

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

**REQUEST FOR ADVISORY OPINION**

**SECOND WRITTEN STATEMENT OF THE  
GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH**

## I. THE COURT SHOULD EXERCISE ITS DISCRETION TO RENDER AN ADVISORY OPINION

1. The Court is asked to render an advisory opinion on squarely legal questions. Whatever might be said about the genesis of the Palestine-Israel conflict, the abominable failure of the political process concerning its resolution, or the tragic and ongoing loss of life in Palestine and Israel, four matters are eminently clear:
  - i. first, the Palestinian People have the legal right to self-determination;
  - ii. secondly, Israel is an occupying power;
  - iii. thirdly, occupation is a legal condition;
  - iv. fourthly, Israel's prolonged occupation together with the practices and policies it adopts as part of, or adjacent to, that occupation have legal consequences, including for the Palestinian people's right to self-determination.
  
2. These are legal matters, which call for the application of law to facts. And these are the matters that lie at the centre of the two questions put to this Court. The short point is this: the Court has been asked to answer legal questions; and it has jurisdiction to answer those questions.
  
3. As to how the Court should exercise its discretion, three brief observations should be made, in addition to those made in Bangladesh's first submission:
  - 3.1 First, as this Court has long recognised, the fact that a legal question may also have political aspects, or may arise in a political context, does not deprive that question of its legal character.<sup>1</sup> And one would be hard-pressed to identify any question that has come before this Court, whether in an advisory or contentious proceeding, which does not have political aspects to it, or which could not be described as "a political question" rather than a legal question. That is the very nature of State-to-State relations.
  
  - 3.2 Secondly, the Court is not being asked to ignore or distort reality, to overlook Israel's "rights and responsibilities", to ignore Palestine's "obligations", or to otherwise turn a blind eye to facts on the ground. To the contrary, this Court is being asked to look reality squarely. The Court is being asked to the facts on the ground, including consider in the legal context in which they arise, and to opine on the legal consequences of the reality that now exists in Palestine and Israel in a way that only this Court can do.
  
  - 3.3 Thirdly, insofar as criticisms have been made as to the "imbalanced" nature of the questions before this Court, those criticisms must be approached only based on reality. They are intellectually inconsistent and ignore the deeply imbalanced context from which the questions before this Court have sprung.

---

<sup>1</sup> *Legality of the Threat or Use of Nuclear Weapons*, Advisory Opinion, *I.C.J. Reports 1996*, para 13.

4. Israel's sheer control over the Palestinian people, the scale of its authority and the violence of its subjugation, of its humiliation and of its erasure of the Palestinian people must constantly be borne in mind. Never has Israel's hegemony been more apparent than in its current stranglehold on Gaza, which is worsening by the day, and which risks the illegal push of the Palestinians out of Gaza.
5. To date, political processes have failed the Palestinian people. Legal intervention is thus necessary.

## II. FURTHER BRIEF REMARKS

6. There is no shortage of information or evidence before this Court, including in relation to Israel's violations of peremptory norms of international law.
7. **Annexation:** Israel's own laws attest as well as the statements of its highest officials are evidence of the fact Israel has annexed large parts of the Occupied Palestinian Territory, including East Jerusalem.
8. An overwhelming number of States who have submitted written statements in this proceeding consider that Israel has illegally annexed large parts of the Occupied Palestinian Territory through its prolonged occupation, its expansionist settlements and the regime associated with those illegal settlements, including the Wall and the network of laws, orders, policies, and practices that apply to the Occupied Palestinian Territory. Many States have also observed that the occupation as a whole is illegal by reason of such annexation, and because the occupation has been pursued and maintained, since its inception, with the view to achieving such annexation.
9. **Apartheid:** Israel's laws, policies and practices in the Occupied Palestinian Territory, including the adoption of separate laws and the use of separate courts for Palestinians and Jewish Israelis, and the institutional and structural discrimination of the Palestinian people amounts to the international crime of Apartheid.<sup>2</sup>
10. Many States who filed written statements have observed that both international humanitarian law and international human rights law apply concurrently in the Occupied Palestinian Territory. In turn, many States have observed that Israel has systematically violated both regimes, including through its persecution and discrimination of the Palestinian people and its colonisation of Palestinian land, and that such discrimination amounts to Apartheid.
11. **Self-Determination:** Israel's long-standing denial of the right of the Palestinian people to self-determination is indisputable, including through its colonial occupation of Palestinian land and of its racial discrimination amounting to Apartheid against the Palestinian people.

