

Note: This translation has been prepared by the Registry for internal purposes and has no official character

**INTERNATIONAL COURT OF JUSTICE**

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

**(REQUEST FOR AN ADVISORY OPINION)**

**WRITTEN COMMENTS OF THE  
PEOPLE'S DEMOCRATIC REPUBLIC OF ALGERIA**

**October 2023**

*[Translation by the Registry]*

## INTRODUCTION

1. In accordance with the Order of the Court of 3 February 2023, the People's Democratic Republic of Algeria submits the following written comments on the statements of other States concerning the request for an advisory opinion on the two questions put by the United Nations General Assembly in its resolution A/RES/77/247 of 30 December 2022, entitled "Israeli practices affecting the human rights of the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem".

2. By the above-mentioned Order, the Court fixed 25 October 2023 as the time-limit within which States and organizations could submit their comments, in accordance with Article 66, paragraph 4, of the Court's Statute.

## GENERAL COMMENTS

3. A number of States set out their views in detail on the two questions put by the United Nations General Assembly in its resolution A/RES/77/247 on the legal consequences arising from the policies and practices of Israel in the Occupied Palestinian Territory, including East Jerusalem.

4. In this regard, Algeria is in agreement with the majority of States which submitted in their written statements that the Court has jurisdiction to give an advisory opinion on the questions before it, and fully concurs with the position that the same arguments developed by the ICJ in 2004 — as well as those in paragraph [7]2 of the Court's Advisory Opinion of 16 October 1975 in *Western Sahara*<sup>1</sup> and paragraph 54 of its most recent Advisory Opinion on the *Chagos Archipelago* in 2019<sup>2</sup> — could also be put forward in the present proceedings. Algeria concludes from all these arguments that the Court must reject any objections that might be raised to contest the request of the United Nations General Assembly.

The Court must also draw conclusions from the fact that Israel, a Member of the United Nations, habitually and systematically rejects the decisions and resolutions of the General Assembly and the Security Council, and condemns reports by mandate holders and human rights treaty bodies, as well as the Court's own Opinion of 9 July 2004, in respect of which Israel stated that the International Court of Justice did not have jurisdiction to "deliberat[e] on politically contentious issues" without "the consent of all sides" and that therefore it would continue with the construction of the wall<sup>3</sup>.

Israel's non-compliance with the resolutions and decisions of the United Nations and its organs, from General Assembly resolution 194 (1947)<sup>4</sup> to date, thus illustrates its contempt for

---

<sup>1</sup> *Western Sahara, Advisory Opinion, I.C.J. Reports 1975*, p. 12.

<sup>2</sup> *Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965, Advisory Opinion, I.C.J. Reports 2019 (I)*, p. 95.

<sup>3</sup> Israeli Ministry of Foreign Affairs, The anti-terrorist fence and the International Court of Justice, <https://www.gov.il/en/Departments/General/saving-lives-israel-s-anti-terrorist-fence-answers-to-questions-jan-2004>.

<sup>4</sup> UN General Assembly, 194 (III). *Palestine — Progress Report of the United Nations Mediator*, 11 December 1948, A/RES/194.

international law, the principle of “good faith” and, more generally, Israeli officials’ lack of respect for the lives of Palestinians, who are considered “human animals”<sup>5</sup>.

5. Like other States participating in these proceedings, Algeria considers that Israel is violating the right of the Palestinian people to self-determination, a peremptory norm of international law. Consequently, the situation that prevails in Palestine, both in the West Bank and the Gaza Strip and East Jerusalem, is one of unlawful occupation. It is noteworthy that the General Assembly’s request for an advisory opinion places particular emphasis on the right of the Palestinian people to self-determination, since it is the first legal element to which the General Assembly’s question refers.

In this regard, Algeria would point out that the preamble to resolution 77/247 refers to the right to self-determination several times, and considers it to be the cornerstone of both general and special international law. Moreover, it was at the heart of the General Assembly’s request of December 2003 and the content of the Advisory Opinion of 9 July 2004. Paragraph 88 of that Opinion is devoted to the principle of the right of peoples to self-determination; the Court began by recalling that it is enshrined in the Charter of the United Nations and was reaffirmed by General Assembly resolution 2625 (XXV), whose terms were quoted by the Court in that paragraph.

The latter resolution states that “[e]very State has the duty to refrain from any forcible action which deprives peoples referred to . . . of their right to self-determination”. The Court then goes on to underline its prominence in the two 1966 Covenants on civil and political rights and on economic, social and cultural rights, in which Article 1, common to both, “reaffirms the right of all peoples to self-determination, and lays upon the States parties the obligation to promote the realization of that right and to respect it, in conformity with the provisions of the United Nations Charter”.

