The Last Nail in Bethlehem’s Coffin
The Annexation Wall in Cremisan
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St. Yves has represented the Salesian Nuns Convent before Israeli Courts in the Cremisan case since 2010.


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Dear Friends,

The Israeli army’s unacceptable plan of building the annexation wall in Cremisan Valley and confiscating lands owned by 58 Christian families to accommodate its route has been approved by the Israeli Supreme Court. This unjust decision allows the Israeli army to confiscate large tracts of privately owned Palestinian lands, greatly undermining the potential of a viable Palestinian state, and paving the way for further settlement expansion in Palestine.

To the Church, the Cremisan decision is about the profound injustice that affects not only Palestinian Christians but everyone (“Injustice anywhere is a threat to justice everywhere”). Our Christian faith demands that we cry out in protest. The prophets in the Hebrew Bible decried injustice and spoke truth to power. Jesus also spoke truth to power.

This recent decision is a form of Christian persecution. While Christians have been assured by the Gospel that they will experience persecution, they must always sound a clarion call when injustice, especially State sponsored, is allowed free rein. The Church strongly encourages immediate and effective action to achieve justice for Palestinians in general, and save the lands of the 58 Palestinian Christian families in particular. Though few in number, they are deeply rooted in their identity and in the belief that they were placed here by God. The Christian world should encourage them to remain and not emigrate. But their presence must be reinforced, not by words alone.

Now, we are in a very urgent moment, when we send forth a strong appeal to halt this grave injustice in Cremisan and in the Holy Land. I urge especially those who have influence, to take immediate and effective action to save the lands of the 58 Christian families. Once again, I remind Israeli decision-makers that the expropriation of lands does not serve the cause of peace and does not strengthen the position of the moderates. Furthermore, I stress that the authorities need to achieve the inalienable rights of the Palestinian people as per international law.

I encourage you to read this report produced by the Society of St. Yves – Catholic Center for Human Rights, which works tirelessly in raising awareness of and working to secure human and civil rights in our society.

Finally, please pray each day for those in the decision-making positions to realize the values of justice and peace in finding a just resolution to all cases before them. I convey my profound thanks for your prayers and solidarity.

Yours sincerely in Christ,

+ Fouad Twal, Latin Patriarch

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EXECUTIVE SUMMARY

The Cremisan valley is located in Beit Jala, north west of Bethlehem. It runs along the seam line between the occupied West Bank and Jerusalem, extending from Beit Jala to the village of Al Wallajeh and the 1967 border. Within the Cremisan valley lie numerous constituencies: part of the city of Beit Jala, part of the illegal Israeli settlement of Gilo, the two Salesian orders, which are comprised of a Monastery and a Convent, Cremisan Cellars, which is a winery run by the Monastery, and multiple private homes and properties are all situated in the area. Parts of the valley are classified as area (C) of the West Bank and others are within the Jerusalem “municipal borders”.

Like countless fertile lands in Palestine, the Cremisan valley has become subject to the Israeli land grab policies since 2006, when the Israeli military commander issued an order to build the annexation wall in the Cremisan valley, under “security” pretexts. Ever since, the two Salesian orders and the landowners, through the Beit Jala municipality, entered in a long legal battle with the Israeli Ministry of Defense before Israeli courts. Throughout the course of procedures, the Israeli army suggested various routes of the annexation wall, none of which had any consideration for the landowners, the religious orders or the community they serve, and all reflecting but one thing: land grab policies for the purposes of settlement expansion and linkage. Concisely, the aim is to link the settlements of Gilo and Har Gilo through the Cremisan valley.

The proceedings before the court kept going back and forth for almost 10 years, creating a delusional sense of justice, and eventually legalizing the policies of occupation. The Israeli high court of justice delivered its final decision for the case in April 2015, and stated that, given “security” consideration, the Israeli army is allowed to build the annexation wall in the area. However, according to the final decision, the route of the wall should keep both Salesian orders connected together on the Palestinian side of the wall, and a “facilitated access” is to be given for the landowners to their lands. In other words, the final decision gave protection to the religious orders, but not to the landowners. In the same month of delivering the final decision, the Israeli army informed the landowners that it intends to start its construction work in the area, and despite the petitions that followed the final decision to object against the construction of the wall, and the intense lobby and diplomatic efforts, the Israeli army has constructed the annexation wall in the area. The case is legally consumed. The final outcome of the case nowadays for the landowners is inaccessible, destroyed and isolated lands. Despite the Israeli army’s many promises in court to ensure access of the owners to their lands, and the court ruling in its final decision that they must have a “facilitated access”, the Israeli authorities denied the entry permit applications of the landowners to their lands, even during the olive harvest season in 2016.