---

<sup>2</sup> Absentee Property Law (1950), Law of Return (1950), Basic Law: Israel – Nation State of the Jewish People (2018).

12. Almost all written statements submitted to the Court recognise the right of the Palestinian people to self-determination. They recognise that this right includes the right to the independence and sovereignty of the State of Palestine. They also consider that, *inter alia*, bringing about an end to Israel's occupation is necessary for the realisation of this right.
13. **Obligations incumbent on all States:** All States are obliged to bring internationally wrongful acts, including Israel's colonisation and annexation of the Occupied Palestinian Territory, to an end; not to render aid or assistance to the violation of international law (whether through their governments, or other state actors, or actors under their jurisdiction including businesses, companies, entities and individuals); not to recognise such violations of international law (including by not moving their embassies to Israel to Jerusalem); and to hold those responsible for breaches of international law accountable, including in their capacity as High Contracting Parties to the Fourth Geneva Convention.
14. All States, while respecting the United Nations Charter and international law, have an obligation to see that any impediment to the exercise by the Palestinian people of their right to self-determination is brought to an end, and to assist the Palestinian people in the early realisation of this right.
15. The United Nations, particularly the UN Security Council, also has a responsibility to adopt practical ways and means to secure the full implementation of the relevant UN Resolutions and international obligations, and to uphold the UN Charter.
16. **Obligations incumbent on Israel:** Israel is obligated to put an immediate end to the above illegal acts, including by repealing all relevant legislation, policies and practices, providing assurances and guarantees of non-repetition and providing full reparation.
17. **Further negotiations and international law:** the established framework for peace is grounded in international law. The political process cannot operate in a vacuum and is not a licence for Israel to commit grave violations of international law. Political and legal processes are not mutually exclusive.
18. The internationally recognised terms of reference for the peace process include all relevant UN Resolutions, the Madrid terms of reference, including the principle of land for peace, the Arab Peace Initiative and the Quartet Roadmap. All of these terms of reference unequivocally refer to the inalienable right of the Palestinian people to self-determination, the right of return for Palestinian refugees, ending the Israeli occupation and realising the two-State solution based on the pre-1967 borders with an independent, sovereign and contiguous State of Palestine living side by side in peace and security with Israel. They refer to the inadmissibility of the acquisition of territory by force, including the illegality of the settlement activities and of all attempts to annex Palestinian territory. The Security Council and the General Assembly, in all their Resolutions on the question of Palestine, refer explicitly to the UN Charter and international law.

19. Bangladesh believes that the goal of the negotiations is thus to achieve a peaceful settlement in line with international law and relevant UN Resolutions.
  20. It is thus incumbent upon the Court, as the judicial body of the United Nations, to clarify and enunciate the law, when it is asked to do so by the General Assembly or other qualified UN bodies. By clarifying the legal rights and obligations of the parties, as well as the obligations of all States and the UN, the Court contributes to the peaceful settlement of conflicts based on international law.
  21. Bangladesh recognises that the State of Palestine has consistently and conclusively re-affirmed its willingness to negotiate peace in keeping with international law and based on above terms of reference, to ensure the fulfilment of the inalienable rights of the Palestinian people under international law, including to self-determination, to return and to realize the independence and sovereignty of their State along pre-1967 borders, with East Jerusalem as its capital, living side by side in peace and security with Israel.
  22. Political negotiations, or lack thereof, do not suspend the legal obligations of the parties, third States or the UN under international law. On the contrary, Israel's violation of these obligations, with impunity, and the failure of the international community to hold Israel to account for such violations are the very reasons why a negotiated outcome to the conflict has not been achieved.
-