It should be noted that the concept of self-determination features prominently in the Charter of the United Nations. Article 1, paragraph 2, provides that one of the purposes of the Organization is the development of friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, while Article 55 sets out the means by which the Organization should create the necessary conditions for peaceful and friendly relations among nations, based on respect for the principle of equal rights and self-determination of peoples.

Given the vital importance of this cardinal principle and the fact that it is “intransgressible”, Algeria, while sharing the Court’s analysis, considers it necessary to ensure respect for this principle, which is also confirmed in the Court’s Advisory Opinion on the *Chagos Archipelago* (2019), where it recalled that “resolution 1514 (XV) . . . has a declaratory character with regard to the right to self-determination as a customary norm”, and observes further on that “[t]he wording used in resolution 1514 . . . has a normative character” (para. 153). In the *Western Sahara* proceedings, the Court confirmed the principle set out in paragraph 6 of the Declaration on the Granting of Independence to Colonial Countries and Peoples, which prohibits the partial or total disruption of the national unity and the territorial integrity of a colonial territory, as a reflection of customary international law.

In another illustration of the central place of this principle, the Committee on the Elimination of Racial Discrimination (CERD) in its General Recommendation No. 21 (1996)<sup>6</sup> concerning the right to self-determination recognizes that “all peoples have the right to determine freely their political status and their place in the international community based upon the principle of equal rights and exemplified by the liberation of peoples from colonialism and by the prohibition to subject peoples to alien subjugation, domination and exploitation”. This position was also enshrined in

---

<sup>5</sup> Statement by the Israeli Defence Minister, Yoav Gallant, on 9 October 2023: “I have ordered a complete siege on the Gaza Strip. . . . We are fighting human animals and we are acting accordingly”.

<sup>6</sup> Committee on the Elimination of Racial Discrimination, General Recommendation XXI, The right to self-determination (forty-eighth session, 1996), UN Doc. A/51/18.

Article 20, paragraph 1, of the African Charter on Human and Peoples' Rights, which provides that all peoples have "the unquestionable and inalienable right to self-determination". And in the same spirit, the African Court on Human and Peoples' Rights affirmed in its judgment of 22 November 2022<sup>7</sup> that "the [African] Charter [on Human and Peoples' Rights] weaves the right to self-determination into the right to existence of peoples, something that denotes a wholesale entitlement or right to survival as people"<sup>8</sup>.

Algeria recalls that in that same judgment, the African Court on Human and Peoples' Rights also reaffirmed the status of the right to self-determination as "a peremptory norm"<sup>9</sup> and "the obligation *erga omnes* on all States" that it triggers<sup>10</sup>.

Moreover, and as South Africa observed in its written statement,

"[t]he right to self-determination has both a political and an economic component: the capacity of a people to freely determine their political status, to choose its own government and govern itself without interference, and the collective right to freely pursue their economic, social and cultural development and enjoy their natural wealth and resources".

Algeria, which fully shares this approach, would add that in addition to the political dimension, the right to the self-determination of the Palestinian people also has an economic dimension that is "perpetually violated by the Israeli occupier", namely the right of peoples' to sovereignty over their natural resources.

This right and principle was enshrined by the General Assembly in its resolution 1803 (XVII) of 14 December 1962<sup>11</sup>, which solemnly proclaimed the "right of all States freely to dispose of their natural wealth and resources"<sup>12</sup>. This principle applies to all, as the United Nations General Assembly has recalled in a large number of its resolutions<sup>13</sup>. Sovereignty over natural resources being one of the main corollaries of the right of peoples to self-determination, it is legitimate to think that this sovereignty is also a right *erga omnes*.

This right was reaffirmed by the General Assembly, with regard to the Palestinian people, in its resolution 72/240 entitled "Permanent sovereignty of the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem, and of the Arab population in the occupied Syrian Golan over their natural resources", which recognizes "the inalienable rights of the Palestinian people . . . over their natural resources, including land, water and energy resources"<sup>14</sup> and demands

---

<sup>7</sup> African Court on Human and Peoples' Rights, *Bernard Mornah v. Republic of Benin and 7 other States*, Application 028/2018, 22 September 2022.

<sup>8</sup> *Ibid.*, para. 295.

<sup>9</sup> *Ibid.*, para. 298.

<sup>10</sup> *Ibid.*, para. 298.

<sup>11</sup> Permanent sovereignty over natural resources, GA Res. 1803 (XVII), UNGA, Official Records, 17th session, Supp. No. 17, Doc. UN A/5344/Add1, A/L412/Rev2 (1962), 15.

