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## Appendice 1

### *Exposés écrits concluant que l'occupation israélienne est illégale*

#### **African Union**

- “[T]he African Union invites the Court to conclude that the prolonged Israeli occupation of the Palestinian territories is, in itself, unlawful” (para. 90).
- “[T]he Israeli occupation of the Palestinian territories is an internationally wrongful act that is distinct from the question of specific Israeli policies and practices in the occupied territories” (para. 92).
- “The Israeli occupation of the Palestinian territories is contrary to international law” (para. 266(c)).

#### **Bangladesh**

- “The Israeli Occupation, now in its 56th year, has crossed the threshold of illegality.” (para. 3).
- “Bangladesh submits that the Court should conclude that Israel’s occupation is illegal.” (para. 9).
- “Bangladesh strongly urges the Court to render an advisory opinion on the questions before the Court, and in doing so, to conclude that Israel’s occupation of the Occupied Palestinian Territory is illegal.” (para. 33).

#### **Belize**

- “[T]he occupation was unlawful from its inception and continues to be so. ... Its ongoing occupation, as a whole, is ... unlawful and an act of aggression.” (para. 33).
- “Further to Israel’s policies and practices having no legal validity and giving rise to no rights for Israel ... the legal status of Israel’s occupation of the Palestinian territory is one of illegal presence.” (para. 96).
- “Israel’s occupation of the Palestinian territory is, and for a long time has been, an unlawful use of force and an unlawful occupation.” (para. 98).

- “The illegality of Israel’s presence in the Palestinian territory also follows from the fact that Israel’s occupation is a flagrant violation of the purposes and principles of the Charter of the United Nations.” (para. 99).

### **Bolivia**

- “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.” (p. 4).
- “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.” (p. 13).

### **Brazil**

- “Occupation is inherently temporary. This is the basic distinction between occupation and annexation. More than 55 years have passed since the 1967 conflict, and thenceforth the occupying Power has adopted policies and practices such as the construction and expansion of settlements with permanent infrastructure, the construction of the wall, the demolition of Palestinian homes, the transfer of populations, the application of discriminatory legislation, which benefits the settlers, and legal assimilation. The cumulative effect of these measures would render the occupation unlawful as a whole, inasmuch as it would be tantamount to the acquisition of territory by force.” (para. 46).
- “[T]he occupying Power is under an obligation to cease its occupation as a whole” (Conclusion (f)).

### **Chile**

- “[T]aking into account the policies and practices of Israel in the OPT, the occupation of Palestinian territory is illegal” (para. 119).

### **Colombia**

- “Colombia has expressed before and reiterates hereby that the occupation of the Palestinian territory is a violation of international law.” (para. 4.7).

## **Cuba**

- “All Israel’s occupation acts on Palestinian territory are internationally wrongful acts whose reiteration and duration aggravate the responsibility of the occupying Power before the Palestinian people and the international community.” (p. 4).

## **Djibouti**

- « Compte tenu de[s] éléments développés ci-dessus, il est permis de conclure que l’occupation du Territoire palestinien est, comme telle, illégale au regard du droit international, et ceci dès l’origine, en ce qu’elle implique des violations de normes impératives de droit international, à savoir une entrave fondamentale à l’exercice par le peuple palestinien de son droit à l’autodétermination ... » (para. 31).

## **Egypt**

- “The policies and practices of Israel in the Occupied Palestinian Territories aim to ensure permanent presence and control over Palestinian lands and resources, which are contrary to international law and renders the occupation illegal” (para. 236(f)).

## **The Gambia**

- “In sum, Israel’s decades-long occupation violates the laws on the use of force and is therefore illegal. Even if it had once been a lawful use of force in response to an armed attack—and it was not—it could not possibly have remained lawful for 56 years. Israel has not been facing an ongoing armed attack and the prolonged occupation has been neither necessary nor proportionate. As a result, Israel’s occupation is illegal as a whole and must end.” (para. 1.31).

## **Guyana**

- “An occupation which involves, and is inextricably founded upon, such serious breaches of jus cogens norms is not – and could not ever be – a lawful occupation. Israel’s violation of these peremptory norms of international law therefore irredeemably vitiates the lawfulness of its prolonged occupation of the OPT. It follows that Israel’s prolonged occupation of the OPT is itself unlawful *in toto*, and therefore Israel’s obligation to cease its internationally wrongful acts entails an obligation to

immediately and fully end that occupation. Nothing short of a complete end to the occupation would suffice for this purpose.” (para. 34).

- “Israel’s occupation of the OPT is unlawful, and Israel is under an obligation to immediately and fully cease that occupation.” (para. 38(3)).

## **Indonesia**

- “Israel’s occupation of the OPT remains unlawful under international law. In this respect, Israel’s continued illegal policies and practices, cannot alter the legal status of the OPT, including the status of East Jerusalem.” (para. 68(d)).

## **Ireland**

- “[I]t is clear that Israel is acting inconsistently with its legal status as the occupying power, and in breach of many of its obligations under international humanitarian and human rights law. Far from temporarily administering the Occupied Palestinian Territory in accordance with the law of military occupation, Israel is engaged in escalating unlawful settlement activity, which amounts to a process of annexation, and is in serious breach of its obligation to respect the right of the Palestinian people to self-determination. Ireland regrets to conclude that Israel’s settlement practices amount to an attempt to transform a temporary, albeit prolonged, occupation into an exercise in permanently acquiring territory by a gradual process of annexation.” (para. 44)

## **Jordan**

- “The occupation of the Occupied Palestinian Territory, including East Jerusalem, is illegal as such, and Israel is under an obligation to bring the occupation to an end as rapidly as possible.” (para. 112).
- “[T]he policies and practices of Israel ... affect the status of the occupation of the Occupied Palestinian Territories, including East Jerusalem, in such a way that it must be regarded as unlawful as a whole.” (para. 5.6).
- “Israel’s occupation of the Occupied Palestinian Territory, including East Jerusalem, in addition to involving systematic violations of several rules of international law, including jus cogens norms, is contrary to basic principles of the law of occupation and therefore unlawful as a whole. The occupation has become an instrument to suppress the right of the Palestinian people to

self-determination, becoming indistinguishable from unlawful regimes such as colonial domination or apartheid.” (para. 5.13).

- “The occupation by Israel of the Occupied Palestinian Territory, including East Jerusalem, is unlawful” (p. 110, para. 3(a)).

### **Kuwait**

- “The State of Kuwait ... stresses that Israeli occupation of Palestinian and other Arab territories has been since its onset and to this day unlawful” (para. 27).
- “Israeli occupation is in fundamental breach of its international obligations and the most fundamental rules of international law and its presence in the occupied territory is illegal.” (para. 34).

### **League of Arab States**

- “The illegal nature of Israel’s presence and exercise of authority in the West Bank, including East Jerusalem, and Gaza, necessarily mean that, [as] a general matter, everything that Israel has done and is doing there ... on whatever basis ... is legally invalid.” (para. 106).

### **Lebanon**

- « L'occupation Israélienne du Territoire Palestinien est illégale tant dans sa conduite que dans son but. Par conséquent, Israël est dans l'obligation de mettre un terme immédiat et inconditionnel à cette situation illégale dont il est internationalement responsable et de fournir réparation ». (para. 59).
- « En somme, l'occupation israélienne du Territoire palestinien est illégale et doit cesser immédiatement et sans condition ». (para. 63).

### **Malaysia**

- “Malaysia submits that the occupation *as a whole* is illegal.” (para. 62).

### **Maldives**

- Israel is obliged to cease, as soon as possible ... its unlawful occupation of the OPT” (para. 48).
- “The Report of the IICI to the HRC on 14 September 2022 unequivocally demonstrated that the continued Israeli occupation of Palestinian land is

unlawful under international law. Through its policies and practices in the OPT, Israel has continuously and persistently breached international humanitarian law and international human rights law. That includes a violation of the right to water, an obligation that is owed by Israel to all Palestinians in the OPT.” (para. 53).

### **Mauritius**

- “[T]here is ample evidence to support the conclusion that Israel’s occupation of the OPT – including through its illegal annexation of Palestinian territory – is an enduring and comprehensive ‘impediment to the exercise by the Palestinian people of its right to self-determination’. Accordingly, Israel is under an obligation to immediately end its occupation of the OPT and ‘It is for all States ... to see to it’ that the occupation ‘is brought to an end’ without delay.” (para. 22).

### **Namibia**

- “The continued presence of Israel in the Occupied Palestinian Territory and Mandate Territory being illegal, Israel is under obligation to withdraw its administration from occupied Palestine immediately and this put an end to its occupation of the Territory.” (para. 150(a)).

### **Oman**

- “The 57 year duration of Israeli presence in the Occupied Palestinian Territories and the persistent policy of settlement renders the Israeli occupation illegal and in breach of the UN Charter.” (p. 4).

### **Organisation of Islamic Cooperation**

- « Les politiques et pratiques d’Israël dans le Territoire palestinien occupé ont donné lieu, comme cela a été montré ci-dessus, depuis la naissance de cet État, à une violation déterminée du droit fondamental du peuple palestinien à disposer de lui-même, ce qui induit le droit à devenir un État souverain dans des institutions librement choisies, le droit de garder la maîtrise de son territoire et de disposer de ses ressources naturelles, le droit pour les membres de ce peuple de demeurer sur son territoire, celui d’y revenir pour ceux qui s’étaient exilés et de droit d’y faire sa capitale dans la ville de son choix. Telle est la violation principale à laquelle s’est livré Israël méthodiquement depuis un siècle ... Ces politiques et pratiques d’Israël ont pour incidence que l’occupation par Israël du Territoire

palestinien est une occupation illégale qui doit cesser immédiatement et dont toutes les conséquences doivent être réparées ». (para. 405).

## **Pakistan**

- “The breaches of peremptory norms create *erga omnes* obligation to cooperate ... to put[] an end to Israel’s violations of *jus cogens* norms of the right to self-determination and its illegal occupation through force and acts of aggression.” (para. 114(7)(a)).

## **Palestine**

- “[I]n view of [its] policies and practices, Israel’s occupation of the OPT is in and of itself unlawful, rendering Israel’s continued presence in the OPT an internationally wrongful act as it seriously breaches at least three peremptory norms of general international law, derogation from which is not permitted. It is impossible to distinguish between Israel’s occupation of the OPT and its serious breaches of peremptory norms of general international law therein, which are reciprocal in nature, organically interrelated and mutually reinforcing.” (para. 6.4).
- “In view of Israel’s continuing, gross and systematic breach of its obligations in respect of the OPT for over five decades, the occupation itself is indistinguishable from the breaches of the abovementioned peremptory norms in the context of that occupation. Indeed, the evidence demonstrates that these violations are not merely the result of the occupation but are rather the foundation upon which the occupation rests. They are its essential structural features, not its incidental byproducts, all of which are rooted in the singular unlawful goal of maintaining permanent Israeli dominion over the OPT, pursued by Israel since 1967, and relegating the Palestinians it has not been able to displace to inferior status in their own land, in perpetuity, deprived of their inalienable rights, including their right to self-determination.” (para. 6.18).
- “Because Israel’s prolonged 56-year occupation of the OPT is structurally and existentially reliant upon and inseparable from its egregious violations of peremptory norms of general international law, derogation from which is not permitted, the occupation itself must be regarded as illegal, with all relevant legal consequences that attach under the law of international responsibility. This means that it must be brought to an ‘immediate, unconditional and total’ end.” (para. 6.19).

- “The conclusion is clear: the first and most indisputable consequence of Israel’s violations of numerous rules and principles of international law – including fundamental jus cogens norms – is that Israel must as rapidly as possible and without further delay put an end to those violations. Most importantly, this means that Israel must ‘immediately’ and ‘unconditionally’ withdraw from the whole of the OPT.” (para. 7.26).

## **Qatar**

- “[T]he mere existence of the occupation—as distinct from the conduct thereof—is itself illegal because it violates the right to self-determination and the prohibition of apartheid, two peremptory norms of international law. Those egregious violations of two of the most basic precepts of international law inhere in the very existence of the occupation, rendering it illegal as a whole or ‘existentially illegal’.” (para. 4.1).

## **Saudi Arabia**

- “The illegality of Israel’s prolonged occupation under such multiple grounds and the international responsibility it therefore incurs can only be remedied, and Israel brought into compliance with its international obligations, by its unconditional withdrawal from the Occupied Palestinian Territory, including East Jerusalem.” (para. 32).
- “In light of these multiple, continuing and grave violations of international law committed by Israel in illegally maintaining its prolonged occupation over the Occupied Palestinian Territory, including East Jerusalem, over more than five decades, that occupation is, in its entirety, wrongful under international law and, with respect, must be declared illegal by the Court.” (para. 77).

## **Senegal**

- « Reiterant son appel à la fin de l’occupation illegale ... » (p. 5).

## **South Africa**

- “South Africa submits that the cumulative effect of the aforementioned factors must lead the Court to the conclusion that the occupation itself has become inherently and fundamentally illegal in terms of international law as South Africa’s prolonged presence in Namibia was found to be illegal by the Court.” (para. 140).

- “There is a mount of credible reports submitted to the United Nations proving the illegal status of Israel’s permanent occupation in the Palestinian territories. Against this background it is submitted that the Court should find that the prolonged Israeli belligerent occupation of the Occupied Palestinian Territory, including East Jerusalem, is illegal and an insurmountable barrier to the achievement of Palestinian self-determination.” (para. 158).

### **Syria**

- “[T]he Israeli occupation itself must be considered, in the first place and altogether as illegal, and it should not be suffice to just simply describe its practices and policies.” (para. 31).

### **Yemen**

- “As a consequence of its serious breaches, the Israeli occupying Power is bound: a. To withdraw immediately and unconditionally from all the Occupied Palestinian Territory” (para. 42).

## Appendice 2

### *Exposés écrits concluant que l'occupation israélienne est illégale parce qu'elle viole l'obligation du jus cogens sur le respect du droit du peuple palestinien à l'autodétermination*

#### **African Union**

- “[T]he ongoing occupation of the Palestinian territory by Israel prevents the State of Palestine from fully enjoying and exercising its statehood. The most recent report from the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 provides evidence that a set of Israeli policies, which includes the establishment of settlements on Palestinian lands, is contributing to a territorial fragmentation that denies full territorial sovereignty to the State of Palestine, and thus prevents the Palestinian People’s exercise of its right to self-determination.” (para. 23)
- “Israel’s occupation of [the OPT] qualifies as an internationally wrongful act of a continuing character on the following grounds:
  - a. *First*, the Israeli occupation of the Palestinian territories violates the right of the Palestinian people to self-determination;
  - b. *Second*, Israel’s prolonged occupation of the Palestinian territories deprives the State of Palestine of its full sovereignty, further depriving the Palestinian people of their right to self-determination” (paras. 91(a)-(b)).
- “It is the view of the African Union that Israel’s belligerent occupation of the West Bank, the Gaza Strip, and East Jerusalem, constitutes an internationally wrongful act of a continuing character that violates the obligation incumbent upon Israel not to deprive the Palestinian people of their right to self-determination. In other words, the Israeli occupation *per se*, as distinct from policies or practices associated with the occupation, such as Israeli settlements in the West Bank and East Jerusalem, constitutes a forcible action that continues to deprive the Palestinian people of their right to self-determination.” (para. 101).
- “In the African Union’s view, Israel’s occupation is *per se* unlawful on [these] grounds: (1) Israel’s occupation deprives the Palestinian People of their right to self-determination; (2) Israel’s prolonged occupation deprives the

State of Palestine of its full sovereignty, thereby further depriving the Palestinian people of their right to self-determination.” (para. 136).

- “The Israeli occupation of the Palestinian territories is contrary to international law on the following grounds ... [because] [t]he Israeli occupation violates the right of self-determination of the Palestinian people.” (para. 266(c)).

### **Bangladesh**

- “The Israeli Occupation, now in its 56<sup>th</sup> year, has crossed the threshold of illegality. The repression, dispossession and control of Palestinians continues apace, rapidly eroding any realistic prospect of a viable State for a self-determining Palestinian people along pre-1967 borders.” (para. 3).
- “Israel’s settler colonial project ... violates the right to self-determination (i.e., a relevant peremptory norm on Albanese’s approach). Thus ... the occupation is illegal.” (para. 31).

### **Belize**

- “The policies and practices of Israel as a whole violate the right of the Palestinian people to self-determination in three key ways. First, Israel denies the existence of the Palestinian people and their right to self-determination. Second, Israel denies the Palestinian people their right to territorial integrity. Third, Israel is using forcible action to deprive the Palestinian people of their right to self-determination, freedom and independence.” (para. 19).
- “The illegality of Israel’s presence in the Palestinian territory also follows from the fact that Israel’s occupation is a flagrant violation of the purposes and principles of the Charter of the United Nations. As explained ... for a long period of time: (a) Israel has been violating its obligation to respect the right of the Palestinian people to self-determination, respect for which is reflected in the purposes of the United Nations set out in the Charter.” (para. 99(a)).

