

## INTERNATIONAL COURT OF JUSTICE

### REQUEST FOR AN ADVISORY OPINION BY THE UNITED NATIONS GENERAL ASSEMBLY IN RESOLUTION 77/247 OF 30 DECEMBER 2022 PERTAINING TO THE QUESTION OF PALESTINE

#### ORAL STATEMENT OF THE STATE OF PALESTINE

19 FEBRUARY 2024

#### 1. OPENING STATEMENT

H.E. Dr. Riad Malki,  
Minister of Foreign Affairs and Expatriates of the State of Palestine

Mr. President, Members of the Court

1. It is an honour and a great responsibility to appear before you on behalf of the people and State of Palestine in these historic proceedings.

2. I stand before you as 2.3 million Palestinians in Gaza, half of them children, are besieged and bombed, killed and maimed, starved and displaced. As more than 3.5 million Palestinians in the West Bank, including East Jerusalem, are subjected to colonization of their territory, and the racist violence that enables it. As 1.7 million Palestinians in Israel are treated as second class citizens, as unwelcomed intruders in their ancestral land. As 7 million Palestine refugees continue to be denied their right to return to their land and homes. I stand before you as the entire Palestinian people continue to be denied their fundamental rights, their very existence negated.

3. For over a century, the inalienable right of the Palestinian people to self-determination has been denied and violated. Palestine was not a land without a people; it was not, as Israeli leaders have described it, a wasteland. There was life on this land. There was a political life, a cultural life, a social life, a religious life. It had schools and universities, cinemas and cultural halls, it had villages and villagers, families and communities, whose life was disrupted by the impact of a promise made thousands of miles away, over a hundred years ago. A breach of a

sacred trust that relegated the indigenous people of the land to the status of ‘non-Jewish communities’, according them only civil and religious rights, denying their existence as a people and their rights as a nation, and paving the way for their dehumanization and mass expulsion from their homeland decades later.

4. The United Nations enshrined in its Charter the right of all peoples to self-determination and pledged to rid the world of the gravest breaches of this right, namely colonialism and apartheid. Yet, for decades, the Palestinian people have been denied this right and have endured both. There are those who are outraged by the use of these words. They should instead be outraged by the reality we are living. This reality is known by every Palestinian, suffered by millions, generation after generation.

5. It is a reality of the expulsion of the Palestinian people from their own land, not just during the 1948 Nakba, which led to the expulsion of up to 900,000 Palestinians; not just the expulsion of more than 400,000 Palestinians in 1967, but continually, including now, as I address you at this very moment. It is the indiscriminate maiming and killing of Palestinians. It means you can spend the entirety of your life as a refugee, denied your dignity and your right to return home. It means your life and family, your community and home are under constant threat, your loved ones can be taken away and thrown in an Israeli jail, held there indefinitely. Your land can be stolen, colonized and annexed without hesitation. Freedom is nowhere to be found, there is no safe haven. It means discrimination everywhere and no justice, anywhere.

6. It is a reality where Israel can destroy Gaza, killing tens of thousands of Palestinians, almost half of them children, leaving one million children starved, terrorized and traumatized for life, orphaned of a mother, a father, or both, amputated and disabled, leaving nearly 2 million people displaced and desperate, with nowhere to shelter from the onslaught. The genocide underway in Gaza is the result of decades of impunity and inaction. Ending Israel’s impunity is a moral, political and legal imperative.

7. Successive Israeli governments have given the Palestinian people only three options: displacement, subjugation or death; these are the choices, ethnic cleansing, apartheid or genocide. But our people are here to stay, they have a right to live in freedom and dignity in their ancestral land. They will not forsake their rights.

8. I thus implore you, as you hear the legal arguments, not to forget the Palestinian people. That our people are struggling every day for their survival as individuals, families, communities, and as a nation. That less than a month ago, this Court ordered provisional measures in a landmark case brought by the Republic of South Africa against Israel under the Genocide Convention; an order that Israel continues to defy with impunity.

9. For decades Israel has occupied the Palestinian territory, committing violations that are inherent to its presence in our land and colonial objective. This occupation is annexationist and supremacist in nature. It is a deliberate, cynical perversion of international law. It is thus illegal. The only solution consistent with international law is for this illegal occupation to come to an immediate, unconditional, and total end.

10. As you affirmed twenty years ago, the Palestinian people have the right to self-determination. It is an *erga omnes* right. It is non-negotiable, non-derogable. No occupying Power, including Israel, can be granted a perpetual veto over the rights of the people it occupies.

11. Allow me now to show you 5 maps. The first one is historic Palestine. This is the territory over which the Palestinian people should have been able to exercise their right to self-determination. Instead, the General Assembly, recommended the partition of Palestine, ignoring the will of our people, as shown in the second map. With the *Nakba* that ensued, over two-thirds of our people were systematically and forcibly expelled by Israel and three-fourths of Palestine became Israel, as shown in the third map. This was the start of the *Nakba*: the dispossession, displacement and replacement of our people, the denial of rights, and discrimination that continue to this very day.