<sup>12</sup> Similarly, Article 47 of the International Covenant on Civil and Political Rights and Article 25 of the International Covenant on Economic, Social and Cultural Rights provides: "Nothing in the present Covenant shall be interpreted as impairing the inherent right of all peoples to enjoy and utilize fully and freely their natural wealth and resources".

<sup>13</sup> See the following resolutions in particular: Permanent sovereignty over natural resources, GA Res. 2386 (XXIII), UNGA, Official Records, 23rd session, 1968, 26; Declaration on Social Progress and Development, GA Res. 2542 (XXIV), UNGA, Official Records, 24th session, 1969, 51; Permanent sovereignty over natural resources of developing countries and expansion of domestic sources of accumulation for economic development, GA Res. 2692 (XXV), UNGA, Official Records, 25th session, 1970, 69; Permanent sovereignty over natural resources, GA Res. 3171 (XXVIII), UNGA, Official Records, 28th session, Supp. No. 30, UN Doc. A/9400, (1973), 55.

<sup>14</sup> General Assembly, resolution adopted on 20 December 2017, A/RES/72/240, p. 4.

that “Israel, the occupying Power, cease the exploitation, damage, cause of loss or depletion and endangerment of the natural resources in the Occupied Palestinian Territory, including East Jerusalem”<sup>15</sup>. This resolution also recognizes “the right of the Palestinian people to claim restitution as a result of any exploitation, damage, loss or depletion or endangerment of their natural resources resulting from illegal measures taken by Israel, the occupying Power, and Israeli settlers in the Occupied Palestinian Territory, including East Jerusalem”.

As a peremptory norm that is binding on all, the principle of self-determination obliges States and international organizations to actively apply policies that respect this principle with regard to all Israel’s unlawful practices and measures in the Occupied Palestinian Territory, including East Jerusalem, in particular settlement activities and the exploitation of natural resources. It is to this end that the Security Council, in its resolution 2334 (2016), called upon all States to distinguish, in their relevant dealings, between the territory of the State of Israel and the territories occupied since 1967<sup>16</sup>.

At its thirty-fourth session, held from 27 February to 24 March 2017, the Human Rights Council upheld this principle in reaffirming in its resolution 34/29 the inalienable, permanent and unqualified right of the Palestinian people, including their right to live in freedom, justice and dignity and the right to their independent State of Palestine.

In this spirit, the Council confirmed that the right of the Palestinian people to permanent sovereignty over their natural wealth and resources must be used in the interest of their national development, the well-being of the Palestinian people and as part of the realization of their right to self-determination, and urged all States to adopt measures as required to promote the realization of the right to self-determination of the Palestinian people, and to render assistance to the United Nations in carrying out the responsibilities entrusted to it by the Charter regarding the implementation of this right.

This same position was reaffirmed again in the resolution of the Human Rights Council of 4 April 2023<sup>17</sup>, which called upon

“all States to ensure their obligations of non-recognition, non-aid or assistance with regard to the serious breaches of peremptory norms of international law by Israel, in particular of the prohibition of the acquisition of territory by force, in order to ensure the exercise of the right to self-determination, and also calls upon them to cooperate further to bring, through lawful means, an end to these serious breaches and a reversal of the illegal policies and practices of Israel”.

Similarly, in his report on “the adverse human rights impact of international investment agreements, bilateral investment treaties and multilateral free trade agreements on the international order”, Mr Livingstone Sewanyana, an independent expert on the promotion of a democratic and equitable international order, noted that the States parties to the International Covenant on Civil and Political Rights have an obligation to promote the realization of the right of self-determination and cannot thwart it by entering into commercial agreements that effectively deprive peoples of their natural resources or entail land-grabbing or population displacement<sup>18</sup>.

---

<sup>15</sup> *Ibid.*

<sup>16</sup> Security Council, resolution 2334 (2016), adopted at its 7,853rd session, 23 December 2016, S/RES/2334 (2016).

<sup>17</sup> A/HRC/RES/52/34.

<sup>18</sup> Human Rights Council, Report of the Independent Expert on the promotion of a democratic and equitable international order, A/HRC/33/40, para. 19.

In the same vein, the independent international fact-finding mission to investigate the implications of the Israeli settlements on the civil, political, economic, social and cultural rights of Palestinians in the Occupied Palestinian Territory, including East Jerusalem, stated that

“[p]rivate companies must assess the human rights impact of their activities and take all necessary steps—including by terminating their business interests in the settlements—to ensure that they do not have an adverse impact on the human rights of the Palestinian people, in conformity with international law as well as the Guiding Principles on Business and Human Rights”<sup>19</sup>.