### **Bolivia**

- “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.... 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" (p. 4).

- "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." (p. 3).

### **Djibouti**

- « Compte tenu de l'ensemble de ces éléments, il s'avère que l'occupation et la colonisation du Territoire palestinien par Israël, et les mesures qui l'accompagnent, constituent une violation flagrante du droit à l'autodétermination du peuple palestinien et de la Charte des Nations Unies, notamment son article 1(2) ». (para. 10).
- « Compte tenu de éléments développés ci-dessus, il est permis de conclure que l'occupation du Territoire palestinien est, comme telle, illégale au regard du droit international, et ceci dès l'origine, en ce qu'elle implique des violations de normes impératives de droit international, à savoir une entrave fondamentale à l'exercice par le peuple palestinien de son droit à l'autodétermination ... » (para. 31).

### **Egypt**

- "Israel is bound to comply with its obligation to respect the right of the Palestinian people to self-determination, and to put an immediate end to the violation of this obligation, including through bringing an immediate end to the occupation." (para. 237).
- "Egypt submits that Israel's occupation is illegal under international humanitarian law. Otherwise, Israel's indefinite occupation would be tantamount to a nullification of the right of the Palestinian people to self-determination." (para. 270).

## **The Gambia**

- “Israel’s occupation violates the right of the Palestinian people to self-determination and is therefore illegal. ... The obligation to respect the right to self-determination ... extends to the entirety of the OPT” (para. 1.5).
- “There is no end in sight to Israel’s occupation. Its prolonged character indefinitely infringes on the right to self-determination of the Palestinian people.” (para. 1.7).
- “As a peremptory norm of international law, no derogation is permitted from respecting the right of the Palestinian people to self-determination. As such, Israel’s occupation is illegal and must expeditiously be brought to an end.” (para. 1.8)

## **Guyana**

- “Israel’s violation of the right of the Palestinian people to self-determination is an inevitable consequence of its decades-long occupation and annexation of Palestinian territory.” (para. 31).
- “[A]n occupation which is conducted in such a way as to deny the right to self-determination of the people of the occupied territory (including by annexing the territory of those people) is, inevitably and self-evidently, not an occupation which is being carried out in accordance with the laws of occupation” (para. 32).
- “Through it acts in the OPT since 1967, Israel has systematically violated ... the jus cogens right to self-determination of the Palestinian people. The violation[] of [this] peremptory norm[] of international law – which the evidence shows [is] grave, longstanding and ongoing – [is not an] ancillary or accidental or isolated aspects of an otherwise lawful temporary occupation. Rather, [it is] an integral feature and a permanent consequence of Israel’s continued presence in the OPT.” (para. 33).
- “Israel has violated the right to self-determination of the Palestinian people. ... Israel’s occupation of the OPT is unlawful, and Israel is under an obligation to immediately and fully cease that occupation.” (para. 38).

## **Ireland**

- “[S]ettlements are the defining feature of Israel’s presence in the Occupied Palestinian Territory.” (para. 18)

- “Ireland has concluded that Israel’s settlement-related policies and practices in the Occupied Palestinian Territory are wholly inconsistent with the temporary administration of territory in accordance with the law of military occupation.” (para. 35)
- “[I]t is clear that Israel is acting inconsistently with its legal status as the occupying power, and in breach of many of its obligations under international humanitarian and human rights law. Far from temporarily administering the Occupied Palestinian Territory in accordance with the law of military occupation, Israel is engaged in escalating unlawful settlement activity, which amounts to a process of annexation, and is in serious breach of its obligation to respect the right of the Palestinian people to self-determination. Ireland regrets to conclude that Israel’s settlement practices amount to an attempt to transform a temporary, albeit prolonged, occupation into an exercise in permanently acquiring territory by a gradual process of annexation.” (para. 44)
- “In Ireland’s view, there can be no possible legal justification for this.” (para. 45).

## **Jordan**

- “[T]he policies and practices of Israel ... affect the status of the occupation of the Occupied Palestinian Territories, including East Jerusalem, in such a way that it must be regarded as unlawful as a whole. Those policies and practices contravene in the most fundamental way the basic principles of the modern international law of occupation ... The occupying Power has a solemn duty to respect the right of self-determination of the people of the territory, as well as other human rights applicable therein.” (para. 5.6).
- “Israel has never formally accepted the right of the Palestinian people to self-determination, and, in practice, it constantly denies them the exercise of this right ... which constitutes a *jus cogens* norm .... Israel’s conduct is thus at odds with one of the basic purposes of the law of occupation, which, as already indicated, aims precisely at safeguarding the right of peoples to self-determination throughout the duration of an occupation.” (para. 5.8).
- “In conclusion, Israel’s occupation of the Occupied Palestinian Territory, including East Jerusalem, in addition to involving systematic violations of several rules of international law, including *jus cogens* norms, is contrary to the basic principles of the law of occupation and therefore unlawful as a whole. The occupation has become an instrument to suppress the right of the Palestinian people to self-determination, becoming indistinguishable

from unlawful regimes such as colonial domination or apartheid.” (para. 5.13).

### **Lebanon**

- « [L]e Liban considère qu’Israël viole tous les éléments constitutifs du droit du peuple palestinien à l’autodétermination : qui sont (1) l’indépendance politique et économique (2) la souveraineté permanente sur les richesses et ressources naturelles, (3) l’intégrité territoriale ». (para. 32).
- « Les points précédents montrent qu’Israël continue de violer des normes impératives du droit international, des normes qui créent des obligations erga omnes. La Cour avait déjà constaté ce fait dans son avis consultatif en 2004 où elle a déclaré « qu’au rang des obligations internationales violées par Israël, figurent des obligations erga omnes.... de telles obligations par leur nature même, concernent tous les États et vu l’importance des droits en cause tous les États peuvent être considérés comme ayant des intérêts à ce que ces droits soient protégés ». (para. 53)
- « L’occupation Israélienne du Territoire Palestinien est illégale tant dans sa conduite que dans son but. Par conséquent, Israël est dans l’obligation de mettre un terme immédiat et inconditionnel à cette situation illégale dont il est internationalement responsable et de fournir réparation ». (para. 59)

### **League of Arab States**

- “As to existential legality/illegality, the occupation, simply by virtue of exercising control over the West Bank (including East Jerusalem) and Gaza, and consequently preventing the Palestinian people from full and effective self-governance, constitutes a fundamental impediment to the realization of the right of self-determination of the Palestinian people enshrined in international law.” (para. 41).
- “The impact of the existence of the occupation as a drastic impediment to the realisation of the self-determination entitlement of the Palestinian people renders the occupation existentially illegal as a matter of the law of self-determination. The aggravating factors linked to the unlawful purposes, related practices, and objectionable conduct of the occupying Power—settler-colonialism, apartheid, annexation, prolonged duration, bad faith, and abusive treatment of the Palestinian people—do have important legal consequences, including for the existential legality of the occupation. But none of them needs to be established/invoked in order for the question of existential legality to be determined. The fundamental denial of

Palestinian self-determination created by the existence of the occupation is, by itself, sufficient as a basis for rendering the existence of the occupation illegal.” (para. 49).

- “However, the right of the Palestinian people to be free of the occupation on the basis of the right of self-determination includes, but goes beyond, impediments to this which are linked to annexation. Ultimately, it is the occupation as a general regime of control, wherever that exists, and regardless of the purpose for it, that is at issue.” (para. 58).

### **Malaysia**

- “Malaysia submits that Israel’s occupation as a whole, as well as Israel’s policies and practices therein, violate the right to self-determination in international law.” (para. 3).
- “Israel’s practices breach each of the central, substantive elements of the right to self-determination ...” (para. 61).
- “Malaysia submits that the occupation *as a whole* is illegal. First the occupation as a whole is constituted by these systemic practices in relation to territory, the unity and integrity of the people, the exploitation of resources, and the constraint on development. These practices are, as a matter of reality, the occupation itself. Second, the occupation as a whole has prevented and continues to prevent the Palestinian people from freely determining their political status, as protected by the right to self-determination.” (para. 62).

### **Mauritius**

- “Israel’s occupation of the OPT – including through its illegal annexation of Palestinian territory – is an enduring and comprehensive ‘impediment to the exercise by the Palestinian people of its right to self-determination’. Accordingly, Israel is under an obligation to immediately end its occupation of the OPT” (para. 22).
- “Through its illegal occupation of the OPT, Israel has violated, and is continuing to violate, the right of the Palestinian people to self-determination.” (para. 23(a)).

## Namibia

- “Israel’s presence in the Palestinian territory has been illegal from the outset in 1967 and the consequent occupation is also illegal.” (para. 142).
- “Israel’s occupation of the Palestinian territory breaches the right to external self-determination of the Palestinian people, which includes the exercise of the right of the Palestinian people to an independent State.” (para. 144).
- “As a continuing act of aggression and a denial of the right of the Palestinian people to external self-determination, the occupation of the Palestinian territory is in breach of peremptory norms of international law. Israel’s continued presence in the Occupied Palestinian Territory is analogous to South Africa’s continued presence in Namibia at the time of the *Namibia Advisory Opinion*. In this respect, the Court determined ‘that the continued presence of South Africa in Namibia [was] illegal and contrary to the principles of the Charter’.” (para. 147).
- “The Palestinian people have a continuing inalienable right to exercise external self-determination, which continues as a sacred trust since the ending of the Mandate. As a consequence, Israel is bound to cease the imposition of its illegal occupation of the Palestinian territory and regime of apartheid against the Palestinian people” (para. 151(f)-(g)).

## Organisation of Islamic Cooperation

- « Les politiques et pratiques d’Israël dans le Territoire palestinien occupé ont donné lieu, comme cela a été montré ci-dessus, depuis la naissance de cet État, à une violation déterminée du droit fondamental du peuple palestinien à disposer de lui-même, ce qui induit le droit à devenir un État souverain dans des institutions librement choisies, le droit de garder la maîtrise de son territoire et de disposer de ses ressources naturelles, le droit pour les membres de ce peuple de demeurer sur son territoire, celui d’y revenir pour ceux qui s’étaient exilés et de droit d’y faire sa capitale dans la ville de son choix. Telle est la violation principale à laquelle s’est livré Israël méthodiquement depuis un siècle ... Ces politiques et pratiques d’Israël ont pour incidence que l’occupation par Israël du Territoire palestinien est une occupation illégale qui doit cesser immédiatement et dont toutes les conséquences doivent être réparées ». (para. 405).

## Palestine

- “Israel has, in fact, systematically violated every component of the Palestinian people’s right to self-determination.” (para. 5.4).
- “[T]he Palestinian people are deliberately excluded from exercising the right to self-determination anywhere within the territory encompassed by Mandatory Palestine, including their right to independence of their State on the Palestinian territory occupied since 1967 ...” (para. 5.39).
- “Israel’s occupation of the OPT is in and of itself unlawful ... as it seriously breaches at least three peremptory norms of international law ... [including] the obligation to respect the right of peoples to self-determination” (paras. 6.4-6.5).

## Pakistan

- “(i) A prolonged occupation, with its *de facto* and *de jure* annexations and various variations of international humanitarian law, is a breach of the right to self-determination. (ii) A breach of self-determination in its own right provides a stand-alone ground for illegality of the occupation. The establishment of the ‘occupation’ breaches the right to self-determination and renders the ‘occupation’ illegal.” (para. 22).

## Qatar

- “Since the prohibition of apartheid is a *jus cogens* norm, a finding that the occupation amounts to a regime of apartheid entails, *ipso facto*, a finding that the maintenance of the occupation is a breach of a peremptory norm.” (para. 4.108).

## Saudi Arabia

- “Over the past almost 20 years since the *Wall Advisory Opinion* was issued, Israel has ignored the Court’s opinion ... by continuing the policies and practices ... which further violate the right of the Palestinian people to self-determination .... These policies and practices of Israel in violation of [this] *jus cogens* norm[] have rendered the occupation, viewed in its entirety, as egregiously illegal.” (para. 38).
- “In light of these multiple, continuing and grave violations of international law [including the violation of the right of the Palestinian people to self-determination] committed by Israel in illegally maintaining its prolonged

occupation over the [OPT], over more than five decades, that occupation is, in its entirety, wrongful under international law and, with respect, must be declared illegal by the Court.” (para. 77).

### **South Africa**

- “No legal justification for the continued occupation exists and the achievement of self-determination will require, as was the case in other cases of occupation, the withdrawal of the occupying force.” (para. 63).
- “The prolonged occupation has led to the infringement of the fundamental principle of self-determination of the Palestinian peoples, thereby depriving the Palestinian peoples their right to decide their own political status, free of external interference.” (para. 132).
- “South Africa submits that the cumulative effect of the aforementioned factors [*see supra*, para. 132] must lead the Court to the conclusion that the occupation itself has become inherently and fundamentally illegal in terms of international law, as South Africa’s prolonged presence in Namibia was found to be illegal by the court.” (para. 140).
- “There is a mount of credible reports submitted to the United Nations proving the illegal status of Israel’s permanent occupation in the Palestinian territories. Against this background it is submitted that the Court should find that the prolonged Israeli belligerent occupation of the Occupied Palestinian Territory, including East Jerusalem, is illegal and an insurmountable barrier to the achievement of Palestinian self-determination.” (para. 158).

### Appendice 3

#### *Exposés écrits concluant que l'occupation israélienne est illégale parce qu'elle viole l'interdiction du jus cogens sur l'apartheid*

##### **Bangladesh**

- “[I]nsofar as Israel’s discriminatory measures rise to the level of apartheid, as is increasingly apparent, the occupation would be illegal ... by violating, and indeed being contingent upon, the violation of a peremptory norm of international law.” (para. 31(ii)).

##### **Belize**

- “These measures manifestly prevent the Palestinian people from participating in the political, social, economic and cultural life of Israel and of the Palestinian territory, and from developing fully. They are not isolated measures or discrete violations of basic human rights. Their breadth and consistency, in the Palestinian territory and in Israel itself, demonstrate that they form part of an institutionalised regime and are a means through which Israel seeks to control, oppress and dominate Palestinians and to maintain that domination. Such control, oppression and domination are also furthered by Israel’s prolonged illegal occupation and annexation of Palestinian territory, and operate to deny the Palestinian people their collective right to self-determination.” (para. 69).
- “Israel is accordingly committing apartheid against the Palestinian people in denial of their right to self-determination.” (para. 71).
- “These reports focus on Israel’s discriminatory laws, policies and practices which, when viewed in totality, control virtually every aspect of the lives of Palestinians, systematically violate their rights, and are intended to maintain the oppression and domination of the Palestinian people for the benefit of Israeli Jews. These findings rightly concern the Palestinian people as a whole, and recognise that the treatment of Palestinians in Gaza — where Israel has barricaded and blockaded two million Palestinians in what is often referred to as the world’s largest ‘open-air prison’ and as a ‘Bantustan’ — forms an integral part of this system of separation and oppression. Israel is accordingly violating the prohibition of apartheid in relation to the Palestinian people as a whole.” (para. 73).
- “The illegality of Israel’s presence in the Palestinian territory also follows from the fact that Israel’s occupation is a flagrant violation of the purposes

and principles of the Charter of the United Nations. ... Israel has illegally established, maintained and extended its settlement and systemic discrimination practice.” (para. 99).

## **Bolivia**

- “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.” (p. 4) (emphasis in the original).

## **Djibouti**

- « Le régime d’occupation mis en place par la partie israélienne a pour effet d’instaurer une discrimination systématique de la population palestinienne, au profit de la population juive installées dans les colonies de peuplement, en violation de l’interdiction de la ségrégation raciale et de l’apartheid ». (para. 5).
- « Compte tenu de éléments développés ci-dessus, il est permis de conclure que l’occupation du Territoire palestinien est, comme telle, illégale au regard du droit international, et ceci dès l’origine, en ce qu’elle implique des violations de normes impératives de droit internationale, à savoir une entrave fondamentale a l’exercice par le peuple palestinien de son droit à l’autodétermination, [...] en ce qu’elle conduit à l’établissement d’un régime de ségrégation voire d’apartheid ». (para. 31).

## **The Gambia**

- “Israel’s occupation of the OPT is also illegal because it amounts to a regime of apartheid.” (para. 1.9).

- “As a regime of apartheid, Israel’s occupation of the OPT is illegal and must urgently be brought to an end.” (para. 1.15).

## **Jordan**

- “Israel’s occupation of the Occupied Palestinian Territory, including East Jerusalem, in addition to involving systematic violations of several rules of international law, including jus cogens norms, is contrary to basic principles of the law of occupation and therefore unlawful as a whole. The occupation has become an instrument to suppress the right of the Palestinian people to self-determination, becoming indistinguishable from unlawful regimes such as colonial domination or apartheid.” (para. 5.13).

## **Kuwait**

- “The State of Kuwait submits that the Israeli occupation of Palestinian territory must be condemned as an ongoing illegal situation and, as such, it must be brought to a complete, immediate and unconditional end. With robust parallels to the illegal mandate rule of apartheid South Africa over Namibia, Israel’s occupation is in fundamental breach of its international obligations and the most fundamental rules of international law and its presence in the occupied territory is illegal.” (para. 34).