The first main issue with building the Annexation Wall in any regard, not just in Cremisan, is the denial of the right to self-determination for Palestinians. The International Court of Justice (“ICJ”) mentioned the rights to freedom of movement and the right against invasion of privacy of home and family, which are enshrined in the International Covenant on Civil and Political Rights (“ICCPR”), and the right to work, to an adequate standard of living, health, and education, which are enshrined in the International Covenant on Economic, Social and Cultural Rights (“ICESCR”). In its conclusion, the ICJ stated that Israel must cease construction of the Wall, dismantle the parts of the Wall that were built inside the West Bank, revoke the orders issued relating to its construction, and compensate the Palestinians who suffered losses as a result of the wall.

Despite the fact that the Israeli army justifies the land grab in Cremisan as based on “security needs”, the Council for Peace and Security, an association of high-ranking former Israeli security experts who joined the suit as amicus curiae challenged this justification and defied it, stating that the
annexation wall as suggested by the Israeli army is a failure from security perspectives. The court, however, stated that when it comes to security, its only trustworthy reference is the Israeli army. Under international law, namely the Fourth Geneva Convention, the destruction and appropriation of property in absence of absolute military necessity constitutes a grave breach.

Another grave violation that results from the annexation wall is forcible transfer of Palestinians. Under international law, forcible transfer is not exclusive to using force to displace the protected population, the Palestinians, out of the areas where they lawfully reside, but it is also understood to include the creation of coercive environment that obliges the protected population to leave the location where they reside against their will, also known as indirect displacement. In Cremisan, the Annexation Wall is to dispossess 58 Palestinian Christian families from their lands and livelihoods, which constitutes a determining factor in their immigration possibilities. This is particularly relevant in a time when Christian presence in the Middle East is a center of concern to the world, threatened by extreme Islamists, while Israeli occupation and annexation policies remain, however, unaddressed in the Palestinian Christian context.

Olive trees in Cremisan, many of which date back to the Roman era, are not merely trees in the eyes of their owners; like everywhere else in Palestine, the relationship between the Palestinian landowners and their olive trees is culturally sacred. The olive trees that were uprooted in Beir Onah are more than a mere source of economic income, they are also the subject of care and pride for the farmers. One can say that for Palestinian farmers, an olive tree is like a child of their own, receiving much care and nurturing. The uprooting of trees to accommodate the route of the Annexation Wall in area has a devastating effect on Palestinian farmers and landowners, economically and culturally; some trees were uprooted in a manner that makes it impossible for them to reproduce, others were transferred, and the remaining ones are now behind a wall, with serious doubts that their owners will get the needed “permits” to access their lands and care for them.

The Cremisan case received a lot of international attention and was advocated for heavily in the international arena; governmental, diplomatic and religious key figures from many countries visited the area and are aware of the implications of the case. The UN Human Rights Council and Committees were addressed several times regarding the case and it was officially mentioned before the UN security Council by the UK. One can conclude that diplomacy and lobby efforts in Cremisan have proven to be futile in the face of Israeli annexation policies. Today, the annexation wall has been constructed in Beir Onah in the Cremisan area and has crawled up to the Cremisan valley, as Israel continues its illegal land grab policies with total impunity.
I. BACKGROUND

The Cremisan valley runs along the seam line between the Bethlehem Governorate and the unilaterally expanded boundaries of the so-called “Jerusalem Municipality”, both in the Occupied West Bank. It extends from Beit Jala to the village of Al Wallajeh and the 1967 border. Before the Nakba («Catastrophe») of 1948, the valley connected the villages which laid to the west of Jerusalem such as Al Malha and Ras Abu Ammar to the city of Bethlehem.

The northern side of the Cremisan valley, known as al Slayeb, used to be famous for its stone quarries. The southern area of the valley is known for its agricultural terraces, including over 60% of the olive trees in Beit Jala, a town famous for the quality of its olives and olive oil.

Within the Cremisan valley lie numerous constituencies: part of the city of Beit Jala, part of the illegal Israeli settlement of Gilo, the two Salesian orders, which are comprised of a Monastery and a Convent, Cremisan Cellars, which is a winery run by the Monastery, and multiple private homes and properties are all situated in the area.

Parts of Cremisan are located in the Israeli controlled Area (C) which makes it virtually impossible for the Palestinian government, the Beit Jala municipality or the local, land-owning families to develop the area. Basic services such as clean water and waste collection and management are subject to Israeli control.

In 2002, Israel decided to build its illegal annexation Wall in the Occupied West Bank. Four years later the Israeli Ministry of Defense expressed its Intention to build the illegal Annexation Wall along the length of the Cremisan valley. Israeli authorities argued that this step was taken in response to what Israel called «terror attacks» during the second intifada. However, the construction route of the Wall inside Occupied Territory is widely regarded by both the State of Palestine and by the international community as an attempted land grab prior to the further annexation of Palestinian land.