12. In 1967, Israel then occupied the remainder of Palestine. And, from the first day of its occupation, started colonizing and annexing the land with the aim of making its occupation irreversible. It left us with a collection of disconnected Bantustans preventing the independence of our State, as shown in map 4. Israel wanted the geography of Palestine, but not its demography. So it kept pushing our people out; out of their homes, out of their land.

13. Here is the fifth map. It was displayed by Israel's Prime Minister to the General Assembly last September. He called this "the New Middle East". There is no Palestine at all on this map, only Israel, comprised of all the land from the Jordan River to the Mediterranean Sea. This shows you what the prolonged, continuous Israeli occupation of Palestine is intended to

accomplish: the complete disappearance of Palestine and the destruction of the Palestinian people.

14. There can be no justification for these injustices and indignities. Allowing them to continue is unacceptable and inexcusable. Acquisition of territory by force; persecution, racial discrimination, and apartheid against a people; denial of self-determination, are all grave violations of the most fundamental norms of international law. There is a legal and moral obligation to bring them to a prompt end.

15. Mr. President, Members of the Court, the State of Palestine reaffirms its unwavering commitment to the rule of international law, which must finally prevail. The force of the law must prevail over the unlawful use of force. We said years ago that we made a choice: justice, not vengeance. But justice delayed is justice denied, and the Palestinian people have been denied justice for far too long. We believe in the universal principles crafted over decades to save successive generations from the scourge of war and oppression. It is time to put an end to the double standards that have kept our people captive for far too long. International law must be applied to all States without exception; no State can be absolved of its obligations under the law and no people can be deprived of its protection.

16. Palestine legitimately seeks the fulfilment of the rights of our people, including the independence of the State of Palestine on the pre-1967 borders, with East Jerusalem as its capital, in accordance with international law and United Nations resolutions. This is the historical compromise we agreed to, a just and lasting solution with two democratic States, Palestine and Israel, living side by side, in peace and security. We seek peace, which can only be rooted in justice. When we committed to the peace process three decades ago, we did it in the belief and expectation that international law would finally be upheld, not that this process would witness its continued breach, we did so expecting that the rights of our people would finally be fulfilled, not further denied. By determining the law and the obligations of all States and organizations, this Court can help chart a path for peace anchored in justice and respecting international law.

17. It has taken the Palestinian people decades of painful struggle to stand before you today. We appeal to the Court to uphold our rights to self-determination, return and all other human rights, including by declaring that the Israeli occupation is illegal and must end immediately, totally and unconditionally.

18. Mr. President, Members of the Court, I will be followed today by six speakers on behalf of the State of Palestine. First will be Professor Andreas Zimmermann, who will address the Court's jurisdiction to answer the General Assembly's questions and the absence of compelling reasons that might lead the Court to decline to do so.

19. Next will be Mr. Paul Reichler, who will demonstrate the illegality of Israel's prolonged occupation, because its annexation of Palestinian territory, including through widespread colonization, is intended to be permanent, in violation of the prohibition of the acquisition of territory by force.

20. The next speaker will be Ambassador Namira Negm, who will address the system of persecution, racial discrimination and apartheid that Israel is imposing over the Palestinian people, as a means of maintaining its control over the land by the subjugation of the indigenous Palestinian people.

21. She will be followed by Professor Philippe Sands, who will demonstrate how Israel's dispossession, displacement and replacement of the Palestinian people, and discrimination against them, has led to the wholesale denial of their inalienable right to self-determination.

22. The Court will then be addressed by Professor Alain Pellet, who will identify the legal consequences that follow from Israel's grave and ongoing violation of peremptory norms.

23. These legal consequences necessarily include the obligation to bring this unlawful occupation to an end and to dismantle the colonial and supremacist architecture, legal and physical, that Israel has consolidated over decades.

24. The final speaker for the State of Palestine will be Minister Riyad Mansour, our Permanent Representative to the United Nations.

25. Minister Mansour will focus on the permanent responsibility of the UN and the obligations of all States to bring this injustice to a swift end so as to uphold the law, fulfil Palestinian rights and achieve a just peace for all.

26. Many States will also stand before this Court, informed by their own history of occupation, colonialism and apartheid. They will stand here on principle to defend the

international-law based order. And millions around the world will be watching, hoping that their faith in the international system can be restored, and that the Palestinian people will not be abandoned, or discarded as expendable. Palestine remains the greatest test to the credibility of this international law-based order, a test humanity cannot afford to fail.

27. Mr. President, Members of the Court, the State of Palestine expresses its fullest confidence that you will discharge the sacred duties entrusted to you with the wisdom, fairness and justice that the world expects and needs of you.

28. I thank you for the honor of addressing you. And I now request, Mr. President, the Court to call on Professor Zimmermann. Thank you.