## **Lebanon**

- « La politique ségrégationniste d’Israël a atteint un tel niveau d’injustice durable vis-à-vis des Palestiniens que plusieurs experts internationaux et organisations non gouvernementales affirment que cette politique constitue le crime d’apartheid, un crime qui entraîne la responsabilité de l’État pour violation d’une norme impérative selon la conclusion de la Commission du droit international, et implique aussi la responsabilité pénale des personnes qui le commettent, vu qu’il est considéré l’un des crimes contre l’humanité énoncés dans le statut de la Cour pénale internationale ». (para. 49).
- « Les points précédents montrent qu’Israël continue de violer des normes impératives du droit international, des normes qui créent des obligations erga omnes. La Cour avait déjà constaté ce fait dans son avis consultatif en 2004 où elle a déclaré « qu’au rang des obligations internationales violées par Israël, figurent des obligations erga omnes.... de telles obligations par leur nature même, concernent tous les États et vu l’importance des droits en cause tous les États peuvent être considérés comme ayant des intérêts à ce que ces droits soient protégés ». (para. 53)

- « Israël viole gravement le droit international tant qu'il continue d'appliquer des mesures discriminatoires vis-à-vis des Palestiniens, et tant qu'il maintient un régime d'apartheid dans les Territoires palestiniens occupés. Israël doit notamment abroger ou modifier diverses lois qui instaurent une discrimination contre les Palestiniens, comme par exemple la loi du retour 5710 et la loi de la propriété des absents ». (para. 57)
- « L'occupation Israélienne du Territoire Palestinien est illégale tant dans sa conduite que dans son but. Par conséquent, Israël est dans l'obligation de mettre un terme immédiat et inconditionnel à cette situation illégale dont il est internationalement responsable et de fournir réparation ». (para. 59)

## **Namibia**

- “Namibia has highlighted that Israel’s occupation is characterized by grave violations ‘including crimes against humanity of apartheid and persecution committed by Israeli officials with the aim of prolonging the illegal occupation, and suppressing the right to self-determination’ and that international action is required to ‘dismantle the system of apartheid and put an end to the illegal occupation’” (para. 143).
- “Israel’s discriminatory practices against Palestinians in the Occupied Palestinian Territory and the Palestinian people, as a whole, breach the prohibition of apartheid in customary international law and the obligation in Article 3 of ICERD to prevent, prohibit and eradicate all practices of apartheid in territories under its jurisdiction. ... As a consequence, Israel is bound to cease the imposition of its illegal occupation of the Palestinian territory and regime of apartheid against the Palestinian people” (paras. 151(e)-(f)).

## **Palestine**

- “More particularly, all available evidence – including as consistently and openly furnished by generations of Israeli leaders over five decades – establishes that Israel itself does not regard its presence in the OPT as a temporary occupation. Its actions and its words establish that it regards its rule over the OPT and the Palestinian people as permanent and irreversible. This is demonstrated by ... Its imposition and maintenance of systematic racial discrimination meeting all the defining elements of apartheid, and its denial, on the basis of race, of the fundamental rights to which the Palestinian people are entitled under international law” (para. 6.3(b)).

- “[I]n view of these policies and practices [including apartheid], Israel’s occupation of the OPT is in and of itself unlawful, rendering Israel’s continued presence in the OPT an internationally wrongful act as it seriously breaches at least three peremptory norms of general international law, derogation from which is not permitted. It is impossible to distinguish between Israel’s occupation of the OPT and its serious breaches of peremptory norms of general international law therein, which are reciprocal in nature, organically interrelated and mutually reinforcing.” (para. 6.4).
- “Israel’s occupation of the OPT seriously breaches at least three peremptory norms of general international law derogation from which is not permitted ... [including] the prohibition against racial discrimination and/or apartheid” (para. 6.5).
- “Because Israel’s prolonged 56-year occupation of the OPT is structurally and existentially reliant upon and inseparable from its egregious violations of peremptory norms of general international law [including the prohibition against racial discrimination and/or apartheid], derogation from which is not permitted, the occupation itself must be regarded as illegal, with all relevant legal consequences that attach under the law of international responsibility” (para. 6.19).

## **Qatar**

- “Since the prohibition of apartheid is a *jus cogens* norm, a finding that the occupation amounts to a regime of apartheid entails, *ipso facto*, a finding that the maintenance of the occupation is a breach of a peremptory norm.” (para. 4.108).

## **Saudi Arabia**

- “Israel has ignored the Court’s opinion, ... by continuing the practices and policies ... which ... violate fundamental rules and principles of international humanitarian law and amount to racial discrimination and segregation. These policies and practices of Israel in violation of the *jus cogens* norms have rendered the occupation, viewed in its entirety, as egregiously illegal.” (para. 38).
- “That [Israel’s] practices amount to a systematic government-inspired and supported system of racial discrimination, tantamount to apartheid throughout the Occupied Palestinian Territory cannot be hidden or seriously denied, and the Court should therefore recognize and condemn those practices as such. Moreover, the reality of the apartheid-like system

Israel has implemented in the Occupied Palestinian Territory demonstrates in the clearest manner possible the need for the U.N., and the international community at large, to unambiguously declare the occupation illegal in its entirety and require that it be put to an end.” (para. 73).

### **South Africa**

- “South Africa submits that Israeli apartheid must be viewed in the context of the inherent illegality of the occupation as a whole; it being an additional breach of peremptory norms under an illegal situation. The fragmentation of Palestinian territory, the subjugation of its people, restrictions on movement, racial discrimination and state-sanctioned extrajudicial killings are all calculated to impede the right of the Palestinians to self-determination.” (para. 95).

### **Yemen**

- “It is clear from the foregoing that the policies and practices of Israel, the occupying power, in the OPT, that when examined as a whole, involve the gross and systematic violation of at least three peremptory norms of general international law: ... the imposition of a regime of widespread and systematic racial discrimination amounting to Apartheid.” (para. 40).

## Appendice 4

### *Exposés écrits concluant que l'occupation israélienne est illégale parce qu'elle viole l'interdiction du jus cogens sur le recours à la force consacrée par l'article 2(4) de la Charte des Nations Unies*

#### **Belize**

- “Israel’s occupation of the Palestinian territory in June 1967 resulted from the use of force against Egypt and Jordan ... the occupation was unlawful from its inception and continues to be so. Even if the Court were not to reach a view on the legality of Israel’s initial use of force, the occupation is in any event now unlawful: the conditions of necessity and proportionality would have ceased to have been met a very long time ago. At the absolute latest, those conditions would have ceased to have been met once Israel concluded peace agreements with Egypt and Jordan, which occurred in 1979 and 1994 respectively. Consequently, Israel has for a very long time been obliged to end its occupation, but it has instead remained in occupation. Its ongoing occupation, as a whole, is therefore unlawful and an act of aggression.” (para. 33).
- “In addition, Israel’s naval blockade of Gaza is also an unlawful use of force and aggression. In this respect, the blockade has the same character as the entire occupation, being an unlawful act contrary to *jus ad bellum*.” (para. 34).
- “As regards the prolonged occupation: it is a long-standing principle of international law that the use of force not justified by self-defence or Security Council authorisation — including occupation — is illegal, continues to be illegal for so long as it continues, and cannot create title to the territory occupied opposable to other States.” (para. 95).
- “The illegality of Israel’s presence in the Palestinian territory also follows from the fact that Israel’s occupation is a flagrant violation of the purposes and principles of the Charter of the United Nations. ... Israel has been in unlawful occupation of the Palestinian territory, in violation of Article 2(4) of the Charter of the United Nations.” (para. 99).

#### **Chile**

- “[T]aking into account the policies and practices of Israel in the OPT, the occupation of Palestinian territory is illegal [because] ... it is not justified as a measure necessary for Israel’s protection” (para. 119).

## **Cuba**

- “All Israel’s occupation acts on Palestinian territory are internationally wrongful acts .... The prohibition to acquire territories by threat or the use of force is a customary law statute with broad regulatory and jurisdictional recognition. This prohibition is applicable whether or not the territory is acquired as a result of an act of aggression or self-defense. ... [F]rom the legal point of view ... States renounced war as a legitimate instrument of national policy to settle their differences and committed to resolve them by peaceful means.” (pp. 4-5).

## **The Gambia**

- “Israel’s 56-year occupation of the Palestinian Territory violates the laws on the use of force—*jus ad bellum*—and is illegal for that reason as well.” (para. 1.16).
- “In sum, Israel’s decades-long occupation violates the laws on the use of force and is therefore illegal. Even if it had once been a lawful use of force in response to an armed attack—and it was not—it could not possibly have remained lawful for 56 years. Israel has not been facing an ongoing armed attack and the prolonged occupation has been neither necessary nor proportionate. As a result, Israel’s occupation is illegal as a whole and must end.” (para. 1.31).

## **Ireland**

- “[S]ettlements are the defining feature of Israel’s presence in the Occupied Palestinian Territory.” (para. 18).
- “Ireland has concluded that Israel’s settlement-related policies and practices in the Occupied Palestinian Territory are wholly inconsistent with the temporary administration of territory in accordance with the law of military occupation.” (para. 35).
- “[I]t is clear that Israel is acting inconsistently with its legal status as the occupying power, and in breach of many of its obligations under international humanitarian and human rights law. Far from temporarily administering the Occupied Palestinian Territory in accordance with the law of military occupation, Israel is engaged in escalating unlawful settlement activity, which amounts to a process of annexation, and is in serious breach of its obligation to respect the right of the Palestinian people to self-determination. Ireland regrets to conclude that Israel’s settlement

practices amount to an attempt to transform a temporary, albeit prolonged, occupation into an exercise in permanently acquiring territory by a gradual process of annexation.” (para. 44)

- “In Ireland’s view, there can be no possible legal justification for this. Even if Israel were facing an armed attack entitling it to exercise the right of self-defence, its settlement activity could not be justified as self-defence. As explained above, Ireland has reluctantly but unavoidably concluded that that activity amounts to a process of annexation and a serious breach of the right to self-determination – a peremptory norm of general international law – which cannot be justified as self-defence. Even if Israel’s settlement activity did not amount to annexation or breach the right to self-determination, it could not possibly be justified as self-defence because it would not, in any event, be a necessary or proportionate measure (as required by international law of any measure taken in the exercise of the right to self-defence).” (para. 45).

## **Jordan**

- “Fourth, there are no security or military concerns that Israel could reasonably invoke to justify the measures in question. Indeed, even if Israel has occasionally invoked terrorist threats to explain its actions, this cannot be regarded as an objective and proportionate justification within the framework of international humanitarian law 56 years after the commencement of the occupation. There is no terrorist threat that could possibly justify Israel’s ongoing violation of the right of the Palestinian people to self-determination; the continuous expansion of Israeli settlements on the land of Palestinians; the annexation of the Occupied Palestinian Territory contrary to the principle of non-acquisition of territory by force; or the adoption by Israeli authorities of an egregious policy of racial discrimination targeting Palestinians.” (para. 5.11).
- “In conclusion, Israel’s occupation of the Occupied Palestinian Territory, including East Jerusalem, in addition to involving systematic violations of several rules of international law, including jus cogens norms, is contrary to basic principles of the law of occupation and therefore unlawful as a whole. The occupation has become an instrument to suppress the right of the Palestinian people to self-determination, becoming indistinguishable from unlawful regimes such as colonial domination or apartheid.” (para. 5.13).

## League of Arab States

- “Israel’s use of force against Egypt, Jordan and Syria in 1967 was not a legally valid exercise of a right to self-defence, and the occupation of the Palestinian Territory, under Egyptian and Jordanian administration up until that point, was, therefore, a part of an unlawful use of force. Thus, the occupation was itself an illegal use of force, an aggression, from the outset. As a result, there is no valid international law basis for the existence of the occupation.” (para. 43).
- “The only legal grounds for a State being entitled to control territory that does not form part of its sovereign territory, and which is either the territory of another State, or a non-State self-determination unit, through the use of force in the foregoing way, is if one or more of the following are present: (a) the host sovereign entity has validly given its permission; (b) the UN Security Council has given its authority for this under Chapter VII of the UN Charter; (c) it is a legally-valid exercise of self-defence according to the international law on the use of force. Such grounds do not exist in relation to Israel’s occupation of the Palestinian Territory.” (para. 62).
- “The effect of the foregoing analysis in this section is that there is no lawful basis for Israel to maintain the occupation or, put differently, to lawfully impede the Palestinian right of self-determination through maintaining the occupation. In consequence, the occupation of Gaza and the West Bank (including East Jerusalem) is existentially illegal as a breach of the international law on the use of force and the law of self-determination.” (para. 74).

## Lebanon

- « Vu ce qui précède, le Liban considère que la Cour devrait réitérer dans son avis consultatif la violation d’Israël du principe fondamental de l’illicéité du recours à la force et son corollaire de l’illégalité d’annexion des territoires par la force ». (para. 27)
- « Les points précédents montrent qu’Israël continue de violer des normes impératives du droit international, des normes qui créent des obligations erga omnes. La Cour avait déjà constaté ce fait dans son avis consultatif en 2004 où elle a déclaré « qu’au rang des obligations internationales violées par Israël, figurent des obligations erga omnes.... de telles obligations par leur nature même, concernent tous les États et vu l’importance des droits en cause tous les États peuvent être considérés comme ayant des intérêts à ce que ces droits soient protégés ». (para. 53)

- « Concrètement, Israël est tenu dans ce cas, afin de respecter le principe du non recours à la force et son corollaire de l'inadmissibilité de l'annexion des territoires, de démanteler les colonies dans les Territoires palestiniens occupés ». (para. 56)
- « L'occupation Israélienne du Territoire Palestinien est illégale tant dans sa conduite que dans son but. Par conséquent, Israël est dans l'obligation de mettre un terme immédiat et inconditionnel à cette situation illégale dont il est internationalement responsable et de fournir réparation ». (para. 59)

### **Maldives**

- “It is firmly settled in the jurisprudence of the Court that the prohibition on the use of force, as reflected in the UN Charter, is a rule of customary international law. Indeed, the prohibition has been acknowledged as having the status of *jus cogens*, meaning that no derogation from it is permitted. ... Israel’s occupation of the OPT has been established and maintained in violation of these fundamental rules of international law.” (paras. 14, 17).

### **Namibia**

- “Israel’s use of force against Egypt and other Arab States in 1967 was a pre-emptive use of force in the absence of an armed attack, and therefore and unlawful act of aggression in violation of Article 2(4) and Article 51 of the UN Charter. Israel’s presence in the Palestinian territory has been illegal from the outset in 1967 and the consequent occupation is also illegal.” (para. 142).

### **Organisation of Islamic Cooperation**

- « La violation de l’interdiction du recours à la force ... ont pour incidence que l’occupation par Israël du Territoire palestinien est une occupation illégale qui doit cesser immédiatement et dont toutes les conséquences doivent être réparées ». (para. 405).

### **Pakistan**

- “A prolonged occupation, with its *de facto* and *de jure* annexations and various variations of international humanitarian law, is a breach of the right to self-determination. Moreover, these violations together indicate that the military necessity and proportionality requirements for self-defence, are no longer satisfied, making the occupation illegal on the basis of *jus ad bellum*” (para. 22(i)).

## **Saudi Arabia**

- “Israel’s occupation of the Occupied Palestinian Territory has always been illegal under international law as it was the result of the use of force in violation of Article 2.4 of the U.N. Charter and customary international law prohibiting the acquisition of territory through the use of force.” (para. 36).

## **Yemen**

- “It is clear ... that the policies and practices of Israel, the occupying power, in the OPT ... when examined as a whole, involve the gross and systematic violation of [this] peremptory norm[] of general international law: ... The prohibition of aggression...” (para. 40(1)).

## Appendice 5

### *Exposés écrits concluant que l'occupation israélienne est illégale parce qu'elle viole l'interdiction du jus cogens sur l'acquisition de territoire par l'emploi de la force*

#### **African Union**

- “[T]he Israeli occupation of the Palestinian territories is unlawful. Specifically, Israel’s occupation of those territories qualifies as an internationally wrongful act of a continuing character on the following grounds: ... the prolonged Israeli occupation and the policies and practices associated with it amount to the de facto and de jure annexation of the Palestinian territories, which violates the prohibition on the acquisition of territory by force.” (para. 91(c)).
- “In the African Union’s view, Israel’s occupation is *per se* unlawful ... Israel’s prolonged occupation, and the policies and practices associated with the occupation amount to the de jure and de facto annexation of the Palestinian territories.” (para. 136).
- “The Israeli occupation of the Palestinian territories is contrary to international law ... The Israeli occupation amounts to the de facto and de jure annexation of the Palestinian territories, in contravention of the prohibition on the acquisition of territory by force.” (para. 266(c)).

