integrity of the entire Occupied Palestinian Territory, including East Jerusalem¹⁸.

In this context, at the time to lament the continuous violations of human rights, the Council repeatedly condemned¹⁹ the confiscation of land and property, the demolition of houses and private property, the construction and expansion of settlements, the demographic change and the geographical character of East Jerusalem, and the restrictions on the freedom of movement of Palestinian citizens in that territory²⁰.

Likewise, regarding the rights of the especially vulnerable population, the Council expressed that any arrest, detention and/or trial of Palestinian children must be in accordance with the Convention on the Rights of the Child, urging Israel to refrain from bringing criminal proceedings against them in military courts which, by definition, fails to provide the necessary guarantees to enforce their rights and which violate their right to non-discrimination²¹.

OBSERVATIONS MADE BY TREATY BODIES

¹³ Op. 5 – Resolución A/HRC/S-3/2 de 15 de noviembre de 2006.

¹⁴ Resolución A/HRC/6/22 de 28 de septiembre de 2007, Resolución A/HRC/RES/S-12/1 de 21 de octubre de 2009.

¹⁵ Resolución A/HRC/7/78 de 06 de marzo de 2008.

¹⁶ Resolución A/HRC/S-9/2 de 12 de enero de 2009, Resolución A/HRC/10/29 de 26 de marzo de 2009, Resolución A/HRC/RES/13/8 de 24 de marzo de 2010.

¹⁷ Resolución A/HRC/RES/16/30 de 13 de abril de 2011, Resolución A/HRC/RES/25/27 de 11 de abril de 2014.

¹⁸ Resolución A/HRC/RES/22/28 de 16 de abril de 2013, Resolución A/HRC/RES/49/28 de 11 de abril de 2022, Resolución A/HRC/RES/43/33 de 03 de julio de 2020, Resolución A/HRC/RES/37/34 de 13 de abril de 2018.

¹⁹ Resolución A/HRC/RES/S-12/1 de 21 de octubre de 2009, Resolución A/HRC/RES/34/29 de 12 de abril de 2017.

²⁰ Resolución A/HRC/RES/16/29 de 13 de abril de 2011, Resolución A/HRC/RES/19/16 de 10 de abril de 2012, Resolución A/HRC/RES/52/34 de 18 de abril de 2023.

²¹ Resolución A/HRC/RES/25/29 de 11 de abril de 2014.



Bolivia notes that a significant number of recent recommendations issued by Treaty Bodies reiterate the negative effects and transgressive practices of Human Rights committed by Israel, which were abundantly expressed by the different United Nations Bodies previously referred to.

Among them, Bolivia notes that the Human Rights Committee, in its Final Observations to Israel's fifth periodic report of May 5, 2022²², and the Committee on Economic, Social and Cultural Rights, in its Final Observations to Israel's fourth periodic report of November 12, 2019²³, concurred in expressing their concern that Israel maintains an erroneous position, regarding the inapplicability of its human rights obligations in the Occupied Palestinian Territory regarding the concurrent validity of international human rights law and international humanitarian law in a situation of armed conflict or occupation, which was supported by the jurisprudence established by both Committees, various other treaty bodies and the International Court of Justice.

Furthermore, in paragraph 15 of its concluding observations, the Human Rights Committee urged Israel to end the construction and expansion of settlements in the Occupied Palestinian Territory, including East Jerusalem, and in the occupied Syrian Golan, as well as all settlement-related activities, including the transfer of its own population to those settlements; in addition to putting an end to the expropriation of private lands owned by the Palestinians and the Syrian Arab population and declaring them as "*state lands*" in order to establish settlements on them²⁴; and to take immediate steps to dismantle the wall built in the West Bank in accordance with the advisory opinion issued on July 9, 2004 by the International Court of Justice²⁵, to guarantee the full access of Palestinians to their land, their livelihoods and the full exercise of their rights, including the right to self-determination.

In the same context, the Committee strongly called on Israel to refrain from executing eviction and demolition orders based on planning policies and discriminatory laws and practices towards Palestinians, as well as Bedouins, in the West Bank, including East Jerusalem.