The said mission called upon all Member States to “take appropriate measures to ensure that business enterprises domiciled in their territory and/or under their jurisdiction, including those owned or controlled by them, that conduct activities in or related to the settlements respect human rights throughout their operations”.

At the European level, the European Union adopted Guidelines on the eligibility of Israeli entities and their activities in the territories occupied by Israel since June 1967 for grants, prizes and financial instruments funded by the EU from 2014 onwards<sup>20</sup>. The aim of this non-binding mechanism is to ensure the respect of EU positions and commitments in conformity with international law on the non-recognition by the EU of Israel’s sovereignty over the territories occupied by Israel since June 1967. This approach stems from the fact that some business enterprises have, directly and indirectly, enabled, facilitated and profited from the construction and growth of the Israeli settlements in the Occupied Palestinian Territory, enabling the development or consolidation of settlements that involve the violation of the applicable legal norms, in particular the exploitation of the natural resources of the Occupied Palestinian Territory, including East Jerusalem.

This position is similar to that adopted by the Court of Justice of the European Union in its judgments of 22 December 2016<sup>21</sup> and 29 September 2021<sup>22</sup>, which found that the agreements signed between the EU and Morocco concerning the territory of Western Sahara—considered to be separate and distinct from Morocco—were inapplicable. The Court further found that, in view of the fact the territory is in a situation of occupation, the consent of the people of Western Sahara to these instruments was a necessary precondition for their entry into force.

Reference to bodies of law and situations similar to that in the present case before the ICJ confirms that the right of the Palestinian people to self-determination is inalienable and that the measures taken by the Israeli occupying Power “severely impedes the exercise by the Palestinian people of its right to self-determination”<sup>23</sup>. This position was also affirmed by the Court in its 2004 Advisory Opinion on the *Construction of a Wall*, where the Court observed that the existence of the “Palestinian people” was no longer in question and had been recognized by Israel, which had a duty to respect the Palestinian people’s right to self-determination but which had taken measures that seriously impeded its exercise of that right and that are in breach of Israel’s obligation to respect it.

Israel’s refusal to recognize the right of Palestinians to self-determination, independence and sovereignty over the territory is clear proof of its underlying intention to pursue the permanent acquisition of Palestinian territory. Algeria therefore submits that the cumulative effect of the aforementioned factors should lead the Court to conclude that the occupation itself has become

---

<sup>19</sup> A/HRC/[22/63].

<sup>20</sup> [https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52013XC0719\(03\)&from=EN](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52013XC0719(03)&from=EN).

<sup>21</sup> Judgments in case C-104/16.

<sup>22</sup> Judgments in case T-279/19 and in the joined cases T-344/19 and T-356/19.

<sup>23</sup> *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, I.C.J. Reports 2004 (I)*, p. 184, para. 122.

inherently and fundamentally unlawful under international law, as the Court found in the past in respect of South Africa's prolonged presence in Namibia<sup>24</sup>.

Algeria also observes that not only is the obligation to respect the right to self-determination an obligation *erga omnes*, so is the obligation to promote the realization of that right.

In this regard, in the *Construction of a Wall* case, the Court underlined the direct correlation between the *erga omnes* character of the obligation of States with regard to the right to self-determination and the terms of United Nations General Assembly resolution 2625 (XXV), according to which

“[e]very State has the duty 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” (I.C.J. Reports 2004 (I), p. 136, paragraph 156).

Algeria would recall that the right *erga omnes* of the populations of an occupied territory to self-determination goes hand in hand with the obligation of third States to respect that right, as the Court affirmed in its 2004 Opinion on the *Construction of a Wall*. This obligation, incumbent on third States, itself has an *erga omnes* character. This means that the conduct of a third State, whether or not correlated with that of the occupying State, in violation of the right of self-determination of the population of an occupied territory, amounts to an internationally wrongful act engaging the international responsibility of that third State, not only towards the inhabitants of the colonial territory but also towards third States with a legal interest in the protection of that right.

Finally, Article 40 of the Articles on the Responsibility of States for Internationally Wrongful Acts requires third States not to recognize as lawful a situation created by a serious breach of a peremptory norm of general international law. “The obligation applies to ‘situations’ created by these breaches, such as, for example, attempted acquisition of sovereignty over territory through the denial of the right of self-determination of peoples”<sup>25</sup>.

6. It is clear that there is a concern common to nearly all the statements submitted to the ICJ, namely that the policies and practices of Israel constitute violations of international law and international human rights law. Algeria, for its part, has shown that the policies and practices of Israel in the occupied Palestinian territories, including East Jerusalem, which are intended to maintain the territory under prolonged occupation, are in violation of international humanitarian law and the obligation incumbent on Israel to respect the applicable rules in the occupied Palestinian territories.