#### **Bangladesh**

- Endorsing Special Rapporteur Albanese’s view that “Israel’s occupation is illegal because of its: ‘systematic violation of at least three peremptory norms of international law: ... [including] the prohibition on the acquisition of territory through the use of force’” (para. 26).

#### **Belize**

- “The illegality of Israel’s presence in the Palestinian territory also follows from the fact that Israel’s occupation is a flagrant violation of the purposes and principles of the Charter of the United Nations. ... Israel has been in violation of the prohibition of the acquisition of territory by force, reflected in Article 2(4).” (para. 99(c)).

## **Bolivia**

- “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).” (p. 4).
- “[T]he 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.” (p. 14).

## **Brazil**

- “Occupation is inherently temporary. This is the basic distinction between occupation and annexation. More than 55 years have passed since the 1967 conflict, and thenceforth the occupying Power has adopted policies and practices such as the construction and expansion of settlements with permanent infrastructure, the construction of the wall, the demolition of Palestinian homes, the transfer of populations, the application of discriminatory legislation, which benefits the settlers, and legal assimilation. The cumulative effect of these measures would render the occupation unlawful as a whole, inasmuch as it would be tantamount to the acquisition of territory by force.” (para. 46).
- “[T]he persistent practices in the occupied Palestinian territories would be tantamount to annexation ... [and therefore] the occupying Power is under an obligation to cease its occupation as a whole.” (Conclusion (e-f)).

## **Chile**

- “[T]aking into account the policies and practices of Israel in the OPT, the occupation of Palestinian territory is illegal [because] ... the settlements policy evidences that occupation is aimed at the annexation of territory by Israel.” (para. 119).

## Djibouti

- “Compte tenu des éléments développés ci-dessus, il est permis de conclure que l’occupation du Territoire palestinien est, comme telle, illégale au regard du droit international, et ceci dès l’origine, en ce qu’elle implique des violations de normes impératives de droit international, ... en ce qu’elle vise et aboutit à une annexion contraire au principe d’intégrité territoriale et de non acquisition du territoire par la force” (para. 31).

## Egypt

- “[A] protracted occupation that is coupled with measures to permanently change the demographic characteristics of the occupied territory, and acquire territory in violation of the cardinal principle of the prohibition of the acquisition of territory by force, is illegal *per se* and amount to *de facto* annexation. It follows that the Israeli occupation of Palestinian territory is unlawful under international law owing to its permanence and to actions undertaken by Israel to annex parts of the land *de facto* and *de jure*.” (para. 249).
- “[C]onsidering that ... belligerent occupation does not allow the Occupying Power to annex the occupied territory ... violation of [this] principle[], in addition to the violation of the specific norm that reflects [it], renders occupation *per se* illegal. Belligerent occupation becomes illegal whenever the Occupying Power takes measures aimed to appropriate the occupied territory or portions thereof, or that are otherwise incompatible with the duty to return such territory as soon as feasible.” (para. 268).

## Guyana

- “[T]he annexation of territory is fundamentally incompatible with lawful occupation. ... An occupation which involves annexation of the occupied territory is, in truth, not an ‘occupation’ at all: it is a military conquest. A State cannot simultaneously be both the temporary non-sovereign occupant and the permanent purported ‘sovereign’ of the same territory.” (para. 32).
- “Through it acts in the OPT since 1967, Israel has systematically violated ... the jus cogens prohibition on annexation .... The violation[] of [this] peremptory norm[] of international law – which the evidence shows [is] grave, longstanding and ongoing – [is not an] ancillary or accidental or isolated aspects of an otherwise lawful temporary occupation. Rather, [it is] an integral feature and a permanent consequence of Israel’s continued presence in the OPT.” (para. 33).

- “An occupation which involves, and is inextricably founded upon, such serious breaches jus cogens norms is not – and could not ever be – a lawful occupation.” (para. 34).

## **Indonesia**

- “[A]n occupation can only be lawful subject to the fulfill of three cumulative elements”, including “the occupying power cannot annex any of the occupied territory.” (para. 51).
- “Israel consistently violated the principle of non-annexation of occupied territory” (para. 53).

## **Ireland**

- “[S]ettlements are the defining feature of Israel’s presence in the Occupied Palestinian Territory.” (para. 18).
- “Ireland has concluded that Israel’s settlement-related policies and practices in the Occupied Palestinian Territory are wholly inconsistent with the temporary administration of territory in accordance with the law of military occupation.” (para. 35).
- “Ireland considers that the situation of annexation created by the wall is part of a wider process of annexation by Israel of territory within the Occupied Palestinian Territory, demonstrated in particular by the settlements and their associated regime.” (para. 38).
- “Whether de facto or de jure, or both, this process of annexation is in clear breach of the prohibition in international law of the acquisition of territory by threat or use of force.” (para. 41).
- “[I]t is clear that Israel is acting inconsistently with its legal status as the occupying power, and in breach of many of its obligations under international humanitarian and human rights law. Far from temporarily administering the Occupied Palestinian Territory in accordance with the law of military occupation, Israel is engaged in escalating unlawful settlement activity, which amounts to a process of annexation, and is in serious breach of its obligation to respect the right of the Palestinian people to self-determination. Ireland regrets to conclude that Israel’s settlement practices amount to an attempt to transform a temporary, albeit prolonged, occupation into an exercise in permanently acquiring territory by a gradual process of annexation.” (para. 44).

- “In Ireland’s view, there can be no possible legal justification for this.” (para. 45).

## **Jordan**

- “[O]ver an extended period of time, Israel has acted in violation of its obligations as an occupying Power, including by taking steps that amount to annexation of parts of the occupied territory .... Indeed, Israel has disregarded the fundamental principle[] set out above in a sustained and systematic manner. The occupation of the Occupied Palestinian Territory, including East Jerusalem, is illegal as such, and Israel is under an obligation to bring the occupation to an end as rapidly as possible.” (para. 1.12).
- “[T]he policies and practices of Israel described in Chapter 4 affect the status of the occupation of the Occupied Palestinian Territories, including East Jerusalem, in such a way that it must be regarded as unlawful as a whole. Those policies and practices contravene in the most fundamental way the basic principles of the modern international law of occupation. ... The occupying Power cannot acquire sovereignty over the occupied territory, whether by annexation or in any other way. To seek to do so would be contrary to the most fundamental principles of international law, including the prohibition of the use of force and the corollary principle of non-acquisition of territory by force” (para. 5.6).
- “Israel’s unlawful practice of settlements and their associated regime, including the transfer of Israeli settlers and the forcible displacement of Palestinian communities, evidence Israel’s manifest intention to annex territory that belongs to the Palestinian people. As explained in Sections II and III of Chapter 4 above, the colonization, confinement and fragmentation of the Occupied Palestinian Territory, including East Jerusalem, cannot be considered to be compatible with the law of occupation. The latter, read together with the principle of non-acquisition of territory by force, prohibits the annexation of occupied territory, and the occupying Power must always act in accordance with this basic tenet. Israel’s policy of settlements and annexation is a direct and continuing affront to this.” (para. 5.9).
- “[T]here are no security or military concerns that Israel could reasonably invoke to justify the measures in question. Indeed, even if Israel has occasionally invoked terrorist threats to explain its actions, this cannot be regarded as an objective and proportionate justification within the framework of international humanitarian law 56 years after the commencement of the occupation. There is no terrorist threat that could

possibly justify ... the annexation of the Occupied Palestinian Territory contrary to the principle of non-acquisition of territory by force” (para. 5.11).

### **Kuwait**

- “The State of Kuwait ... stresses that Israeli occupation of Palestinian and other Arab territories has been since its onset and to this day unlawful as it was the result of military conquest and aimed at the acquisition of territory by force.” (para. 27).

### **League of Arab States**

- “The existential illegality of the occupation thus arises out of the simple fact of the occupation as a system of control and domination without a valid legal basis. This is then compounded by the occupation’s prolonged duration, its link to de jure and de facto annexation, and the egregious abuses perpetrated against the Palestinian people. The use of military force to annex territory is an independent basis for existential illegality: also a violation of the international law on the use of force, an aggression.” (para. 44).

### **Lebanon**

- “Vu ce qui précède, le Liban considère que la Cour devrait réitérer dans son avis consultatif la violation d’Israël du principe fondamental de l’illicéité du recours à la force et son corollaire de l’illégalité d’annexion des territoires par la force.” (para. 27)
- “Les points précédents montrent qu’Israël continue de violer des normes impératives du droit international, des normes qui créent des obligations erga omnes. La Cour avait déjà constaté ce fait dans son avis consultatif en 2004 où elle a déclaré ‘qu’au rang des obligations internationales violées par Israël, figurent des obligations erga omnes.... de telles obligations par leur nature même, concernent tous les États et vu l’importance des droits en cause tous les États peuvent être considérés comme ayant des intérêts à ce que ces droits soient protégés.’” (para. 53)
- « Concrètement, Israël est tenu dans ce cas, afin de respecter le principe du non recours à la force et son corollaire de l’inadmissibilité de l’annexion des territoires, de démanteler les colonies dans les Territoires palestiniens occupés ». (para. 56)

- « L'occupation Israélienne du Territoire Palestinien est illégale tant dans sa conduite que dans son but. Par conséquent, Israël est dans l'obligation de mettre un terme immédiat et inconditionnel à cette situation illégale dont il est internationalement responsable et de fournir réparation ». (para. 59)

## **Maldives**

- “As a corollary of the prohibition on the use of force, international law prohibits a State from acquiring territory by the threat or use of force, with the prohibition on such annexation stated by the Court to be a rule of customary international law. ... Israel’s occupation of the OPT has been established and maintained in violation of these fundamental rules of international law.” (paras. 15-17).

## **Namibia**

- “This illegality has been further compounded by Israel’s colonization of the Palestinian territory that started in 1967 and continue to this very day and its purported annexation of Palestinian territory, in breach of article 2(4) of the Charter and of the inadmissibility of the acquisition of territory by force. Namibia reiterates its previously stated position that Israel’s occupation of the Palestinian territory (i.e., the West Bank, including Jerusalem, and the Gaza Strip) is illegal.” (para. 143).

## **Oman**

- “A fundamental principle of international law as reflected in the Charter of the United Nations is that the use of force in any form is prohibited. Consequently acquisition of territory by use of force is illegal. The 57 year occupation and settlement policy of the State of Israel is preventing the establishment of a contiguous, viable Palestinian State and is an affront to international law.” (p. 3).
- “[T]he primary legal consequence arising from Israel’s behaviour is that there is now a *de facto* annexation by Israel of the Palestinian territories.” (p. 4).

## **Pakistan**

- “A prolonged occupation, with its *de facto* and *de jure* annexations and various variations of international humanitarian law, is a breach of the right to self-determination. Moreover, these violations together indicate that the military necessity and proportionality requirements for self-defence, are no

longer satisfied, making the occupation illegal on the basis of *jus ad bellum*” (para. 22(i)).

### **Palestine**

- “The evidence adduced in this Written Statement demonstrates overwhelmingly that Israel has annexed and plans to continue to annex Jerusalem and the rest of the West Bank.” (para. 6.2)
- “Israel’s occupation of the OPT is in and of itself unlawful ... as it seriously breaches at least three peremptory norms of international law ... [including] the inadmissibility of the acquisition of territory through the threat or use of force.” (paras. 6.4-6.5).

### **Saudi Arabia**

- “Israel’s occupation of the Occupied Palestinian Territory has always been illegal under international law as it was the result of the use of force in violation of Article 2.4 of the U.N. Charter and customary international law prohibiting the acquisition of territory through the use of force.” (para. 36).
- “Over the past almost 20 years since the *Wall Advisory Opinion* was issued, Israel has ignored the Court’s opinion ... by continuing the policies and practices ... which ... are tantamount to *de facto* annexation.... These policies and practices of Israel in violation of these *jus cogens* norms have rendered the occupation, viewed in its entirety, as egregiously illegal.” (para. 38).

### **Senegal**

- « La thèse du droit à l'autodéfense préventive, notamment évoquée par Israël pour justifier la construction du mur dont la réalisation s'appuie sur la réquisition de terres privées palestiniennes ou leur annexion découlant de l'incorporation de colonies juives installées dans des parties importantes de la Cisjordanie ou des violations massives des droits de l'homme, aboutit concrètement à une annexion illégale. Dans ce sens, elle tombe sous le coup d'une interdiction par la Charte des Nations Unies et la Quatrième Convention de Genève sur la protection des droits civils en temps de guerre, de la même manière que l'annexion de Jérusalem-Est. ... Sous ce rapport, l'édification du mur est une extension de l'annexion de territoires palestiniens et la cessation de toute politique d'implantation de colonies de peuplement devient un impératif. ... Réitérant son appel à la fin de l'occupation illégale et de l'annexion des territoires palestiniens ... » (p. 5).

## Syria

- “The prolonged Israeli occupation confirms the intention of the occupying power to make it permanent, in flagrant violation of the principle of inadmissibility of the seizure and acquisition of territory by force.” (para. 12).
- “It is inevitable to conclude that ‘Israel’ has used, and continues to use, its prolonged occupation as an excuse to pursue its illegal goal of annexing the occupied territories, in flagrant violation of the UN Charter; Therefore, the Israeli occupation itself must be considered, in the first place and altogether as illegal, and it should not be suffice to just simply describe its practices and policies.” (para. 31).
- “[T]he Israeli occupation of Arab territories is fundamentally invalid, as it is based on the acquisition of territories by force, in flagrant violation of international law and the provision of the Charter of the United Nations, where paragraph 4 of Article 2 of the charter prohibits the use of force.” (p. 13).

## Yemen

- “It is clear ... that the policies and practices of Israel, the occupying power, in the OPT ... when examined as a whole, involve the gross and systematic violation of at least these peremptory norms of general international law: ... The prohibition of aggression, which [*sic*] its corollary prohibiting the acquisition of territory through the use of force” (para. 40(1)).

## Appendice 6

### *Exposés écrits concluant que l'occupation israélienne est illégale parce qu'elle viole les lois de l'occupation*

#### **Chile**

- “In this context, and taking into account the policies and practices of Israel in the OPT, the occupation of Palestinian territory is illegal [because] ... Israel has violated its obligation to act in the best interests of the population under occupation.” (para 119).

#### **Egypt**

- “[C]onsidering that ... occupation must be temporary, violation of ... th[is] principle[], in addition to the violation of the specific norm that reflects them, renders occupation per se illegal.” (para. 268).
- “Israel’s de jure annexation of Jerusalem, formalized in 1980, is clearly contrary to international law. Israel’s intention to make its occupation permanent is evidenced by its residential, industrial, and agricultural settlements, and related infrastructures such as roads and water systems, which have been established and developed in the West Bank, including East Jerusalem, since 1967. The Wall and its associated regime have further pursued the incorporation of major settlements, especially those located around East Jerusalem, into Israel’s territory, giving rise to a *de facto* annexation, which further violates the Palestinians’ rights to self-determination and permanent sovereignty over their natural resources. Israel has also seized and confiscated the private property of Palestinian citizens, as well as their land, contrary to the principles of IHL. Besides their unlawfulness, these measures contradict the principle of temporariness.” (para. 269).

#### **Indonesia**

- “Indonesia submit that an occupation can only be lawful subject to the fulfilment of three cumulative elements, namely (a) an occupying power cannot annex any of the occupied territory; (b) the occupation must be temporary; and (c) the occupying power must act in the best interests of the people under occupation, including acting in full compliance with its duties and obligations under international law.” (para. 51).

- “Failure to fulfil even one of the abovementioned elements would result in Israel’s prolonged occupation as unlawful and render Israel an illegal occupant.” (para. 52).
- “Israel’s occupation over the OPT has continued for decades. The manner in which Israel maintains its occupation is also contributory to the unlawfulness of its prolonged occupation. Although currently there is no test pertaining to the duration of a lawful occupation, Israel’s actions show its intention of seeking to transform its presence from a temporary one into a permanent one, based on three reasons.” (para. 55).
  - “First, Israel treats the occupation as a permanent fixture through continuous establishment of illegal settlements, extraterritorial applications of its laws, including the possible application of the Basic Law, and expropriation of lands and natural resources in the OPT.” (para. 56).
  - “Second, Israel is unfazed by constant pressure from the international community .... Despite such persistent conveyance of disapproval, Israel continues its measures to consolidate its hold over the OPT.” (para. 57).
  - “Third, Israel has not committed to any plan of ending its occupation despite the recourse of the international community to seek settlement of the conflict between Israel and Palestine. Taken together the above reveals an indefinite occupation with no signs of stopping.” (para. 58).
- “As an occupying power, Israel is obliged to honour and perform its duties under IHL, but it has not done so. The obligations as prescribed under IHL entails Israel to act for the best interests of the people under its occupation. The substantive provisions of the Hague Regulation combined with the Fourth Geneva Convention have outlined various occupying power obligations under the ambit of IHL. These obligations include the maintenance of ‘public order and safety, while respecting, unless absolutely prevented, the laws in force in the country’, and to treat protected persons humanely at all times, in particular against all acts of violence or threats thereof. These obligations constantly apply in the occupied territory, even when the control over such territory is short-lived.” (para. 59).
- “Indonesia submits that Israel has failed to fulfill those obligations owing to its act of prolonged occupation, settlement and annexation, including the imposition of discriminatory measures as well as failure to guarantee public

order and safety, which have effectively deprived the Palestinians from their human rights, particularly their right to self-determination.” (para. 60).