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1 Israeli Ministry of Foreign Affairs.
A. Salesian Orders in Cremisan

The name «Cremisan» comes from the Monastery built by the Salesian Order in the 19th century, in order to support the presence of Palestinian Christians in the region. In the 1950s, the Salesian Sisters Convent was built in Cremisan. A valley and agricultural lands separate the Convent from the Jerusalem municipal borders that were unilaterally expanded by the Israeli government into Bethlehem’s land after the Israeli occupation of 1967. Some of the Convent’s lands are situated within the “Jerusalem municipality boarders” in the area taken by force by Israel in 1967, and are therefore classified as occupied territory according to international law. Currently, the Convent lies along the outskirts of the Beit Jala municipal borders.

For many years, the Convent has been part of Beit Jala and its surrounding communities, serving mainly as a place for education and charity. Today, it includes a developing primary school which caters for children up to 9th grade, a kindergarten, and a school that provides tutoring for children with learning difficulties. Moreover, extracurricular activities and summer camps for children are provided by the Convent every year.

Around 450 children – girls and boys, Muslims and Christians alike - from the surrounding towns and villages (i.e., Bethlehem, Beit Jala, Beit Sahour, Al Walajeh and the refugee camps) enjoy the services provided by this educational facility. As the Convent aims to serve the needy, it selects the poorest students and charges minimal fees. Following the educational method of the Don Bosco school systems, the Convent teaches values of truth, just peace and coexistence between different people and religions, regardless of race, gender and religion.

The Monastery was built in 1885, on the ruins of a 7th century Byzantine monastery. The Monastery once operated as an educational compound; throughout the years, it has taught theology to students from around the globe. The Monastery is also widely known for its winery (as previously mentioned), one of the finest in Palestine, and its cellars have been operating since its establishment in the 19th century.
B. Lands: Creating a Coercive Environment

The Cremisan valley is one of the last green areas in the Bethlehem district. Private homes and agricultural lands lie across the valley; 58 Palestinian families own lands in Cremisan and depend on them as their primary source of livelihood, in addition to dozens of other families that have historically depended on the Cremisan valley to access their lands in what is now the illegal Israeli settlement of Gilo. The local landowners grow olives, fruit trees and grapes for the local Cremisan wine industry; the land is very well cultivated and the old terraces are carefully kept. Most of the lands in the Cremisan valley are privately owned by Palestinian Christian families.

Such lands generate a major source of income for the landowners; they largely benefit from the ancient olive trees planted on their land through selling olives and olive oil, and through the production of olive wood for handicrafts sold to tourists. Many families depend on olives as a primary source of income.

However, the significance of land and farming goes far beyond the economic aspect. Land is an extremely important component in Palestinian history and culture. It symbolizes home, stability and the quest for freedom. The relationship between the Palestinian farmers and the lands is a symbol for steadfastness in the present and hope for the future. Land is deeply rooted in the Palestinian cultural narratives, stories, poetry and proverbs. From the outset, land and olive trees have symbolized the Palestinian “sumud”, a term which translates literally as “steadfastness”. Palestinian sumud has two sides: the first is staying in the land despite the coercive environment created by Israel, the occupying power, to displace them (for instance, staying in a land threatened by imminent house demolition or even after the demolition has taken place), while the second is a less passive one, taking the form of a more dynamic resistance (for example, cultivating a land threatened by confiscation in order to protect it). In other words, “sumud” has been directly associated with agriculture and lands. This is precisely why Palestinian lands are a direct target for the Israeli occupation. It is a formal policy in Israel to confiscate Palestinian lands, annex them, demolish homes and structures built on them, destroy water systems and uproot trees.
To Our Land
And it is the one near the word of God
A ceiling of clouds
To our land
And it is the one far from adjectives of nouns,
The map of absence
To our land
And it is the one tiny as a sesame seed,
A heavenly horizon... and a hidden chasm
To our land
And it is the one poor as grouse’s wing
Holy books ... and an identity wound
To our land
And it is the one surrounded with torn hills
The ambush of a new past
To our land
And it is the prize of war,
The freedom to die from longing and burning
And our land, in its bloodiest night,
A jewel that glimmers for the far upon the far
And illuminates what’s outside it...
As for us, inside
We suffocate more2

Mahmoud Darwish

2  Mahmoud Darwish’s “To Our Land”, translation by Fadi Joudah
As in everywhere else in Palestine, olive trees in the Cremisan area (especially given that several of them date back to the Roman era, including their agricultural terraces) are not merely trees in the eyes of their owners; the relationship between the Palestinian landowners and their olive trees is culturally sacred. The olive trees are the subject of care and pride for the farmers. One can say that for Palestinian farmers, an olive tree is like a child of their own, receiving much care and nurturing. The uprooting of trees to accommodate the route of the Annexation Wall in the Cremisan area has a devastating effect on Palestinians, economically and culturally; some trees were uprooted in a manner that makes it impossible for them to reproduce, others were transferred, and the remaining ones are now behind the Wall, with considerable obstacles that prevent their owners from receiving the needed “permits” to access their lands and care for them.