Furthermore, the Committee urged Israel to redouble its efforts to prevent and combat violence perpetrated against Palestinians by Israeli settlers in the West Bank, including East Jerusalem, as well as by Israeli security forces together with these settlers, and to provide adequate protection to the victims. In addition to urging it to take all necessary measures to end the practice of torture and ill-treatment inflicted on Palestinians deprived of their liberty, especially children.

Bolivia notes that these recommendations and observations have not been complied with, and that, on the contrary, they have been intensified through the implementation of plans and programs that allow the expansion of Israeli settler settlements under extreme violence backed by the defense forces.

²² CCPR/C/ISR/CO/5

²³ E/C.12/ISR/CO/4, de 12 de noviembre de 2019.

²⁴ Ídem, Par. 11, Inc. d)

²⁵ A/ES-10/273 de 13 de julio de 2004, Par. 163.



On the other hand, the Committee on Economic, Social and Cultural Rights in its Concluding Observations on the fourth periodic report of Israel determined²⁶ that it has positive and negative obligations with respect to the Occupied Palestinian Territory, affirming that it should not create any obstacle to the exercise of the rights to work, food, water and sanitation, health and education, as well as the cultural rights of the Palestinian people; and that for this reason, no legislative or normative measure related to the occupied territories can permanently alter their political or legal status, nor have irreparable consequences for the people who inhabit them.

In this regard, urged Israel to immediately end the blockade and closures affecting the Gaza Strip and to allow unimpeded access to urgent humanitarian assistance; to take immediate steps to facilitate the free movement of Palestinians in the Occupied Palestinian Territory, including East Jerusalem and the Gaza Strip, and to ensure that all measures restricting the free movement of civilians and goods into and within the Gaza Strip are consistent with its obligations under the Covenant; in addition to immediately halting and reversing all settlement-building activities in the West Bank, including East Jerusalem and the occupied Syrian Golan; recommending to stop destroying Palestinian water supply infrastructure and to ensure that Palestinians have access to safe and clean drinking water in sufficient quantities²⁷.

Regarding the negative effects of the policies implemented by Israel through the demolition of homes and schools, the Committee urged it to immediately put an end to the practice of collective demolition of homes and private property as punishment and to ensure that the victims of this practice receive comprehensive and effective reparation, including restitution of the affected property²⁸; as well as to void the orders of demolition and of stop of works dictated against schools²⁹; limit the entry of the Israeli security forces into school establishments to carry out searches to the strictly necessary cases; and adopt effective measures to guarantee unhindered and safe access to schools for students and teachers without being subjected to acts of harassment or threats committed by Israeli settlers and by the security forces, requesting, in this understanding, that the perpetrators of said acts of violence be prosecuted.

Bolivia observes that none of the recommendations have been fulfilled, and that, on the contrary, the demolitions of houses, schools and hospitals have been carried out as a state policy, in clear disregard of the elementary principles of respect for human rights. These transgressions clearly affect the exercise of the economic, social and cultural rights of the Palestinian population, and have as a consequence an evident constriction in their development prospects and capacities.

The Committee on the Elimination of Racial Discrimination, in its Concluding Observations³⁰ on Israel's combined 17th to 19th periodic reports, urged the State party to fully comply with article 3 of the Convention on the Elimination of Racial Discrimination, to eradicate all forms of segregation between Jewish and non-Jewish communities and any such policy or practice

²⁶ E/C.12/ISR/CO/4, de 12 de noviembre de 2019, Par 11.

²⁷ E/C.12/ISR/CO/4, de 12 de noviembre de 2019, Par 47, b).

²⁸ Ídem, Par 51 y 53.

²⁹ Ídem, Par 65.

³⁰ CERD/C/ISR/CO/17-19, de 27 de enero de 2020.



that seriously and disproportionately affects the Palestinian population in Israel and the Occupied Palestinian Territory, especially those on the prevention, prohibition and eradication of all apartheid and apartheid policies and practices.