## **Jordan**

- “[T]he policies and practices of Israel described in Chapter 4 affect the status of the occupation of the Occupied Palestinian Territories, including East Jerusalem, in such a way that it must be regarded as unlawful as a whole. Those policies and practices contravene in the most fundamental way the basic principles of the modern international law of occupation. ... [This includes the principle that] [o]ccupation is by its very nature a temporary state of affairs. It must not become indefinite or permanent” (para. 5.6).
- “Israel’s discriminatory legislation and measures, which it systematically applies in the Occupied Palestinian Territory, including East Jerusalem, contrary to the ICCPR, the ICESCR, the CERD and the CRC, and the peremptory prohibition of discrimination, show that Israel does not act for the benefit of the Palestinian people. This is not only a breach of Israel’s obligations under the law of occupation and international human rights law, but constitutes further evidence of Israel’s goal to progressively displace the Palestinian population from their own land.” (para. 5.10).
- “[W]hile adopting all the abovementioned measures, Israel has failed to constructively engage in negotiations for a final settlement in accordance with resolutions adopted by competent UN organs and the commitments it has undertaken on many occasions. Israel’s failure to do so further attests of its bad faith in holding the territory in question: its intention is manifestly to annex the Occupied Palestinian Territory, contrary to the purposes of the law of occupation, the right of Palestinians to self-determination, and the principle of non-acquisition of territory by force.” (para. 5.12).
- “In conclusion, Israel’s occupation of the Occupied Palestinian Territory, including East Jerusalem, in addition to involving systematic violations of several rules of international law, including jus cogens norms, is contrary to basic principles of the law of occupation and therefore unlawful as a whole. The occupation has become an instrument to suppress the right of the Palestinian people to self-determination, becoming indistinguishable from unlawful regimes such as colonial domination or apartheid.” (para. 5.13).

## **Kuwait**

- “The State of Kuwait submits that the occupying Power has breached the spectrum of legal duties and obligations required of an occupying power when it administers another territory. Israeli occupation is not temporary, but intended to be permanent and irreversible, a prohibited act of conquest. Its colonial occupation has actively engaged in the annexation of occupied territory since the very beginning of the occupation in 1967. It has consistently acted in bad faith and in conscious defiance of scores of Security Council resolutions and hundreds of General Assembly resolutions. Its has breached its legal obligations, and instead created a dual legal, social and political system with full political legal rights to its settler population unlawfully transferred to the occupied territory and a denial of all basic rights to the protected population. This dual legal system amounts to apartheid. ... The State of Kuwait submits that the Israeli occupation of Palestinian territory must be condemned as an ongoing illegal situation...” (paras. 33-34).

## **Maldives**

- “In an occupation, the occupying power is required to manage the territory which it occupies in the best interests of the people under occupation and in good faith, observing to the fullest extent possible the human rights of the people under occupation. In the Construction of a Wall advisory proceedings, the Court considered that the legal frameworks applicable to Israel’s occupation of the OPT included not only international humanitarian law (as set out above) but also international human rights law, including notably the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and the Convention on the Rights of the Child. It emphasised that these instruments remain in force during armed conflicts, except in cases where a derogation is validly brought into effect. The Court has separately confirmed that an occupying power’s duties include a ‘duty to secure respect for the applicable rules of international human rights law and international humanitarian law’ within the occupied territory in question.” (para. 36).
- “Israel has engaged in serious and widespread violations of both international humanitarian law and international human rights law over the duration of its occupation of the OPT — and it continues to do so today. Israel’s disregard for its duties under international law as occupying power demonstrates that it has not managed, and is not today managing, the OPT in the best interests of the Palestine people or in good faith.” (para. 37).

- “Israel is obliged to cease ... its unlawful occupation of the OPT.” (para. 48).

## **Oman**

- “The consistent and systematic unlawful transfer of Israeli citizens to settlements in the Occupied Palestinian Territory over decades is designed to perpetuate the occupation and make it permanent. A concomitant of this policy is the displacement of Palestinians and the establishment of a coercive system of discriminations, zoning, planning, unlawful land appropriation, arbitrary arrest, and arbitrary violence since 1967.” (p. 2).
- “This forcible displacement of the occupied people and the transfer of citizens of the occupying power to the occupied territory is prohibited under article 49 of the Fourth Geneva Convention” (p. 3).
- “The 57 year duration of Israeli presence in the Occupied Palestinian Territories and the persistent policy of settlement renders the Israeli occupation illegal and in breach of the UN Charter.” (p. 4).

## **South Africa**

- “Recognition that occupation is a temporary situation at the end of which control of the territory will return to the original sovereign is the most important principle in international humanitarian law relating to occupation. The Court confirmed the temporary nature of occupation by highlighting that by issuing ‘settlement of titles’ Israel ‘...subverts the principle that occupation is inherently temporary’. However, despite this basic principle, Israel has turned the temporary nature of its occupation in the Palestinian territories into a permanent situation. The total disdain and disrespect for international humanitarian law principles by Israel render its occupation in the Palestinian territories illegal.” (para. 70)

## Appendice 7

### *Exposés écrits concluant qu'Israël viole le droit des Palestiniens à l'autodétermination*

#### **African Union**

- “Israel’s policies and practices in the occupied Palestinian territories, ... taken in aggregate, constitute elements of a composite breach of Israel’s obligation not to deprive the Palestinian people of their right to self-determination.” (para. 102).
- “[I]t is the view of the African Union that Israel’s prolonged and continuing occupation of the Palestinian territories is preventing the State of Palestine from completely exercising its sovereignty over the entire territory in relation to which the Palestinian people are entitled to exercise their right of self-determination.” (para. 118).

#### **Algeria**

- « L’Algérie entend souligner qu’en réalité l’installation forcée de colons, de zones de peuplement sur le terrain et l’espace des Palestiniens a servi à empêcher les Palestiniens de jouir de leur droit à l’autodétermination et constitue une violation de plusieurs normes impératives du droit international ». (p. 41).

#### **Bangladesh**

- “The General Assembly’s request is made against a backdrop of grave and tragically deteriorating conditions in the Occupied Palestinian Territory. The Israeli Occupation, now in its 56th year, has crossed the threshold of illegality. The repression, dispossession and control of Palestinians continues apace, rapidly eroding any realistic prospect of a viable State for a self-determining Palestinian people along pre-1967 borders.” (para. 3).
- “Albanese [whose ‘approach[] ... should be adopted by the Court’ (para. 19)] contends that Israel’s “de-Palestinianization” of the Occupied Palestinian Territory violates the right of self-determination by:
  - i. settling its civilian population in the Occupied Territory;
  - ii. strategically fragmenting the Occupied Territory enabling Israel to variably contain, control, and deploy differing administrative and

military regimes across the West Bank, East Jerusalem and the Gaza Strip;

iii. exploiting Palestine's natural resources;

iv. erasing Palestinian cultural and civil rights; and

v. preventing the formation and expression of a functioning, cohesive Palestinian body politic." (para. 28).

### **Belize**

- "The complete encirclement, enclosure, and cutting off from the outside world of part of another State, including through control and closure of its maritime areas, is unheard of in the modern world and, as noted above, is unlawful. It renders Gaza the world's largest prison, and is an integral part of Israel's policy of permanent domination and subjugation of the Palestinian people in denial of their fundamental human rights and right to self-determination." (para. 56).

### **Bolivia**

- "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." (p. 6).
- "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'. These violations are factual and are committed during the continuous and permanent occupation of Palestinian territory" (p. 7).

### **Brazil**

- "As acknowledged by the Court in the Wall opinion and reaffirmed by the UN General Assembly and the Human Rights Council, the existence of a Palestinian people with right to self-determination is no 'longer in issue'.

The Court asserted that the construction of the wall severely impedes the exercise by the Palestinian people of its right to self-determination.” (para. 24).

### **Chile**

- “It is the position of Chile that the Court has sufficient evidence before it to conclude that Israel has violated and continues to violate: ... the right of the Palestinian people to self- determination” (para. 29).
- “Israel has violated the right of the Palestinian people to self-determination, through its prolonged occupation, the establishment of illegal settlements, de facto annexation of the Palestinian territory since 1967, and all the measures taken with the purpose to deprive the Palestinian people of the right to determine their own political status and to be free to pursue their economic, social, and cultural development without external interference.” (para. 95).

### **China**

- “The prolonged Israeli occupation, the establishment of settlements, the annexation of East Jerusalem and relevant discriminatory legislation, among other measures taken by Israel, have seriously impeded the realization of the right to self-determination of the Palestinian people, including, inter alia, the full exercise of the right to establish an independent State, the right to freely pursue economic, social and cultural development and the right to freely dispose of their natural wealth and resources.” (para. 45).
- “The policies and practices of Israel have violated international humanitarian law and international human rights law, and severely impeded the realization of the right to self-determination of the Palestinian people.” (para. 47).

### **Cuba**

- “Publicly available records clearly indicate the continued and flagrant violations of International Law in the aforementioned occupied territories and against the Palestinian people, particularly those related to the disrespect for the principles and purposes of the United Nations Charter, the Right of the Palestinian People to Self-Determination and its independence, territorial integrity and sovereignty, International Humanitarian Law and human rights.” (pp. 1-2).

- “Article 1.2 of the Charter recognizes, among its purposes, ‘the respect for the principle of equal rights and self-determination of peoples’, which is being systematically and flagrantly denied to the Palestinian people.” (p. 5).
- “The Palestinian people have been deprived of their fundamental rights, including the right to life, freedom and self-determination. The Israeli occupation of the Palestinian territories, particularly the West Bank and Eastern Jerusalem, as well as the blockade on Gaza, is a violation of International Humanitarian Law.” (p. 6).

### **Djibouti**

- « Compte tenu de l’ensemble de ces éléments, il s’avère que l’occupation et la colonisation du Territoire palestinien par Israël, et les mesures qui l’accompagnent, constituent une violation flagrante du droit à l’autodétermination du peuple palestinien et de la Charte des Nations Unies, notamment son article 1(2) ». (para. 10).

### **Egypt**

- “Israel continues to obstruct the realization of the Palestinian people’s inalienable rights, including their right to self-determination and their right of return.” (p. 236).
- “Because the settlement policy has been established in breach of international humanitarian law, Israel had and continues to have an obligation to put an end to it. Population transfers also clearly constitute breaches of international human rights law, including the right to freedom of movement, the principle of non-discrimination and the right to self-determination.” (para. 263).
- “Israel has violated the right of the Palestinian people to self-determination. ... The prolonged and continuing occupation of the territory of Palestine, and the practices and policies of annexation and settlements, constitute a breach of international obligations, including: ... the right of the Palestinian people to self-determination” (para. 326(b)-(c)).

### **France**

- « La France considère qu’il existe une violation continue du droit du peuple palestinien à l’autodétermination notamment à deux égards. D’une part, en raison de l’occupation prolongée du territoire palestinien par Israël. D’autre part, du fait de la politique menée par Israël dans les territoires occupés dans

la mesure où cela affecte la possibilité pour le peuple palestinien d'exercer son droit à l'autodétermination, y compris dans la perspective d'un État de Palestine viable et indépendant. Ces politiques et pratiques incluent le développement de colonies de peuplement, la démolition d'habitations palestiniennes, les atteintes aux ressources naturelles et à l'environnement, la dégradation d'infrastructures essentielles ». (para. 81).

### **The Gambia**

- “In the almost twenty years since the Wall Advisory Opinion, the occupation has only deepened. ... The Palestinian people continue to be deprived of their right to self-determination, indefinitely.” (para. 1.3).
- “There is no end in sight to Israel’s occupation. Its prolonged character indefinitely infringes on the right to self-determination of the Palestinian people.” (para. 1.7).

### **Guyana**

- “There is no doubt that the right to self-determination applies to the Palestinian people. Nor is there any doubt that Israel has systematically violated this right through its conduct in the OPT.” (para. 29).
- “[T]he Co-Operative Republic of Guyana submits that: ... Israel has violated the right to self-determination of the Palestinian people.” (para. 38(2)).

### **Indonesia**

- “Indonesia submits that Israel continues to violate (a) the right to self-determination of the Palestinian people which is well-established under international law; through its continuous (b) discriminatory policies and measures; and (c) annexation in the OPT.” (para. 24).
- “[T]hrough the imposition of military orders, Israel has significantly impeded the freedom of the Palestinian people in their own lands, which contravenes the right to self-determination of the Palestinian people.” (para. 36).
- “[T]he intensity and the systematic discrimination of Palestinians through policies and oppression amount to apartheid, which ultimately deprives the Palestinian people from the enjoyment of their economic, social, and

cultural development, as the very basic tenets of the right to self-determination of the Palestinian people.” (para. 39).

- “Violations committed by Israel are manifested through the following policies and practices, including but not limited to: ... breach of its obligations to respect the right of the Palestinian people to self-determination” (para. 68(c)(5)).

## **Ireland**

- “Today, Israel continues ever more seriously to breach its obligation to respect the right of the Palestinians to self-determination, through its maintenance and extension of the wall (now in existence for over twenty years), its formal annexation of East Jerusalem and its escalating settlement activity, as described above, regardless of whether that activity is deemed to amount to a process of annexation. That escalating settlement activity increasingly fragments Palestinian presence on – and restricts Palestinian use of – land and natural resources in the Occupied Palestinian Territory, and its nature and scale is such that it completely prevents the Palestinian people from exercising their right to self-determination; the Palestinian people cannot exercise that right unless and until that settlement activity is reversed.” (para. 43).
- “Far from temporarily administering the Occupied Palestinian Territory in accordance with the law of military occupation, Israel is engaged in escalating unlawful settlement activity, which amounts to a process of annexation, and is in serious breach of its obligation to respect the right of the Palestinian people to self-determination.” (para. 44).

## **Jordan**

- “In particular, the existence and ongoing expansion of settlements in the Occupied Palestinian Territory, including East Jerusalem, has deprived the Palestinian people of any prospect of realizing their right to self-determination under the current occupation.” (para. 4.20).
- “In short, Israel’s practices in the Occupied Palestinian Territory, including East Jerusalem, constitute a serious and ongoing violation of the Palestinian people’s right to self-determination.” (para. 4.25).
- “In the present case, the extraordinary duration of Israel’s occupation of the Occupied Palestinian Territory, including East Jerusalem, reflects Israel’s intention to make its presence in the occupied territory permanent, in

violation of the prohibition of acquisition of territory by force and the right of the Palestinian people to self-determination.” (para. 4.38).

- “In sum, the Israeli settlements and outposts in the Occupied Palestinian Territory, including East Jerusalem, in addition to breaching the right of the Palestinian people to self-determination, constitute a violation of the law of occupation.” (para. 4.76).

### **Kuwait**

- “Israeli actions in the Palestinian territory constitute the illegal use of force to perpetuate the occupation and undermine the right of the Palestinian people to self-determination” (para. 3).
- “The Israeli occupying Power illegal use of force in the Occupied Palestinian Territory violates the right of the Palestinian people to self-determination” (para. 6).

### **League of Arab States**

- “As to the illegality of the conduct of the occupation, there are multiple, egregious breaches of the relevant areas of applicable international law: [among those] self-determination including the right to return” (para. 45).
- “There have been and continues to be widespread violations of self-determination, ... by Israel in its conduct of the occupation in the West Bank, including East Jerusalem, and the Gaza Strip. ... Thus, the conduct of the occupation involves violations of the following norms of international law that have *jus cogens* and *erga omnes* status: [including] [t]he right of self-determination.” (para. 76).

### **Lebanon**

- « Dans la présente affaire, on peut dire qu’Israël viole au moins quatre des huit normes citées par la CDI, à savoir ... le droit à l’autodétermination ». (para. 19).
- « Le droit à l’autodétermination est une norme impérative de droit international consacrée dans divers textes y compris la Charte des Nations Unies, qui établit ce droit comme un des fondements des relations amicales entre les nations. Or ce socle du droit international moderne comporte plusieurs facettes, toutes violées par Israël ». (para. 29).

- « Comme il a été mentionné plus haut, le Liban considère qu’Israël viole tous les éléments constitutifs du droit du peuple palestinien à l’autodétermination : qui sont (1) l’indépendance politique et économique (2) la souveraineté permanente sur les richesses et ressources naturelles, (3) l’intégrité territoriale ». (para. 32).