Israel's obligations in this regard derive from the status of the Palestinian territories (occupied territories), the nature of the conflict (occupation classed as an international armed conflict) and the jurisdiction and effective control it exercises as the occupying Power, as the Court declared in the 2004 *Construction of a Wall* case. Israel exercises territorial jurisdiction over the Occupied Palestinian Territory and is therefore bound by human rights obligations owed to the local

---

<sup>24</sup> *Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970), Advisory Opinion, I.C.J. Reports 1971.*

<sup>25</sup> International Law Commission, Commentary to Article 41, para. 5.



population<sup>26</sup>. Consequently, an occupying Power must ensure that members of the population under occupation enjoy all the rights they are entitled to claim under international law<sup>27</sup>.

Moreover, in the view of Algeria and many other States, a situation of armed conflict or occupation does not release a State from its human rights obligations<sup>28</sup>. Algeria recalls that the simultaneous applicability of international human rights law and international humanitarian law in a situation of armed conflict or occupation has been confirmed on numerous occasions by human rights treaty bodies, in particular the Human Rights Committee in its concluding observations on the fifth periodic report of Israel<sup>29</sup> and by the ICJ, which stated that “the protection offered by human rights conventions does not cease in case of armed conflict, save through the effect of provisions for derogation”<sup>30</sup>.

## CONSIDERATIONS ON RECENT DEVELOPMENTS IN THE GAZA STRIP

7. On 7 October 2023, Hamas launched an attack on the south of Israel in response to which Israel unleashed a military operation of unprecedented violence on the Gaza Strip, combining the forced displacement of the population and indiscriminate attacks, both of which are war crimes. This sequence of events took place in a context that must be taken into account to understand what it represents and the devastating consequences it may have.

8. Together with the West Bank, the Gaza Strip is one of the two parts of the Occupied Palestinian Territory. After the 1967 war, the Gaza Strip, like the West Bank, was settled by Israel, which then unilaterally evacuated Gaza in 2005. The following year, and after the victory of Hamas in the legislative elections in Gaza, Israel imposed a blockade on the territory, a form of collective punishment targeting 2.3 million Palestinians, and at the same time has conducted a regular and indiscriminate bombing campaign from which the Gazans cannot escape.

9. This blockade is one aspect of the apartheid régime that Israel has imposed on all the Palestinian people, in other words a régime of systematic and institutionalized oppression and domination set up with the intention of maintaining the domination of one racial group over another, as recently characterized in numerous reports by Amnesty<sup>31</sup> and UN special rapporteurs<sup>32</sup>.

10. In December 2022, a far-right government came to power in Israel, reinforcing this apartheid régime and intensifying Israeli settlement in the West Bank and East Jerusalem. Settler

---

<sup>26</sup> *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, I.C.J. Reports 2004 (I)*, pp. 179-181, paras. 110 to 113.

<sup>27</sup> *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, I.C.J. Reports 2004 (I)*, pp. 178-181, paras. 106-113; UN Human Rights Committee, Concluding Observations on the Fifth Periodic Report of Israel, CCPR/C/ISR/CO/5, 30 March 2022, para. 7 (b).

<sup>28</sup> See, for example, General Assembly resolution 71/98; A/69/348, para. 5; A/HRC/8/17, para. 7; A/HRC/12/37, paras. 5 and 6; A/HRC/28/44, para. 6; A/HRC/34/38, para. 7.

<sup>29</sup> CCPR/C/ISR/CO/5, para. 7.

<sup>30</sup> *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, I.C.J. Reports 2004 (I)*, pp. 177 and 178, paras. 102 to 106.

<sup>31</sup> Israel’s apartheid against Palestinians: a cruel system of domination and a crime against humanity — Amnesty International.

<sup>32</sup> Report of the Special Rapporteur on the situation of Human Rights in the Palestinian territories occupied since 1967, Human Rights Council, 49th session, 28 February-1 April 2022 [https://reliefweb.int/sites/reliefweb.int/files/resources/EN\\_78.pdf](https://reliefweb.int/sites/reliefweb.int/files/resources/EN_78.pdf).

violence has increased, authorized and fuelled by the Israeli Government, leading to numerous attacks on Palestinian villages.

11. Since the beginning of the Israeli military response to the Hamas attacks, Israeli officials have put out an increasing number of statements dehumanizing the Palestinians, collectively punishing the population of Gaza for acts perpetrated by Hamas. Besides the statement by the Israeli Defence Minister, Yoav Galant, already mentioned above<sup>33</sup>, there is the statement made on 10 October by the Coordinator of Government Activities in the Territories (COGAT), General Ghassan Alian, who announced that there would be a complete blockade on the Gaza Strip, with electricity and water cut off, and the promise of destruction only.