Likewise, the Committee urged Israel to urgently allow and facilitate the reconstruction of Palestinian civilian homes and infrastructure, to guarantee access to urgent and necessary humanitarian aid, as well as to safeguard the exercise of the right to freedom of movement, housing, education, health care, water and sanitation, in accordance with the Convention³¹; in addition to guaranteeing equal access for all residents of the occupied Syrian Golan to fundamental rights, such as the right to land, housing, water and basic services; and to put an end to the expansion of the illegal Israeli settlements and to provide a satisfactory solution to the problem of family separation.

The Committee on the Elimination of Discrimination against Women, in its Concluding Observations on Israel's sixth periodic report³², called for an immediate end to all human rights violations and abuses perpetrated against women and girls in the Occupied Palestinian Territory and to remove all restrictions on freedom of movement, in addition to ensuring that perpetrators are held accountable for their actions and legal remedies are provided for victims³³.

In the same way, it urged the occupying power to revoke all policies on the practice of punitive demolitions and forced evictions, the application of eviction and demolition orders based on discriminatory planning and zoning policies that negatively affect the physical and psychological well-being of Israeli Arab women and girls, and Palestinian women and girls from the Occupied Palestinian Territory.

In its Concluding Observations to Israel's fifth periodic report³⁴, the Committee against Torture reaffirmed that the Convention applies to the entire territory and persons under Israel's jurisdiction, including the occupied territories, in accordance with the Committee's General Comment No. 2³⁵, the views of other treaty bodies and the jurisprudence of the International Court of Justice³⁶.

In this regard, the Committee expressed concern about reports of excessive use of force, including deadly force by security forces, particularly against Palestinians in the West Bank, including East Jerusalem, and restricted access areas of the Gaza Strip, particularly in the context of demonstrations in response to attacks, or suspected attacks, on Israeli civilians or security forces, and to enforce restrictions on access to areas of the Gaza Strip, noting that some of these responses clearly denote unlawful killings and even possible extrajudicial executions³⁷.

³¹ Idem, Par. 45 y 47.

³² CEDAW/C/ISR/CO/6, de 17 de noviembre de 2017.

³³ CEDAW/C/ISR/CO/5, Par. 23.

³⁴ CAT/C/ISR/CO/5, de 03 de junio de 2016.

³⁵ CAT/C/GC/2, de 24 de enero de 2008. Par. 7.

³⁶ Idem. Par. 9.

³⁷ A/HRC/31/40. Par. 10.



In addition, the Committee reminded Israel that the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment stipulates that the prohibition of torture is absolute and non-derogable, and that a State party may not invoke any exceptional circumstances as a justification for torture, recommending that Israel include in its national legislation the principle of the absolute prohibition of torture in accordance with the provisions of the aforementioned Convention³⁸, and urging it to immediately end and prohibit the use of solitary confinement and equivalent measures in minors and people with intellectual or psychosocial disabilities; and to take urgent measures to ensure that, in practice, doctors and other health personnel dealing with persons deprived of their liberty duly document all indications and reports of torture or ill-treatment, and promptly inform the relevant authorities independently.

On the other hand, the Committee expressed its concern about the reports of numerous cases in which Palestinian minors suffered torture or ill-treatment, among other reasons, to obtain confessions³⁹; In this sense, the Committee urged Israel to ensure that all minors deprived of liberty enjoy all the fundamental legal guarantees from the moment of their deprivation of liberty, and that evidence obtained without them being accompanied by a lawyer and/or an adult they trust is inadmissible in court; in addition to calling on the occupying power to guarantee that minors who are victims of torture or mistreatment receive adequate reparation, including the means for their rehabilitation⁴⁰.

The Committee on the Rights of the Child, in its concluding observations on Israel's second to fourth periodic reports⁴¹, noted that the State party's persistent refusal to provide information and respond to written questions about children living in the Occupied Palestinian Territory, including East Jerusalem and the occupied Syrian Golan, greatly affects the adequacy of the reporting process and the State's accountability for the implementation of the Convention on the Rights of the Child.