## Malaysia

- “Malaysia is particularly concerned by Israel’s egregious violations of the right [to self-determination] in the Occupied Palestinian Territory.” (para. 4(b)).
- “Malaysia submits that Israel’s prolonged occupation, settlement, and annexation of the Palestinian territory occupied since 1967, as well as other practices and measures infringing the rights of Palestinians, breach the right to self-determination of the Palestinian people.” (para. 38).
- “Israel’s practices of *de jure* and *de facto* annexation, as well as the connected creation of enclaves dividing the Occupied Palestinian Territory, violate the right to self-determination of the Palestinian people.” (para. 45).
- “Israel’s ongoing practices ...infringe the right of the Palestinian people to permanent sovereignty over their natural wealth and resources, and therefore violate the right of the Palestinian people to self-determination.” (para. 55).
- “Israel’s policies and practices unjustifiably infringe the right of the Palestinian people to freely pursue their economic, social and cultural development. As such, they violate the right of the Palestinian people to self-determination.” (para. 60).
- “Israel’s practices breach each of the central, substantive elements of the right to self-determination .... These concern the rights of the Palestinian people: to territorial integrity, to national unity and the protection of their integrity as a people; to permanent sovereignty over their natural wealth and resources; and to the free pursuit of their economic, social and cultural development.” (para. 61).

## Maldives

- “Israel’s ongoing occupation of the OPT violates the right of the Palestinian people to self-determination” (para. 2(e)).

- “The Maldives firmly believes that Israel’s prolonged occupation, settlement and annexation of the Palestinian territory entail grave breaches of international law, especially international humanitarian law and international human rights law, giving rise to serious humanitarian consequences. Israel’s flagrant violations of international law are detrimental to the peaceful resolution of the conflict and the self-determination of the Palestinian people.” (para. 11).
- “It is undeniable that the Palestinian people possess a right to self-determination and that Israel is bound under international law to respect that right. Israel’s ongoing occupation of the OPT continues to entail gross violations of this right.” (para. 34).
- “There is no prospect of the Palestinian people exercising their right to self-determination for as long as Israel maintains its *de facto* annexation of the OPT.” (para. 35).

### **Mauritius**

- “It is widely recognised that Israel is engaged in an ‘ongoing violation’ of the right to self-determination of the Palestinian people.” (para. 13).
- “Yet, the decades between 1967 and the present have been characterized by increased incursions into the OPT, the implantation of hundreds of Israeli settlements and hundreds of thousands of Israeli settlers – in what amounts to the colonization of Palestinian territory by Israel – and the denial of Palestinian people’s right to self-determination throughout their own ancestral homeland.” (para. 17).
- “[T]here is ample evidence to support the conclusion that Israel’s occupation of the OPT – including through its illegal annexation of Palestinian territory – is an enduring and comprehensive ‘impediment to the exercise by the Palestinian people of its right to self-determination’.” (para. 22).

### **Namibia**

- “The denial of family unification for Palestinians with different status is part and parcel of the denial of their right to self-determination and amounts to an inhuman act of apartheid.” (para. 85).
- “Israel’s occupation of the Palestinian territory breaches the right to external self-determination of the Palestinian people, which includes the

exercise of the right of the Palestinian people to an independent State.” (para. 144).

- “The exercise of Palestinian self-determination and Statehood has also been severely impaired by the imposition of unlawful measures (including the expansion of settlements and the construction of the wall and its associate regime in the West Bank, including East Jerusalem). The inalienable and collective right to self-determination as a result of decades of imposed strategic fragmentation, placing them in different legal and administrative domains and across spatial geographies in Palestine and exile, by virtue of Israel’s regime of racial discrimination and domination. The right self-determination encompasses sovereignty over natural resources and wealth, most of which has been unlawfully appropriated, exploited, depleted and pillaged by the Occupying Power – oftentimes together with Israeli and multinational private and corporate actors.” (para. 149).

## **Oman**

- “[T]he occupation, settlement, and annexation of Palestinian Territory occupied since 1967 by Israel obstructs the realisation of the Palestinian people’s inalienable rights, including their right to self-determination and right to return. There is an overwhelming international agreement on the existence of the right to self-determination and its continued denial in the Occupied Palestinian Territories.” (para. 1).

## **Organisation of Islamic Cooperation**

- « Mais il ne s’agit pas de violations des droits humains comme d’autres peuples peuvent malheureusement en connaître. Il s’agit plus gravement avec le projet de l’État d’Israël d’entraver et de rendre à terme impossible la réalisation du droit fondamental des Palestiniens à l’autodétermination ». (para. 9)
- « [L]’occupation militaire du Territoire palestinien à laquelle Israël s’est livrée en 1967, et sans interruption de cette date jusqu’à nos jours, ainsi que tous les actes qui ont accompagné cette occupation, n’ont été qu’une nouvelle étape dans un processus continu et commencé antérieurement, celui de la violation persistante et organisée de la norme centrale du droit international du droit du peuple palestinien à l’autodétermination. Toutes les violations commises à l’occasion du conflit israélo-palestinien, ont été ou sont de nos jours, des violations secondaires inspirées par cette violation principale ». (para. 241).

## Pakistan

- “The prolonged occupation by a State of foreign territory and peoples is by that very fact a violation of the right to self-determination. In situations of occupation, the occupied people are unable to determine their own political status and unable to pursue their economic, social and cultural development.” (para. 29).
- “Israel’s practice regarding ... denial of the right to self-determination ... [is] contrary to ... peremptory and *jus cogens* norms of international law.” (para. 86).

## Palestine

- “Taken alone, each of the actions by, or attributable to, Israel as described above is sufficient to establish a serious breach by Israel of the Palestinian people’s right to self-determination. Collectively, in the form of Israel’s seizure and annexation of Palestinian land and displacement and subjugation of the Palestinian people through racial discrimination, persecution and apartheid – of which all of these actions form an integral and indissoluble part – they amount to a manifest, grave, longstanding and ongoing violation of the right to self-determination, one of the most egregious such violations in contemporary history.” (para. 5.86).
- “The evidence adduced in this Written Statement demonstrates overwhelmingly that Israel ... denied [the Palestinian people] their right to self-determination in their own land in an attempt to extinguish that inalienable right permanently.” (para. 6.2).
- “More particularly, all available evidence – including as consistently and openly furnished by generations of Israeli leaders over five decades – establishes that Israel itself does not regard its presence in the OPT as a temporary occupation. Its actions and its words establish that it regards its rule over the OPT and the Palestinian people as permanent and irreversible. This is demonstrated by: ... Its denial, and attempted extinction, of the right of the Palestinian people to self-determination, inter alia, by denying that there is a ‘Palestinian people’ and by declaring publicly that only one group has the right to exercise self-determination in the land between the Jordan river and the Mediterranean sea – Jewish Israelis – and that no Palestinian State will ever be allowed to exist there” (para. 6.3(c)).
- “Israel’s prolonged occupation of the OPT, its annexation of Palestinian territory, and its subjugation of the Palestinian people by its racial

discrimination against them tantamount to apartheid and denial of their fundamental rights amount to the gravest of violations to their right to self-determination, guaranteed to them under international law.” (para. 6.11).

- “Over the last century, the Palestinian people have endured forcible displacement and replacement, and the systematic denial of their fundamental rights, including to life, liberty, dignity and security, in addition to their inalienable right to self-determination.” (“Submissions”).

### **Qatar**

- “[T]he Palestinian people are entitled to exercise their right to self-determination on the entirety of the OPT .... Among other effects, Israel’s prolonged occupation has deprived the Palestinian people of a permanent population ...; of a territory on which to realize their self-determination ...; of the ability to exercise their collective will and determine their internal political status ...; and of their right to freely pursue their economic, social and cultural development .... As such, the prolonged occupation indefinitely violates the right of the Palestinian people to self-determination and is thus existentially illegal.” (para. 4.12).

### **Russian Federation**

- “Israel has been persistently denying the Palestinian people its right to self-determination.” (para. 67).
- “[Israeli settlements] are thus also violating the right of the Palestinian people to self-determination.” (para. 73).

### **Saudi Arabia**

- “[T]he Court has found [the construction of the separation wall] to be in violation of various international law obligations, including Israel’s obligation to respect the right of the Palestinian people to self-determination.” (para. 23).
- “[I]n light of the *jus cogens* and *erga omnes* character of the right of the Palestinian people to self-determination, all States, including Israel, are obligated not to impose any impediment to the exercise of the Palestinian people of that right, and to see to it that any impediment in the exercise of the Palestinian people of that right which may exist is brought to an end. ... Israel has been found to be in flagrant violation of this obligation, including by the Court in the *Wall Advisory Opinion*.” (para. 25).

- “The policies and practices of Israel referred to in the questions from the General Assembly, including prolonged and oppressive occupation of more than five decades, resulting in the acquisition of territory by force through annexing some parts of territory *de jure* and others *de facto* and by seizing of land resources for Israeli settlements, have served to systematically deprive the Palestinian people of their right to self-determination in clear violation of fundamental norms of international law, and constitute clear evidence of Israel’s colonization purposes.” (para. 46).

### **Senegal**

- « [I] convient de souligner l’importance de faire cesser, sans délai, tous les actes et mesures qui empêchent et/ou entravent l’exercice du droit à l’autodétermination du peuple palestinien » (p. 3).

### **South Africa**

- “The Court noted that the existence of the “Palestinian people” is no longer in issue and has been recognised by Israel, which has a duty to respect this right, but has taken measures that ‘severely impeded the exercise by the Palestinian people of its right to self-determination, and is therefore in breach of Israel’s obligation to respect that right’.” (para. 50).
- “It is therefore clear that the annexation of, and incorporation into Israel, of East Jerusalem and parts of the West Bank, are in violation of international law. The principle of self-determination is inextricably linked to the principle of territorial integrity.” (para. 60).
- “Israel’s failure to recognise the Palestinians’ right to self-determination, independence and sovereignty in the territory, is clear evidence of its underlying intention to pursue the permanent acquisition of Palestinian territory.” (para. 64).
- “The prolonged occupation has led to the infringement of the fundamental principle of self-determination of the Palestinian peoples, thereby depriving the Palestinian peoples their right to decide their own political status, free of external interference.” (para. 132).

### **Syria**

- “The dispossession and displacement of the Palestinian people, the denial of their rights and the discrimination against them by ‘Israel’ continue to impede the realization of the inalienable rights of the Palestinian people,

including their right to self-determination and the right of return to their homeland.” (para. 1).

### **United Arab Emirates**

- “By altering or purporting to alter the status and the demographic composition of occupied East Jerusalem, Israel has breached its obligations under the Fourth Geneva Convention, and its obligation to respect the right to self-determination of the Palestinian people.” (para. 37).
- “This Court has previously determined that the construction of the wall and the establishment of Israeli settlements ‘severely impede[s] the exercise by the Palestinian people of its right to self-determination’, result in ‘alterations to the demographic composition of the [OPT]’, and ‘contravene[s] Article 49, paragraph 6, of the Fourth Geneva Convention and the Security Council resolutions [446 (1979) of 22 March 1979, 452 (1979) of 20 July 1979 and 465 (1980) of 1 March 1980]’. ... Notwithstanding the Wall Advisory Opinion, Israel’s illegal practices have not stopped in the years since; and have, in fact, escalated.” (paras. 46-47).
- “Israel’s conduct relating to the construction, establishment, support and expansion of Israeli settlements in the OPT also constitutes a violation of Israel’s obligations vis-à-vis the right to self-determination of the Palestinian people.” (para. 71).

## Appendice 8

### *Exposés écrits concluant qu'Israël pratique l'apartheid dans le territoire palestinien occupé*

#### **Algeria**

- « Cette politique vise la création d'enclaves coloniales dans une stratégie dynamique de démembrement de la Palestine afin de rendre impossible la naissance d'un État Palestinien viable ou de créer une entité sans continuité et contiguïté territoriale ni capacité de défense et de sécurité dépendante organiquement d'Israël. Cette stratégie vise l'imposition, en dernier lieu, de la solution à un seul état, ou les Palestiniens deviendront des sujets dans un système d'apartheid » (p. 47).

#### **Bangladesh**

- “Israel’s creation and maintenance of a dual legal and political system, which on the one hand secures the rights, freedoms and living conditions of Jewish Israeli settlers, and on the other subjects Palestinians to military rule and control devoid of the basic protections under international law, can only be understood as violating Lynk’s four-part test. Further, insofar as Israel’s discriminatory measures rise to the level of apartheid, as is increasingly apparent, the occupation would be illegal on Albanese’s approach by violating, and indeed being contingent upon, the violation of a peremptory norm of international law.” (para. 31(ii)).

#### **Belize**

- “Israel has imposed a system of institutionalised discrimination against Palestinians in clear violation of international human rights and humanitarian law in order to maintain and further its illegal occupation, settlement and annexation practices and policies, and its denial of the right of the Palestinian people to self-determination.” (para. 54).
- “The evidence that Israel is committing apartheid is compelling.” (para. 66).

#### **Bolivia**

- “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.” (p. 4).

## **Chile**

- “In its End of Mission Statement of 16 June 2023, the Special Committee stated that: ‘This year, the Special Committee was presented with the clearest evidence it has seen in its 55-year history of Israeli policies that systematically violate the human rights of the Palestinian people in a manner many interlocutors see as akin to apartheid.’” (para. 34).

## **Cuba**

- “The State of Israel implements a segregationist and racist policy against the Palestinian people living in the occupied Palestinian territories. Repeatedly, the Committee on the Elimination of Racial Discrimination has denounced that the existence of two legal systems and two totally separated series of institutions, as well as the establishment of separate institutions for the Jewish communities gathered in illegal settlements, on the one hand, and the Palestinian populations living in Palestinian towns and cities, on the other, is segregationist.” (p. 10).
- “The forced changes to the Palestinian demography are the direct result of the territorial dispossession, forced displacement and the apartheid and genocide regime flagrantly and systematically applied against the rights of the Palestinian people.” (p. 22).

## **Djibouti**

- « La politique d’occupation et de colonisation menée par la partie israélienne s’accompagne de l’instauration d’un régime de discrimination systématique envers la population palestinienne, visant à favoriser les colons juifs israéliens installés en Cisjordanie y compris Jérusalem-Est ». (para. 20).
- « Il est ... permis de conclure que la politique menée par la partie israélienne envers la population palestinienne constitue une violation manifeste d’énormes impératives, à savoir l’interdiction de discrimination raciale d’une part et de la ségrégation raciale et l’apartheid d’autre part ». (para. 26).

- « En vertu de l'aggravation observée ces dernières années, il apparaît que la politique israélienne d'occupation et de colonisation, en ce qu'elle établit un système de domination de la population de colons juifs israéliens, implantés illégalement sur le territoire, sur la population palestinienne en Territoire palestinien, est susceptible d'être qualifiée de régime d'apartheid, dont les pratiques font l'objet d'une interdiction par le droit coutumier » (para. 28).

### **The Gambia**

- “In the almost twenty years since the Wall Advisory Opinion, the occupation has only deepened. ... An institutionalized system of discrimination, with dual legal and political systems for Israeli settlers and Palestinians—otherwise known as apartheid—has become entrenched.” (para. 1.3).

### **Indonesia**

- “Indonesia submits that Israel’s discriminatory policies have evolved into an apartheid policy.” (para. 37).
- “[T]he intensity and the systematic discrimination of Palestinians through policies and oppression amount to apartheid, which ultimately deprives the Palestinian people from the enjoyment of their economic, social, and cultural development, as the very basic tenets of the right to self-determination of the Palestinian people.” (para. 39).

### **Kuwait**

- “Israel has breached its legal obligations, and instead created a dual legal, social and political system with full political legal rights to its settler population unlawfully transferred to the occupied territory and a denial of all basic rights to the protected population. This dual legal system amounts to apartheid.” (para. 33).

### **League of Arab States**

- “As to the illegality of the conduct of the occupation, there are multiple, egregious breaches of the relevant areas of applicable international law: ... [including] international human rights law generally, and, within this, the prohibition of racial discrimination generally and the prohibition of apartheid in particular” (para. 45).

- “There have been and continues to be widespread violations of self-determination, other areas of international human rights law, and IHL, including occupation law, by Israel in its conduct of the occupation in the West Bank, including East Jerusalem, and the Gaza Strip. These have included violations of the core/basic protective norms of IHL, torture and cruel, inhuman and degrading treatment and punishment, racial discrimination generally, and apartheid in particular. Thus, the conduct of the occupation involves violations of the following norm[] of international law that ha[s] *jus cogens* and *erga omnes* status: ... The prohibition of apartheid.” (para. 76(2)).
- “Israel is in violation of the international law prohibition of apartheid through the creation and perpetuation of discriminatory policies and practices that are systematically applied to the Palestinian people, with the intention of creating a regime of Jewish supremacy over the Palestinian people.” (para. 89).