Two days later, the Israeli Minister of Energy, Israel Katz, followed in his footsteps, stating that Israel would not authorize the entry of basic necessities or humanitarian aid into Gaza as long as Hamas had not freed the hostages. He declared that “[n]o electrical switch will be turned on, no water pump will be opened and no fuel truck will enter until the Israeli abductees are returned home. . . . And no one can preach morality to us”<sup>34</sup>.

On 13 October, the Israeli Government ordered the evacuation of the entire population of northern Gaza, with 1.1 million Palestinians being evacuated to the south of the Gaza Strip. This is a forced displacement of half the population of Gaza, already cut off from electricity, water and fuel. Humanitarian organizations immediately condemned this decision, which is in breach of the rules of international humanitarian law, and stressed the devastating consequences<sup>35</sup> that this forced displacement of civilians would entail. Since then, several bodies and officials of the United Nations, including the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA), the WHO and the UN Relief Chief<sup>36</sup>, have sounded the alarm, underlining the gravity of the situation.

12. Since the beginning of Israel’s military attack against Gaza, 5,087 people, including 2,055 children, have been killed and still more injured, while the healthcare system has completely collapsed, leading the NGO Doctors without Borders (MSF) to issue numerous statements warning that the situation is unsustainable. Moreover, the intensification of the Israeli bombardment in recent days has had an impact on locals sheltering the displaced Gazan population<sup>37</sup> (health centres, schools, places of worship). Out of 150 buildings, 32 have been hit, killing hundreds, among them 18 journalists and 35 staff of the UNRWA (a provisional death toll on 23 October 2023).

13. What is happening in Gaza is described by NGOs and the United Nations Special Rapporteur on the situation of human rights in the Palestinian Territory occupied since 1967, Francesca Albanese<sup>38</sup>, as “ethnic cleansing”: “Israel has already carried out mass ethnic cleansing of Palestinians under the fog of war, . . . again, in the name of self-defence, Israel is seeking to justify

---

<sup>33</sup> On October 9, Israeli Defence Minister Yoav Gallant declared in a video statement, “We are putting a complete siege on Gaza . . . No electricity, no food, no water, no gas — everything is closed.”

<sup>34</sup> Energy minister: No electricity or water to Gaza until abductees returned home | The Times of Israel.

<sup>35</sup> <https://www.ohchr.org/en/press-releases/2023/10/israel-must-rescind-evacuation-order-northern-gaza-and-comply-international>.

<sup>36</sup> <https://twitter.com/UNReliefChief/status/1713544239546581307?s=20>.

<sup>37</sup> <https://www.justsecurity.org/89617/the-directive-to-evacuate-northern-gaza-advance-warning-or-forced-displacement/>.

<sup>38</sup> [https://twitter.com/UN\\_SPExperts/status/1713178425777598881?s=20](https://twitter.com/UN_SPExperts/status/1713178425777598881?s=20).

what would amount to ethnic cleansing”<sup>39</sup>. For the main Palestinian human rights organizations (Al-Haq, Al Mezan, PCHR), it is clear that “Israel is deliberately inflicting on the Palestinian people conditions of life calculated to bring about its physical destruction in whole or in part”. This observation is similar to that of the International Federation for Human Rights (FIDH), which described the evacuation order given by the Israeli army to 1.1 million Palestinians in northern Gaza as a “forcible and unlawful transfer of civilians that may reflect genocidal intent”.

14. The United Nations High Commissioner for Human Rights, Volker Türk, for his part, declared in a press release issued on 10 October 2023 that “[t]he imposition of sieges that endanger the lives of civilians by depriving them of goods essential for their survival is prohibited under international humanitarian law”. The United Nations recalled that “[a]ny restrictions on the movement of people and goods to implement a siege must be justified by military necessity or may otherwise amount to collective punishment”.

15. It is clear from the foregoing that one of the most significant violations of international humanitarian law by Israel is the blockade of Gaza, a densely populated strip of land that is an integral part of Palestinian territory. The encirclement and the land, sea and air blockade of Gaza, which has been imposed for 16 years, amount to “collective punishment”<sup>40</sup> and continue to have repercussions on the freedom of movement and the exercise of economic, social and cultural rights, including the rights to an adequate standard of living, health, education, work and family life<sup>41</sup>.

16. A notable consequence of the blockade is to considerably restrict Palestinians’ access to essential products, such as food, water, fuel, medicine, building materials and other basic goods, leading to a serious humanitarian and health crisis. It prevents Palestinians from leaving the Gaza Strip, cutting them off from family and social ties and making access to education and healthcare difficult.