In this regard, the Committee urged Israel to comply with the Advisory Opinion of the International Court of Justice on the legal consequences of the construction of a wall in the Occupied Palestinian Territory⁴² and to respect its obligations to guarantee the full application of the Convention in Israel and in the Occupied Palestinian Territory, including the West Bank, the Gaza Strip and the occupied Syrian Golan, reiterating that the prolonged illegal occupation of the Palestinian territory and the Syrian Golan, the continued expansion of the illegal settlements and the construction of the wall in the West Bank, as well as the confiscation of land and the destruction of Palestinian homes and livelihoods, constitute a serious and continuous violation of the rights of Palestinian children and their families, fueling the cycle of humiliation and violence⁴³; calling on Israel to end the occupation, to dismantle all illegally established settlements, and to end the transfer of its population to the occupied territories, in addition to urgently allowing the entry of all construction materials

³⁸ CAT/C/ISR/CO/5, de 03 de junio de 2016, Par. 14 y 15.

³⁹ Ídem. Par. 28.

⁴⁰ Ídem. Par. 29.

⁴¹ CRC/C/ISR/CO/2-4, de 04 de julio de 2013.

⁴² A/ES-10/273, de 13 de julio de 2004. Par. 163.

⁴³ CRC/C/ISR/CO/2-4, de 04 de julio de 2013. Par. 7.



needed by Palestinian families to rebuild homes and civil infrastructure in order to guarantee respect for children's rights to housing, education, health, water and sanitation⁴⁴.

Under these provisions, the Committee urged Israel to include in its fundamental laws the prohibition of discrimination and the principle of equality and to adopt immediate measures to prohibit and eradicate policies or practices that seriously and disproportionately affect the Palestinian population in the Occupied Palestinian Territory, especially children, so that they may enjoy without discrimination all the rights conferred on them by the Convention⁴⁵, reiterating that children living in the Occupied Palestinian Territory must be considered as children up to the age of 18, effectively benefiting from all the protection provided for in the Convention, in particular in the provisions relating to the administration of juvenile justice⁴⁶; and that Israel has the inexorable responsibility to prevent and eradicate torture and mistreatment of children living in the Occupied Palestinian Territory in accordance with the provisions of the Convention on the Rights of the Child and the Fourth Geneva Convention.

The Committee also urged Israel to ensure safe and unconditional access to health services, including emergency medical care, for all children and pregnant women living in the Occupied Palestinian Territory, as well as to end attacks on hospitals, medical centers and schools, and their use as outposts and detention centers; in addition to calling on it to immediately declare a moratorium on the destruction of schools in the Occupied Palestinian Territory and the Negev; and to remove all disproportionate restrictions on freedom of movement that prevent Palestinian children from attending school⁴⁷.

B) HOW DO THE POLICIES AND PRACTICES OF ISRAEL, MENTIONED IN PARAGRAPH 18 (A) ABOVE AFFECT THE LEGAL STATUS OF THE OCCUPATION, AND WHAT IS THE LEGAL SEQUENCE THAT DERIVES FOR ALL STATES AND THE UNITED NATIONS FROM THIS STATUS?

Illegality of Occupation

The conduct and practices of the occupying power are strictly regulated by international law. The obligations and prohibitions applicable to the occupying Power under IHL are intended, in addition to the protection of civilians against the arbitrary actions of the enemy, to prevent it from using its occupation as a way to acquire territory by force. As noted, the prohibition of article 49, paragraph 6, of the Fourth Geneva Convention which establishes that "*the occupying Power shall not deport or transfer parts of its own civilian population to the territory it occupies*".

There is no such thing as "permanent occupation" or "settler occupation" in international law. As such, Israel's policies and practices more closely resemble those adopted by colonial powers than those of an occupying Power.

Israel's occupation, both in its means and in its purpose, is not within the framework of legality established in current international law.

⁴⁴ Ídem. Par 24. Inc c).

⁴⁵ Ídem. Par. 22.

⁴⁶ Ídem. Par. 20.

⁴⁷ Ídem. Par 54 y 64.



The *de facto* annexation of territory imposes restrictions on where Palestinians can live and travel, and imposition of a racially discriminatory legal and administrative regime that favors Israeli settlers and deprives Palestinians of their fundamental rights. The occupying Power is bound by international law to administer the territory for the benefit of the people under its occupation.