## **Lebanon**

- « Dans la présente affaire, on peut dire qu’Israël viole au moins quatre des huit normes citées par la CDI, à savoir l’interdiction de l’agression, les règles fondamentales du droit international humanitaire, l’interdiction de la discrimination raciale et de l’apartheid, et surtout le droit à l’autodétermination ». (para. 19).
- « La politique ségrégationniste d’Israël a atteint un tel niveau d’injustice durable vis-à-vis des Palestiniens que plusieurs experts internationaux et organisations non gouvernementales affirment que cette politique constitue le crime d’apartheid, un crime qui entraîne la responsabilité de l’État pour violation d’une norme impérative selon la conclusion de la Commission du droit international, et implique aussi la responsabilité pénale des personnes qui le commettent, vu qu’il est considéré l’un des crimes contre l’humanité énoncés dans le statut de la Cour pénale internationale ». (para. 49).
- « Les dirigeants politiques israéliens d’hier et d’aujourd’hui ont à maintes reprises répété qu’ils avaient l’intention de conserver le contrôle de l’ensemble du territoire occupé afin d’étendre l’assise territoriale des parcelles de colonies juives actuelles et futures tout en maintenant les Palestiniens confinés dans des réserves de population (...) ce système de discrimination institutionnalisée visant à exercer une domination permanente a été imposée en recourant régulièrement à des actes cruels et inhumains, des exécutions arbitraires et extrajudiciaires et des actes de tortures, en acceptant que des enfants meurent de mort violente, en privant

des personnes de leurs droits humains fondamentaux, en mettant en place un système de tribunaux militaires fondamentalement défectueux, et en ne respectant pas les garanties d'une procédure pénale régulière, en procédant à des détentions arbitraires, et en imposant des punitions collectives. La répétition de tels actes sur de longues périodes et le fait que la Knesset et le système judiciaire israélien les cautionnent, montrent qu'ils ne sont pas le fruit du hasard et n'ont rien de faits isolés mais font partie intégrante du système de domination mis en place par Israël. Ces actes relèvent de l'apartheid ». (para. 50).

## **Namibia**

- “Namibia submits that Israel is in breach of its obligations under the customary prohibition of apartheid and Article 3 of ICERD. It has imposed a system of apartheid on (i) Palestinians within the Occupied Palestinian Territory, specifically, and (ii) the Palestinian people, as a whole.” (para. 55).
- “The denial of family unification for Palestinians with different status is part and parcel of the denial of their right to self-determination and amounts to an inhuman act of apartheid.” (para. 85).

## **Organisation of Islamic Cooperation**

- « Les Palestiniens vivant dans le Territoire occupé par Israël ont un statut différent de celui des colons israéliens. Cette discrimination a des origines lointaines car elle était en germe dans les termes mêmes de la Déclaration Balfour. Celle-ci en parlant seulement des droits civils et religieux des communautés autres que les Juifs, sans mentionner leurs droits politiques, alors que se développait un « Foyer national juif » les rendaient étrangers dans leur propre pays. À partir de l'occupation de 1967, Israël a imposé l'application de sa législation à tout le territoire, mais avec la coexistence de deux législations : la législation militaire qui s'applique à la population palestinienne et la législation interne israélienne qui est appliquée extra-territorialement aux seuls colons israéliens. Le droit est ainsi différencié en matière pénale fiscale, électorale, ou dans le domaine de l'assurance-maladie. Il existe également des systèmes juridiques distincts pour ce qui est du Code de la route et aussi en matière d'aménagement et de construction. Ainsi s'est constituée par étapes, une situation d'apartheid comme cela a été constaté par le rapport d'Amnesty international après un travail d'observation et de documentation de plusieurs années ». (para. 334).

## **Pakistan**

- “Israel’s deployment of a dual legal system in the OPT, and the resulting systematic discrimination against Palestinians and subordination of Palestinians’ civil and political rights to the rights of Jewish Israeli citizens settled in the OPT, amount to a breach of the prohibition of apartheid under international law.” (para. 57).
- “An examination of relevant Israeli law and practice, suggests that Israeli officials are responsible for committing several inhuman acts as defined in Article 2 of the Apartheid Convention, particularly Articles under 2(a), 2(c), and 2(f).” (para. 58).
- “Israel’s practices and procedures of deployment of a dual legal system, forced evictions, demolitions in the OPT, and the resulting systematic discrimination against Palestinians and subordination of Palestinians’ civil and political rights to the rights of Jewish Israeli citizens settled in the OPT, including East Jerusalem, amount to a breach of the prohibition of apartheid under international law.” (para. 114(5)).

## **Palestine**

- “The evidence adduced in this Written Statement demonstrates overwhelmingly that Israel has annexed and plans to continue to annex Jerusalem and the rest of the West Bank; that it has imposed systematic and comprehensive racial discrimination tantamount to apartheid against the Palestinian people based on their race; and that it has denied their right to self-determination in their own land in an attempt to extinguish that inalienable right permanently.” (para. 2).
- “The regime which Israel has established in the OPT is thus purposefully imbued with widespread and systematic violations of the prohibition of racial discrimination, in gross violation of customary international law of a jus cogens character, in addition to innumerable other human rights violations. It is, in fact, indistinguishable from apartheid, as discussed in the next Section of this Chapter, and is in many ways even worse than that which was practiced by South Africa between 1948 and the early 1990s, as observed by many who lived and witnessed apartheid in South Africa and Namibia.” (para. 4.222).
- “Israel’s occupation of the OPT is characterized by a system of apartheid in which an institutionalized military regime directed by a political leadership systematically persecutes and aims to colonize and annex

Palestinian territory. More broadly, Israel discriminates against all Palestinians, on both sides of the Green Line and Palestinian refugees and diaspora, on grounds of their race, in order to establish, promote and perpetuate the supremacy of Jewish Israelis and their permanent dominion over all the territory between the Mediterranean Sea and the Jordan River. Israel's policy towards the Palestinian people has become a textbook illustration of apartheid. It is no less malign in its aim, and no less pervasive in its devastating consequences for the Palestinian people, than the apartheid regime which existed in South Africa – and in Namibia under South African occupation prior to its independence – until the 1990s. Accordingly, based on the abundant evidence that has been brought before the Court as set out in this Chapter, it is well established that Israel is committing the internationally wrongful act of apartheid.” (para. 4.253).

- “Israel has established a deeply entrenched system of racial discrimination in the OPT. This system openly and unapologetically distinguishes along racial lines between the Palestinian population and the Israeli settler population that has been transferred to the OPT in violation of international law. It has also been demonstrated that this regime of racial discrimination has assumed an apartheid character as laid out in relevant customary and conventional international law.” (para. 6.10).
- “Israel’s prolonged occupation of the OPT, its annexation of Palestinian territory, and its subjugation of the Palestinian people by its racial discrimination against them tantamount to apartheid and denial of their fundamental rights amount to the gravest of violations to their right to self-determination, guaranteed to them under international law.” (para. 6.11).

## **Qatar**

- “...Israel’s occupation of the OPT amounts to a regime of apartheid. What may have once been a temporary military occupation within the meaning of that term under international law is today an institutionalized regime of systematic racial oppression and discrimination, established with the intent to maintain the domination of Jewish Israelis over Palestinians, and which features inhumane acts committed as an integral part of that regime.” (para. 4.71).

## **Saudi Arabia**

- “The prohibition against racial discrimination generally and the prohibition of *apartheid* in particular are also *jus cogens* norms generating *erga omnes*

obligations. Through its policies and practices in the Occupied Palestinian Territory, Israel is in grave violation of those obligations.” (para. 30).

- “Israel’s discriminatory practices against the Palestinian people in general violate Israel’s obligations under the CERD prohibiting racial discrimination, which is a *jus cogens* norm. That these practices amount to a systematic government-inspired and supported system of racial discrimination tantamount to *apartheid* throughout the Occupied Palestinian Territory cannot be hidden or seriously denied, and the Court should therefore recognize and condemn those practices as such.” (para. 73).

### **South Africa**

- “There exists in the Occupied Palestinian Territory an institutionalized and oppressive system of Israeli domination over Palestinians as a group.” (para. 91).
- “It is South Africa’s submission that not only does Israel continue to fail to provide adequate protection of a protected population with international status under international law, but that it in fact continues to impose an institutionalised regime of systematic racial oppression and discrimination against the people of Palestine which satisfies the prevailing evidentiary standard of the international crime of apartheid.” (para. 101).
- “Israeli discriminatory and inhuman treatment of Palestinians has reached the threshold of apartheid within the meaning ascribed to it in the Apartheid Convention.” (para. 111).
- “Israel’s discriminatory treatment of Palestinians must be viewed in its totality: it has created and maintained an institutionalised regime of systematic oppression wherever it controls territory, fuelled by demographic considerations that continue to shape its policies towards Palestinians. These manifest in the different sets of discriminatory and exclusionary laws, policies, and practices which intentionally serve to oppress and dominate Palestinians, to maximise the benefit to Jewish Israelis and to create a Jewish majority which is privileged in every respect.” (para. 117).

## **Syria**

- “The practices of the occupation authorities against civilians in the occupied Arab territories in Palestine ... expressed the most heinous forms of apartheid and racial discrimination.” (para. 20).
- “The actions of ‘Israel’ do not occur in a random nor in a vacuum or in isolation, but are part of a large-scale, repressive, organized and systematic regime. Those practices have been identified as apartheid after a thorough factual and legal study by the UN special procedures and by various international organizations.” (para. 26).

## **Yemen**

- “All three [CERD and Apartheid Convention] elements of the governing test for the presence of apartheid are found in the occupying Power’s rule over the Palestinian people in the OPT.” (para. 35).
- “The existence of a systematic regime of racial discrimination amounting to apartheid is clear on both sides of the Green Line.” (para. 38).
- “It is clear ... that the policies and practices of Israel, the occupying power, in the OPT, that when examined as a whole, involve the gross and systematic violation of at least these peremptory norms of general international law ... [including] the imposition of a regime of widespread and systematic racial discrimination amounting to Apartheid.” (para. 40(2)).

## Appendice 9

### *Exposés écrits concluant qu'Israël a violé la règle du jus cogens sur l'interdiction d'annexion*

#### **Algeria**

- « [L]a Cour a toutes les raisons de considérer que non seulement la situation créée par la barrière, mais aussi l'emprise d'Israël, sont devenues équivalentes à une annexion de facto, du moins dans toute la partie du territoire palestinien qui est sous administration territoriale israélienne directe » (p. 24).
- « Vingt ans plus tard, la Cour a toutes les raisons de considérer que non seulement la situation créée par la barrière, mais aussi l'emprise d'Israël, sont devenues équivalentes à une annexion de facto, du moins dans toute la partie du territoire palestinien qui est sous administration territoriale israélienne discrète (Zone C en vertu des Accords d'Oslo) ». (p. 24).
- « L'annexion *de jure* par Israël de Jérusalem-Est et de certaines parties de la Cisjordanie en 1967 (par une décision du Cabinet) et en 1980 (par un vote de la Knesset) constitue ipso facto une violation du principe de non-annexion, tel qu'il est reflété par le droit pertinent en matière d'occupation ». (p. 25).

#### **African Union**

- “As for Jerusalem, its de facto and de jure annexation has continued unabated.” (para. 29).
- “Israel’s policies and practices in the occupied Palestinian territories further violate the prohibition on the acquisition of territory by force. These policies and practices demonstrate that Israel is intent on holding the territory permanently through a process that involves both the de jure and de facto annexation of these areas.” (para. 125).
- “Likewise, as relates to East Jerusalem, Israel has undertaken policies and practices that amount to both de jure and de facto annexation.” (para. 126).
- “In addition to de jure measures through which Israel has formally annexed parts of the occupied Palestinian territories, other Israeli policies and

practices in the occupied territories, including in East Jerusalem, demonstrate that Israel is implementing a strategy of de facto annexation of significant areas of the territories.” (para. 130).

## **Bangladesh**

- “It is in the context of increasing Palestinian fatalities, increasing State-sanctioned violence, increasing evictions and land annexation, increasing exploitation of Palestinian resources, open declarations by successive Israeli Prime Ministers on the permanence of Israel’s occupation, and the entrenchment of irreversible facts on the ground, that the General Assembly has seized the Court of its advisory jurisdiction.” (para. 4).
- “Israel’s settlement and de facto annexation of the Occupied Territory has been pursued by way of a twin strategy which leads inexorably to the conclusion that Israel’s occupation is illegal. On the one hand, Israel has forcibly confined and displaced Palestinians, while appropriating their land. On the other, it has built and expanded settlements on that appropriated land, and transferred Israeli citizens into the Occupied Territory. Israel has no intention of reversing the facts on the ground that it has established by way of those strategies.” (para. 31).

## **Belize**

- “By annexing the Palestinian territory Israel has violated the right of the Palestinian people to territorial integrity.” (para. 22(a)).
- “It is clear that Israel subsequently annexed East Jerusalem in violation of international law. In June 1967, Israel extended its law, jurisdiction and administration to East Jerusalem and surrounding villages, and extended the boundaries of its Jerusalem municipality to include those areas.” (para. 47).
- “Given the maintenance of the wall and its associated regime in the ensuing 20 years, these measures have become permanent and, thus, there has been de facto annexation of the part of the West Bank between the Green Line and the wall.” (para. 49).
- “Israel has manifested the intention to permanently hold the whole of the West Bank.” (para. 51).
- “Israel has also manifested the intention permanently to exercise control over Gaza akin to the control it exercises over any part of its own territory,

and in that way hold the territory of Gaza indefinitely under its dominion, which constitutes de facto annexation.” (para. 53).

## **Bolivia**

- “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.” (p. 6).
- “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 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*.” (p. 14).

## **Brazil**

- “Brazil considers that the prolonged occupation, settlements and annexation of the Palestinian territory, including measures aimed at altering the demographic composition, character and status of these territories, including East Jerusalem, violate relevant rules of international law.” (para. 38).

## **Chile**

- “These rules and prohibitions [including the UN Charter’s prohibition on annexation through the use force] are relevant when examining Israel’s attempt to annex, both *de jure* and *de facto*, parts of Palestinian territory. The rules are also crucial for evaluating the legality of the prolonged occupation itself. As noted by Special Rapporteur Lynk, ‘the inexorable Israeli occupation has become indistinguishable from annexation’.” (para. 72).
- “The Israeli Government has pursued a policy of establishing settlements in the OPT and *de facto* annexation for decades, and has been operating in

full knowledge of the illegality of its settlements, and the international obligations that compel it. Therefore, the relevance of this increasingly growing body of law should not be understated in the legal analysis of the situation in the OPT.” (para. 93).

- “The previous sections show that Israel has violated the right of the Palestinian people to self-determination, through its prolonged occupation, the establishment of illegal settlements, de facto annexation of the Palestinian territory since 1967, and all the measures taken with the purpose to deprive the Palestinian people of the right to determine their own political status and to be free to pursue their economic, social, and cultural development without external interference.” (para. 95).

## **China**

- “As repeatedly stressed by the UN Security Council resolutions, Israel must not annex the Occupied Palestinian Territory. For example, Security Council Resolution 242, adopted unanimously after the 1967 armed conflict, explicitly emphasizes the ‘inadmissibility of the acquisition of territory by war’.” (para. 26).
- “The prolonged Israeli occupation, the establishment of settlements, the annexation of East Jerusalem and relevant discriminatory legislation, among other measures taken by Israel, have seriously impeded the realization of the right to self-determination of the Palestinian people” (para. 45).

## **Cuba**

- “The Government of the Republic of Cuba reiterates its condemnation of the continued acts of annexation” (p. 3).
- “The occupation of the Palestinian territories is also classified as an unlawful act of annexation in accordance with the provisions of Security Council Resolutions 478 (1980) and 497 (1981), which state that the Israeli actions oriented to the annexation of East Jerusalem and the Golan Heights were ‘null and void’ and should not be recognized by States.” (p. 5).
- “The Law on Jerusalem of 1980 is another clearly internationally wrongful act, whereby Israel unilaterally, unlawfully and illegally declared the city as a unified whole and a single district and proclaimed the city as its “eternal and undivided” capital. This annexation has brought about strong rejection among the international community, materialized in Resolution 478 of the

United Nations Security Council which regarded it as contrary to International Law.” (p. 23).

### **Djibouti**

- “[L]’occupation prolongee du Territoire palestinien s’accompagne de mesures d’annexion de jure et de facto d’importantes portions de ce territoire. La partie israelienne a procede à l’annexion de Jerusalem .... Le reste de Cisjordanie fait aussi l’object d’une annexion de facto.” (paras. 11-12).

### **Egypt**

- “Israel’s de jure annexation of Jerusalem, formalized in 1980, is clearly contrary to international law. Israel’s intention to make its occupation permanent is evidenced by its residential, industrial, and agricultural settlements, and related infrastructures such as roads and water systems, which have been established and developed in the West Bank, including East Jerusalem, since 1967. The Wall and its associated regime have further pursued the incorporation of major settlements, especially those located around East Jerusalem, into Israel’s territory, giving rise to a *de facto* annexation, which further violates the Palestinians’ rights to self-determination and permanent sovereignty over their natural resources.” (para. 269).
- “The prolonged and continuing occupation of the territory of Palestine, and the practices and policies of annexation and settlements, constitute a breach of international obligations, including: ... the inadmissibility of the acquisition of territory through the use of force” (para. 326(c)(iv)).