17. Furthermore, the Israeli authorities have sought to “differentiate”<sup>42</sup> between their political approaches to Gaza and the West Bank — in particular by imposing severe restrictions on the movement of people and goods from Gaza to the West Bank — and to promote the separation between these two parts of the Occupied Palestinian Territory.

18. In addition, through the imposition of a complete blockade, Israel seeks to deprive Gazans of food and water, which is prohibited under Article 54 of Additional Protocol I to the Geneva Conventions which provides:

“1. Starvation of civilians as a method of warfare is prohibited.

2. It is prohibited to attack, destroy, remove or render useless objects indispensable to the survival of the civilian population, such as foodstuffs, agricultural areas for the production of foodstuffs, crops, livestock, drinking water installations and supplies and irrigation works, for the specific purpose of denying them for their sustenance value to the civilian population or to the adverse Party, whatever the motive,

---

<sup>39</sup> <https://www.ohchr.org/en/press-releases/2023/10/un-expert-warns-new-instance-mass-ethnic-cleansing-palestinians-calls>.

<sup>40</sup> A/HRC/46/63, para. 7; A/HRC/37/38, para. 4; A/HRC/34/36, para. 36.

<sup>41</sup> See A/73/420.

<sup>42</sup> [https://gisha.org/UserFiles/File/LegalDocuments/54868\\_response\\_excerpt\\_ENG.pdf](https://gisha.org/UserFiles/File/LegalDocuments/54868_response_excerpt_ENG.pdf).

whether in order to starve out civilians, to cause them to move away, or for any other motive.”

To deprive Gazans of water and electricity, which are essential for the survival of civilians, is a violation of international humanitarian law.

19. The blockade is also contrary to Article 23 of the Fourth Geneva Convention which stipulates the following:

“Each High Contracting Party shall allow the free passage of all consignments of medical and hospital stores and objects necessary for religious worship intended only for civilians of another High Contracting Party, even if the latter is its adversary. It shall likewise permit the free passage of all consignments of essential foodstuffs, clothing and tonics intended for children under fifteen, expectant mothers and maternity cases.”

20. Yet today Israel allows through only a tiny proportion of humanitarian aid (20 trucks per day, barely 1 per cent of daily needs), while massive amounts of aid is nevertheless available at the Rafah crossing and continues to pour in from all corners of the globe in solidarity with the Palestinian people.

21. Reprisals against civilians are also forbidden by international humanitarian law. Yet the complete blockade of Gaza can be interpreted as being a form of reprisal, as can the indiscriminate bombing that has caused civilian casualties. However, under Article 33 of the Fourth Geneva Convention, “[n]o protected person may be punished for an offence he or she has not personally committed . . . Reprisals against protected persons and their property are prohibited”.

22. It should be added that pursuant to Article 48 of Additional Protocol I of the Geneva Conventions:

“In order to ensure respect for and protection of the civilian population and civilian objects, the Parties to the conflict shall at all times distinguish between the civilian population and combatants and between civilian objects and military objectives and accordingly shall direct their operations only against military objectives.”

Israel’s indiscriminate bombing, which makes no distinction between civilian and military targets, is therefore not consistent with international humanitarian law. Similarly, Article 35 provides that:

“1. In any armed conflict, the right of the Parties to the conflict to choose methods or means of warfare is not unlimited.

2. It is prohibited to employ weapons, projectiles and material and methods of warfare of a nature to cause superfluous injury or unnecessary suffering.”

23. In any event, the status of Israel in relation to Gaza is that of an occupying Power within the meaning of international humanitarian law, despite the withdrawal of its military forces and its settlements from the territory in 2005<sup>43</sup>. Israel therefore has an obligation to respect the rights of

---

<sup>43</sup> Benny Avni, *The O Word: Is Gaza Occupied Territory?*, NY SUN, 11 Feb. 2008, <http://www.nysun.com/foreign/o-word-is-gaza-occupied-territory/71079/>.

Palestinians living in Gaza, in particular their right to a dignified life and to freedom of movement in all the Occupied Palestinian Territory and abroad.

### FINAL REMARKS

24. In the view of Algeria, there are several consequences of Israeli policies and practices in the Occupied Palestinian Territory, including East Jerusalem. The first is the engagement of Israel's international responsibility for its multiple violations of international humanitarian law and its obligation to put an end to these unlawful acts. The individuals responsible for war crimes, crimes against humanity or other serious violations of international law must be held personally responsible before international courts.

25. Second, the legal consequences include its obligation to make reparation, in the form of restitution and compensation as required by international law, for the damage caused by the serious and systematic breaches of essential obligations to the international community.