Israel administers the territory solely for the benefit of its own citizens, whom it has transferred to the territory to the detriment of the occupied people with the purpose of permanent colonization. Although temporary and provisional powers of administration are conferred on an occupying power, annexation or sovereignty claims over the territory are absolutely prohibited. Israel has set out to exercise effective sovereignty over Jerusalem and the Occupied Palestinian Territory as a whole, annexing some parts of it *de jure* and other parts *de facto*.

Therefore, the conclusion is inescapable that Israel has used its protracted occupation as a pretext to pursue its illegal objective of annexing the Occupied Palestinian Territories, in violation of the UN Charter, and that, consequently, the Israeli occupation as a whole must be considered illegal.

Legal consequences for Israel

The legal consequences of a determination by the International Court of Justice that the Israeli occupation of Palestinian territory is illegal both in its conduct and in its objective, will set a precedent to call Israel to fulfill its obligation to bring an immediate and unconditional peaceful end to the illegal situation for which it is internationally responsible, that is, its occupation of the Occupied Palestinian Territories, and to provide adequate reparation.

Legal consequences for third States

The legal consequences for Third States and International Organizations of a determination by the International Court of Justice that the Israeli occupation of the Occupied Palestinian Territories is unlawful and must be ended immediately and unconditionally, will set the obligation to support peaceful efforts to end the illegal occupation without delay and to refrain from any act or omission that contributes to maintaining the illegal situation. Member States have an obligation to uphold the Charter of the United Nations.

Legal consequences for the United Nations

The United Nations, and especially the General Assembly and the Security Council, must consider what further steps are necessary to bring an immediate and unconditional end to the Israeli occupation of the Occupies Palestinian Territories and take the necessary steps to ensure the implementation of its relevant resolutions without further delay.



FINAL CONSIDERATIONS OF BOLIVIA

Bolivia notes with concern that in addition to the Security Council, the Human Rights Council, the United Nations General Assembly, and the International Court of Justice, various treaty bodies have called on Israel to comply with its obligations under international law, to cease the expansion of illegal settlements, and to guarantee the full exercise, enjoyment, and respect of the human rights of the Palestinian population without the intention of Israel to remedy the violations committed; On the contrary, it has continued to implement these measures, which, among others, have generated recent reactions from the United Nations.

Thus, Bolivia takes note of the Presidential Declaration⁴⁸ of the Security Council issued on February 20, 2023, in which that Body expresses deep concern and dismay over Israel's announcement of February 12, 2023, announcing further construction and expansion of settlements and the "legalization" of outpost settlements; reiterating that continued Israeli settlement activities are jeopardizing the viability of the two-state solution based on the 1967 lines.

Similarly, Bolivia adheres to the position expressed in the aforementioned Presidential Declaration, in which the Security Council strongly underlines the need for all parties to comply with their international obligations and commitments. Bolivia strongly opposes all unilateral measures that impede peace, including, but not limited to, Israeli settlement construction and expansion, confiscation of Palestinian land and "*legalization*" of settlements, demolition of Palestinian homes, and displacement of Palestinian civilians.

Bolivia reiterates its categorical rejection of the expansionist and colonialist policies that Israel has been developing for half a century, promoting constant suffocation against the Palestinian people, in flagrant indifference and violation of international law and the respective resolutions approved by the Security Council, the Human Rights Council and the General Assembly.

There is a historical and undeniable inequality, since one of the parties has used and is using force to occupy the territory of another, building a wall that, according to the advisory opinion issued by the International Court of Justice, constitutes an illegal act and a violation of international law.

The constant proliferation of illegal settlements, the forced displacement of civilians, the confiscation of land, the demolition of homes, and the transfer of settlers to illegally built colonies are transgressions of international law that also ignore the commitments assumed by the occupying power and belittle the binding pronouncements of the Security Council and the different United Nations Bodies.

The result of these acts has meant that more than five million Palestinian refugees cannot return to their homes or lands, and that those who still survive these constant attacks are systematically deprived of access to water, health, education, basic services, work, and finally life, having to endure serious human rights violations in a constant affront furnished

⁴⁸ S/PRST/2023/1, de 20 de febrero de 2023.



through State policies implemented by Israel characterized by disproportionate acts of violence and rampant impunity.