### **France**

- « Ce constat d’illicéité demeure aujourd’hui d’autant plus fondé que, depuis 2004, Israël a poursuivi et accentué sa politique d’implantation de colonies en territoire palestinien occupé, en violation de ses obligations au regard du droit international ». (para. 54).
- « Comme l’avait indiqué la Cour dans le cadre de la construction du mur, une telle situation peut amener à un ‘fait accompli’ et à un processus d’annexion *de facto* » (para. 57).
- « Le statut de puissance occupante ne confère rigoureusement aucun titre juridique justifiant une annexion. A cet égard, le fait que l’occupation soit

d'une durée particulièrement longue ne saurait, en tout état de cause, permettre de légitimer des prétentions d'annexion. Le passage du temps ne suffit pas, en matière d'acquisition de territoires par la force, à rendre licite une situation gravement illicite ». (para 58).

- « Il ne fait donc aucun doute que le statut unilatéral imposé par Israël à Jérusalem est nul et non avenu au regard du droit international, et que les mesures protectrices prévues par la quatrième convention de Genève s'y appliquent, comme dans le reste des territoires palestiniens occupés » (para 72).

### **The Gambia**

- “In the almost twenty years since the Wall Advisory Opinion, the occupation has only deepened. Israel has annexed more territory and expanded its illegal settlements.” (para. 1.3).

### **Guyana**

- “The evidence clearly establishes that, through the acts it has committed during the course of [its] prolonged occupation, Israel has annexed East Jerusalem and the West Bank.” (para. 13).

### **Indonesia**

- “Since 1967, Israel has manifestly exhibited the intention to effectively annex the OPT as Israel’s territory in contravention to international law.” (para. 40).
- “Israel is continuously encroaching the territory of Palestine, specifically subsequent to the Six Day War of 1967, by illegally occupying beyond what was intended under the UN Partition Plan, including but not limited to the OPT and East Jerusalem. Such act of occupation, including the associated regime of establishment of settlement and imposition of discriminatory measures and policies, shows Israel’s intention to illegally annex the aforementioned territories.” (para. 42).
- “Violations committed by Israel are manifested through the following policies and practices, including but not limited to: ... settlement and annexation policies of the OPT since 1967” (para. 68(c)(2)).

## Ireland

- “[T]he Secretary-General has reported that the Israeli Parliament also has a ‘practice’ of ‘enacting laws with direct applicability in the West Bank’, which he has described as ‘raising concerns about ‘*de facto* annexation’’, concerns that Ireland shares.” (para. 29).
- “Ireland’s assessment is that the situation envisaged by the Court has, therefore, come to pass through the evident permanence of the wall almost two decades later: the wall and its associated regime have created a situation of *de facto* annexation over those parts of the Occupied Palestinian Territory that lie between the wall and Israel.” (para. 37).
- “Ireland considers that the situation of annexation created by the wall is part of a wider process of annexation by Israel of territory within the Occupied Palestinian Territory, demonstrated in particular by the settlements and their associated regime. As described above, the settlements – the expansion of which is intensifying – appear clearly to be intended as permanent.” (para. 38).
- “Israel’s *de jure* annexation of East Jerusalem through its 1980 Basic Law<sup>89</sup> followed a process over many years of *de facto* annexation of that territory. In Ireland’s opinion the information set out above, in addition to the extensive additional material provided in the numerous reports of the Secretary-General, the High Commissioner and others, furnished to the Court, demonstrate that a process of annexation is now also at an advanced stage in the Occupied Palestinian Territory more broadly.” (para. 39).
- “In Ireland’s view Israel is, nevertheless, already in the process of annexing Palestinian territory. It is doing so *de facto*, through its policy of encouraging demographic change in the Occupied Palestinian Territory by population transfer and the continuous development and maintenance of permanent settlements and infrastructure. Ireland is concerned that it may also be doing so, to some extent, *de jure*, by increasingly extending the application of domestic Israeli law and civilian administration to the settlements in the Occupied Palestinian Territory, thereby integrating them into its own territory and erasing the differences in law between the two territories.” (para. 40).
- “Whether *de facto* or *de jure*, or both, this process of annexation is in clear breach of the prohibition in international law of the acquisition of territory by threat or use of force.” (para. 41).

- “Far from temporarily administering the Occupied Palestinian Territory in accordance with the law of military occupation, Israel is engaged in escalating unlawful settlement activity, which amounts to a process of annexation, and is in serious breach of its obligation to respect the right of the Palestinian people to self-determination. Ireland regrets to conclude that Israel’s settlement practices amount to an attempt to transform a temporary, albeit prolonged, occupation into an exercise in permanently acquiring territory by a gradual process of annexation.” (para. 44).

## **Jordan**

- “In the present case, the extraordinary duration of Israel’s occupation of the Occupied Palestinian Territory, including East Jerusalem, reflects Israel’s intention to make its presence in the occupied territory permanent, in violation of the prohibition of acquisition of territory by force and the right of the Palestinian people to self-determination.” (para. 4.38).
- “In sum, the Israeli settlements and outposts in the Occupied Palestinian Territory, including East Jerusalem, in addition to breaching the right of the Palestinian people to self-determination, constitute a violation of the law of occupation. The Israeli policy of settlements is also contrary to the prohibition of acquisition of territory by force, as further explained below.” (para. 4.76).
- “The annexation of an occupied territory by the occupying Power, in whole or in part, *de jure* or *de facto*, is absolutely prohibited. This constitutes a fundamental principle of the law of occupation which applies to Israel’s occupation of the Occupied Palestinian Territory, including East Jerusalem. Any measure adopted by Israel to annex that territory therefore constitutes a serious violation of international humanitarian law, as well as of the prohibition of acquisition of territory by force.” (para. 4.79).

## **Kuwait**

- “The State of Kuwait considers that the Israeli occupation has sought to consolidate and make permanent its long-term occupation of Palestinian territory through illegal means, including through colonization and annexation of Palestinian territory it has occupied since 1967” (para. 2).
- “In the years since [Israel’s illegal annexation of Jerusalem], it has intensified its efforts to deepen the illegal annexation of the City and to attempt to make permanent its illegal claim of sovereignty.” (para. 9).

- “The State of Kuwait affirms the position of the United Nations and the international community that Israeli colonization of East Jerusalem and the rest of the West Bank by means of its transfer to these parts of the OPT of more than 700,000 Israeli settlers, and its establishment of hundreds of settlements constitute a flagrant violation of international law and a principal means by which it is exercising its objective to annex this territory and exercise permanent sovereignty over it. The Israeli settlements are the engine of the occupation, and its locomotive for achieving annexation of the Palestinian territory.” (para. 13).

### **League of Arab States**

- “The existential illegality of the occupation thus arises out of the simple fact of the occupation as a system of control and domination without a valid legal basis. This is then compounded by the occupation’s prolonged duration, its link to *de jure* and *de facto* annexation, and the egregious abuses perpetrated against the Palestinian people. The use of military force to annex territory is an independent basis for existential illegality: also a violation of the international law on the use of force, an aggression.” (para. 44).

### **Lebanon**

- « Israël continue malgré les résolutions successives du Conseil de sécurité, à commencer par la résolution 242, son occupation et ses politiques qui visent clairement à annexer les Territoires palestiniens. Il encourage la colonisation, la confiscation des terres, la destruction des bâtiments publics et privés afin de rendre sa présence un fait accompli et irréversible ». (para. 26).
- « Vu ce qui précède, le Liban considère que la Cour devrait réitérer dans son avis consultatif la violation d’Israël du principe fondamental de l’illicéité du recours à la force et son corollaire de l’illégalité d’annexion des territoires par la force ». (para. 27).

### **Malaysia**

- “Israel’s continued establishment and facilitation of settlements, as well as their associated infrastructure and regimes, amount to acts of *de facto* annexation.” (para. 42).

- “Israel’s practices of *de jure* and *de facto* annexation, as well as the connected creation of enclaves dividing the Occupied Palestinian Territory, violate the right to self-determination of the Palestinian people.” (para. 45)

## **Maldives**

- “Israel has engaged in unlawful uses of force against, and has in violation of international law taken steps to annex, the OPT” (para. 2(c)).
- “In June 1967, Israel unilaterally used force in order to incorporate 70,000 dunams of Palestinian land into the municipal area of Jerusalem. This is an act which violated Article 2(4) of the UN Charter and customary international law.” (para. 18).
- “In 1980, Israel enacted a ‘basic law’ declaring Jerusalem as its capital, solidifying the *de facto* (and purported *de jure*) annexation of East Jerusalem.” (para. 20).
- “[I]n violation of the requirement that an occupation must be temporary, Israel has sought to create a permanent state of affairs that is tantamount to annexation.” (para. 28).
- “There is no prospect of the Palestinian people exercising their right to self-determination for as long as Israel maintains its *de facto* annexation of the OPT.” (para. 35).

## **Mauritius**

- “For the reasons summarized above, there is ample evidence to support the conclusion that Israel’s occupation of the OPT – including through its illegal annexation of Palestinian territory – is an enduring and comprehensive “impediment to the exercise by the Palestinian people of its right to self-determination”. Accordingly, Israel is under an obligation to immediately end its occupation of the OPT and “It is for all States ... to see to it” that the occupation “is brought to an end” without delay.” (para. 22).

## **Namibia**

- “Israel’s presence in the Palestinian territory has been illegal from the outset in 1967 and the consequent occupation is also illegal. ... This illegality has been further compounded by Israel’s colonization of the Palestinian territory that started in 1967 and continue to this very day and its purported annexation of Palestinian territory, in breach of article 2(4) of the Charter

and the inadmissibility of the acquisition of territory by force.” (paras. 142-143).

## **Norway**

- “Norway has consistently emphasized its principled stand that any acquisition of territory by force is inadmissible and constitutes a serious violation of international law. In this regard, Norway also refers to Security Council 2334 (2016), which also underlines that no changes to the 4 June 1967 lines other than those agreed by the parties through negotiations will be recognized.” (p. 2).
- “Norway has ... expressed serious concerns regarding developments on the ground in the occupied Palestinian territory, including further plans for the expansion of Israeli settlements in East Jerusalem and the West Bank, as well as possible measures for the further annexation of territory occupied since 1967. Norway has made it clear that measures taken towards further settlements expansion and annexation, including in East Jerusalem, are in contravention of international law, and will undermine the possibility of achieving a negotiated two-state solution.” (p. 3).

## **Oman**

- “[T]he primary legal consequence arising from Israel’s behaviour is that there is now a *de facto* annexation by Israel of the Palestinian territories.” (p. 4).

## **Organisation of Islamic Cooperation**

- « Il ne manque pas de déclarations politiques indiquant l’intention de personnalités politiques israéliennes de ne jamais faire cesser l’occupation. ... Le déploiement illimité de colonies de peuplement israéliennes et la ferme volonté de l’État hébreu de les intégrer à son territoire sont la preuve d’une volonté d’annexion illégale ». (para. 298).
- « Pour ce qui est de Jérusalem, la situation est à la fois plus claire et plus grave. Israël, après s’être emparé par la force de la partie Ouest de la ville lors de ses conquêtes illégales de 1948, l’a alors déclarée capitale éternelle d’Israël. Mais en 1980, allant plus loin, Israël a adopté la Loi fondamentale par laquelle Jérusalem toute entière est désignée comme capitale réunifiée d’Israël. La présumée annexion de jure de Jérusalem est ainsi confirmée ». (para. 302).

- « La conclusion de la Commission internationale indépendante chargée d'enquêter dans le Territoire palestinien occupé, y compris Jérusalem-Est et en Israël, confirme qu'il y a de la part d'Israël annexion *de jure* (sur Jérusalem) et annexion *de facto* (sur la Cisjordanie) » (para. 303).

## Pakistan

- “Israel use of force to prolong the occupation of OPT is illegal, amounting to annexation, and is contrary to the principles of international law.” (para. 114(4)).

## Palestine

- “The evidence adduced in this Written Statement demonstrates overwhelmingly that Israel has annexed and plans to continue to annex Jerusalem and the rest of the West Bank” (para. 6.2).
- “[T]he facts presented in this Written Statement indisputably point only in one direction: that of Israel’s annexation of Palestinian territory in violation of one of the most fundamental norms of international law, the inadmissibility of the acquisition of territory by force, with the intention of permanent colonization and control.” (para. 6.8).
- “Israel’s prolonged occupation of the OPT, its annexation of Palestinian territory, and its subjugation of the Palestinian people by its racial discrimination against them tantamount to apartheid and denial of their fundamental rights amount to the gravest of violations to their right to self-determination, guaranteed to them under international law.” (para. 6.11).

## Qatar

- “Israel has annexed East Jerusalem *de jure*” (para. 3.6).
- “In the *Wall* Advisory Opinion, the Court warned that the establishment of Jewish Israeli settlements in the West Bank, combined with the construction of a barrier wall in the West Bank and East Jerusalem and its associated regime, could ‘be tantamount to *de facto* annexation’. Whether or not Israel’s actions amounted to a *de facto* annexation then, they unmistakably do now. In the nearly 20 years since 2004, Israel has created additional ‘irreversible facts on the ground’ that evidence its *de facto* annexation of Area C of the West Bank in violation of international law, as well as its intent eventually to annex all of the West Bank, excluding East Jerusalem.” (para. 3.9).

## **Russian Federation**

- “As explained by the Court, settlements are contrary to the principle of inadmissibility of acquisition of territory by force” (Section IX, para. 9).

## **Saudi Arabia**

- “Israel’s actions with respect to the *de facto* annexation and seizure of Palestinian land violate its obligations as the Occupying Power under Articles 47, 49, 53 and 55 of the Fourth Geneva Convention, and customary international law as reflected in Articles 46, 47 and 55 of the [Hague Regulations].” (para. 53).
- “Israel’s *de facto* annexations are not only illegal in and of themselves, but they also effectively deprive the Palestinian people of the exercise of their right to self-determination over that territory.” (para. 56).

## **Senegal**

- « [L]’occupation israélienne, qui n’est plus plus temporaire, s’est transformée de facto en une annexion rampante ... » (p. 3).
- « Il convient de signaler que l’acquisition par la force d’un territoire est interdite par la Charte des Nations Unies ». (p. 4).
- « La plupart des motifs juridiques évoqués, pour demander à Israël de respecter ses engagements, trouvent leur fondement dans l’effectivité de violations graves de règles et principes bien établis du droit international, touchant les modes d’acquisition de territoire » (p. 4).
- « La thèse du droit à l’autodéfense préventive ... aboutit concrètement à une annexion illégale ». (p. 5).

## **South Africa**

- “It is not disputed that annexation resulting from the use of force has taken place since 1967 and is in clear violation of the principles of international law.” (para. 54).
- “Israel’s failure to recognise the Palestinians’ right to self-determination, independence and sovereignty in the territory, is clear evidence of its underlying intention to pursue the permanent acquisition of Palestinian territory.” (para. 64).

- “Israel’s annexation of Palestinian territory has been viewed as an extension of its sovereignty, and an unlawful act in international law. Israel further started adopting legislation which governs Palestinian territory as if it belongs to Israel. This act was regarded by Boutruche and Sassòli as an “aspect of de jure annexation”. Of concern to the two scholars was the fact that “certain legislative changes adopted by an Occupying Power, may not only constitute violations of the law of belligerent occupation, but also amount to a certain form of annexation, prohibited by the jus ad bellum, the international law on the use of force.” (para. 79).

## **Syria**

- “The actual annexation of parts of the Occupied Palestinian Land is embodied through a continuous gradual process involving the implementation of measures and actions on the ground that demonstrate the determination of ‘Israel’, the occupying power, to remain permanently present and to illegally claim sovereignty over the occupied territories or parts thereof” (para. 14).

## **Türkiye**

- “While Israeli occupation of the Palestinian territory turned into annexation in reality, there is growing frustration not only on the Palestinian side but also among the international community. ... As a matter of fact, unlawful settlement activity has intensified to the extent that it is now extremely difficult to mention the contiguity of the Occupied Palestinian Territory. Transfer of Israeli population in the form of settlements has been changing the demographic composition of the Occupied Palestinian Territory each day. Demolitions of houses of Palestinian people as well as forcible evacuations accompany unlawful settlements. These acts continue with the support of the Israeli security forces.” (p. 2).

## **Yemen**

- “In 1967, Israeli forces proceeded to unlawfully acquire more territory, occupying the West Bank, including East Jerusalem, and the Gaza Strip. Israeli authorities unlawfully annexed the Holy City of Jerusalem and its environs.” (para. 18).
- “The Israeli occupation unlawfully colonized and attempted to annex as much territory for the exclusive benefit of its Jewish Israeli settlers.” (para. 23).

- “[T]he Israeli occupation has undertaken a series of legislative and administrative measures to annex, both *de jure* and *de facto*, the West Bank, including East Jerusalem.” (para. 25).
- “It is clear ... that the policies and practices of Israel, the occupying power, in the OPT ... when examined as a whole, involve the gross and systematic violation of at least these peremptory norms of general international law: ... The prohibition of aggression, which its corollary prohibiting the acquisition of territory through the use of force” (para. 40(1)).