26. Regarding the situation in Gaza, Algeria submits that, notwithstanding the unilateral withdrawal of Israeli troops from the Gaza Strip, this territory remains under Israeli occupation. It shares the view of the countries that consider that, while it is necessary for a Power to deploy its armed forces and to establish its authority over a territory in order for a situation of occupation to be characterized, the withdrawal of those armed forces does not *ipso facto* mean that the occupation has ended when that State continues to control the land, maritime and air boundaries.

Similarly, while it is difficult to see how a "complete blockade" of the Gaza Strip can be declared consistent with international humanitarian law, the effects of that blockade inevitably lead to violations of international humanitarian law and of international criminal law. By way of example, to no longer allow the passage of humanitarian aid or to stop the supply of drinking water can result in the population in the territory starving and dying of thirst. Starvation as a method of warfare is prohibited<sup>44</sup> and according to the Statute of the International Criminal Court "intentionally using starvation of civilians as a method of war" constitutes a war crime in international armed conflicts. In the same vein, not to "facilitate . . . passage"<sup>45</sup> and the movement of people results in humanitarian aid workers being unable to conduct their activities in the besieged area.

Consequently, the violence unleashed in the Gaza Strip, the actions of Israel, the occupying Power, and the response to those actions inevitably result in massive violations of international humanitarian law and of international criminal law that equate to "war crimes"<sup>46</sup>.

### Conclusion

27. In view of the foregoing context and the interventions of a large number of States that have helpfully provided a detailed presentation of the historic and legal sources relating to the factual events of the situation under consideration, Algeria reaffirms the relevance of the observations it set out in its written statement of 25 July 2023 and considers that, by systematically refusing to oblige

---

<sup>44</sup> ICRC, IHL Databases, Customary IHL, Starvation as a Method of Warfare, <https://ihl-databases.icrc.org/en/customary-ihl/v1/rule53> (last consulted on 24 Oct. 2023).

<sup>45</sup> ICRC, IHL Databases, Customary IHL, Access for Humanitarian Relief to Civilians in Need, Customary IHL — Rule 55. Access for Humanitarian Relief to Civilians in Need (icrc.org) (last consulted on 24 Oct. 2023).

<sup>46</sup> ICRC, IHL Databases, Customary IHL, Definition of War Crimes, Customary IHL — Rule 156. Definition of War Crimes (icrc.org) (last consulted on 24 Oct. 2023).

Israel to respect international law and by leaving the violations unpunished, the international community bears an overwhelming responsibility with regard to the desperate situation we are faced with today.

28. For all the reasons set out in these comments, Algeria requests the Court to find that the documented and filmed acts committed by Israel violate:

- the basic rules of international law (the Charter of the United Nations, customary international law, treaties, and resolutions of the United Nations General Assembly, the United Nations Security Council and the Human Rights Council);
- the right of the Palestinian people to self-determination, as set forth in resolutions 1514 (XV) and 2625 (XXV) and by the ICJ in its Advisory Opinions on the *Western Sahara* (1975), the *Construction of a Wall* (2004) and the *Chagos Archipelago* (2019);
- international humanitarian law (IHL) and human rights law which prohibit:
  - the establishment of Israeli settlements and the expulsion of Palestinians from their territory (Articles 49 and 147 of the Fourth Geneva Convention of 1949, the ICJ's 2004 Advisory Opinion on the *Construction of a Wall*);
  - the demolition and expropriation of Palestinian homes and land in the occupied territories (Articles 46 and 55 of the Hague Rules of 1907);
  - mistreating, torturing and keeping in prolonged administrative detention Palestinians in Israeli prisons (Articles 3, 32 and 78 of the Fourth Geneva Convention);
  - the violation of the right of Palestinian refugees to return to their homes (paragraph 11 of A/RES/194/III and customary IHL as codified by the International Committee of the Red Cross (ICRC) in 2005, Rule 132);
  - military attacks against civilians, and indiscriminate and disproportionate attacks against Gaza and the Palestinian refugee camps (Rules 1 and 14 of customary IHL);
  - the collective punishment inflicted on the Palestinian population of Gaza (Article 33 of the Fourth Geneva Convention);
  - the violation of fundamental freedoms and rights, such as the freedom of movement and the freedom of worship, and the rights to work, health and education, as a result of the wall and the Israeli checkpoints in the territory (Articles 12 and 18 of the 1966 International Covenant on Civil and Political Rights, and Articles 6, 12 and 13 of the International Covenant on Economic, Social and Cultural Rights).

29. On this basis, Algeria strongly contends that the practices and policies of Israel not only infringe the many branches of international law, they above all affect the human rights of the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem.

---