These illegal measures constitute an obvious obstacle to the aspiration for self-determination, independence and sovereignty to which the Palestinian people have been entitled since the approval of Resolution 181 of November 29, 1947 by the General Assembly, and which has been incessantly transgressed by Israel for 75 years.

In this sense, as long as Israel continues to breach its international obligations at the expense of the Palestinian people, it will not be possible to speak of a right to development with the possibility of being implemented, nor of a 2030 Agenda as an action plan in favor of people and prosperity; since both the Occupied Palestinian Territory, including East Jerusalem, the West Bank, the Gaza Strip and the occupied Syrian Golan are limited to access basic supplies such as water, sanitation, electricity and much more to exercise their rights to work, education, health, food and in many cases to life.

Bolivia considers that Israel, the occupying power, openly ignores and violates its international obligations and those on which multilateralism is founded. Policies approved and implemented with the use of disproportionate force to attempt to legitimize illegal settlements in Palestinian territories under their occupation, including by providing armed assistance, have allowed attacks by settlers against Palestinian families and the usurpation and dispossession of land and property to take place.

On the other hand, the Israel Defense Forces act with total impunity, destroying schools, health centers, hospitals and, in many cases, executing demolition orders against the homes of Palestinian families, in addition to having created different types of checkpoints to prevent the free movement of Palestinians, as well as forcing them to inhumane displacement from their own territories, thus violating not only international Human Rights Law, but also International Humanitarian Law, which includes the protection of essential goods for survival or the subsistence of the civilian population (for example, facilities for the supply of food and drinking water) and building sites that contain dangerous forces (for example, dams, water treatment plants and power plants).

For this reason, Bolivia considers that within the framework of the aforementioned resolutions, Israel must immediately and completely put an end to all settlement activities in the Occupied Palestinian Territory, and reaffirms that the establishment of settlements by Israel in the Palestinian territory occupied since 1967, including East Jerusalem, has no legal validity and constitutes an outright violation of international law and a major obstacle to the achievement of the two-State solution and a general, just and lasting peace.

Bolivia considers that Resolution A/RES/ES-10/15 contains fundamental aspects of the Advisory Opinion of the International Court of Justice on the legal consequences of the construction of a wall in the occupied Palestinian territory, including East Jerusalem and its surroundings, which should be part of the elements to consider regarding the legal consequences derived from Israel's policies and practices in the Occupied Palestinian Territory due to their analogous nature, these are:



1. Israel's construction and expansion of settlements in the Occupied Palestinian Territory, including in and around East Jerusalem, and its related regime, are contrary to international law.
2. Israel has an obligation to put an end to violations of international law and must immediately dismantle all settlements, infrastructure and sites built on Palestinian land (dispossessed, confiscated, occupied by force), and immediately repeal or nullify all legislative and administrative acts that give legal support to these expansion policies.
3. Israel has an obligation to make reparation for all damages caused in the Occupied Palestinian Territory, including East Jerusalem and the surrounding areas.
4. Israel has the obligation to identify, prosecute and punish all those responsible, civilian and/or military, for the commission of human rights violations.
5. The United Nations, and especially the General Assembly and the Security Council, should consider further measures necessary to put an end to the illegal situation resulting from the illegal expansion of Israeli settlements and related forced demographic change.

Bolivia, as a pacifist and peace supporting country, considers that the only alternative to guarantee a just and lasting peace in the conflict between Israel and Palestine must be carried along by the use of dialogue and negotiation, with clear expressions of political will on both sides to achieve a two-state solution, where a free, sovereign and independent Palestinian state is finally consolidated with international borders prior to 1967, with East Jerusalem as its capital, in accordance with the relevant resolutions of the Security Council and the General Assembly.

We ratify our full commitment to multilateralism, respect for international law, and we reiterate our support for all international efforts that lead to a peaceful solution to the conflict; among them the Road Map of the Quartet, the Madrid Principles, the Arab Peace Initiative and others that constitute guarantees for a just and lasting peace and that allow both peoples to live within recognized and secure borders.