As a direct result of the construction of the Annexation Wall, the privately-owned Palestinian lands in the Cremisan area have become completely isolated from the city of Beit Jala. Indeed, despite the continuous promises given by the Israeli army in the court throughout years of litigation to grant easy access for the landowners, no permits were given for them to access their lands, not even during the olive harvest season of 2016.

International law, namely article 49(1) of the Fourth Geneva Convention, stipulates that forcible transfer is a grave breach. Policies and acts which fall under the definition of forcible transfer include the forcibly removal of a protected civil population from the areas where it is lawfully present. The term “forcible” according to international case law, is not exclusive to the use of physical force to drive the population out of the areas where it resides, but also includes the creation of coercive environment and living conditions such as that caused by violence, deprivation and oppression, that would make the population leave the location against its genuine consent. Israel’s practices in the Cremisan area tantamount to forcible transfer policies. From the outset, Israel adopted a policy of grabbing maximum Palestinian land with minimum Palestinian population by forcibly transferring it, which constitutes a grave breach of international law. Under international law, forcible transfer is not only understood as the use of force to transfer population from one place to another, it also includes the creation of coercive environment that makes the population leave by choice. The Cremisan case is a reflection of the coercive environment created by Israel; land owners in the Cremisan area witnessed the bulldozing of their lands, the uprooting of their olive trees and the total isolation of their lands behind the Annexation Wall, without accessibility. They also lost a major generator of income, and have therefore incurred severe damages. As a result, the Palestinian land owners, mostly Christian, are likely to seek their means of support elsewhere, thus contributing to the cleansing and effective forced transfer of Palestinians in general, and of Palestinian Christians in particular, from their homeland.

“Beit Jala had already lost two thirds of its lands to the Israeli settlements of Gilo and Har Gilo, leaving our town with only 4,500 dunams of land. Our land represents not only our heritage and our olives represent not only our presence: they represent our existence.”

Father Ibrahim Shomaly, Former Parish Priest of Beit Jala

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3 According to information collected from the landowners and Beit Jala Municipality
II. MAIN DRIVING FACTORS: SETTLEMENTS AND ANNEXATION WALL

Israel’s illegal settlement enterprise and its Annexation Wall, with its associated regime, go hand in hand in Israel’s annexation policy in the Occupied West Bank, including in and around Occupied East Jerusalem. Israel’s policy creates facts on the ground which, once established, are then reinforced by the extension of the Israeli legal regime to the areas which have been appropriated. Land is confiscated under a number of apparent justifications such as security, national parks and closed military areas. Once this confiscation has taken place the land is often re-zoned to allow settlement construction and the transfer of Israeli population onto Palestinian lands. Strong incentives are provided by the government to settlers including cheap housing and education and health benefits. Through the legal manipulations mentioned above, Israeli Courts have applied Israeli civil law to these settlements resulting effectively in de jure annexation. The Israeli government has been paving the way for moving from occupation to annexation, using mainly the tools of settlements and Annexation Wall, and passing laws and regulations to achieve this (as explained below), as Israeli officials and members of the Knesset have made public calls to entirely annex the West Bank.

A. Settlements

Since the occupation in 1967, Israel has adopted settling in the occupied Palestinian territory as a formal policy. Despite constituting a flagrant violation of international law that could mount to a war crime, Israel has established hundreds of settlements in occupied Palestine and encouraged Israeli citizens to move into them with generous incentive packages. The establishment of settlements on Palestinian lands means the violation of every basic human right for Palestinians, including the right to self-determination, the right to property, equality, the right to freedom of movement, the right to decent living, the right to access to adequate and clean water, the right to physical and psychological safety, the right to health, the right to education, among many others. Currently, there are over 200 illegal settlements in the occupied Palestinian territory including East Jerusalem, where between 600,000 and 650,000 Israeli settlers reside. In June 2017, the Israeli Central Bureau of Statistics (ICBS) published that between April 2016 and March 2017 there has been a stark increase of 70% in construction starts in the settlements, compared to the parallel period the year before.

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1. Settlement Expansion and Linkage Policy

Israel’s settlement policy is arguably the ultimate facilitating factor in its creeping annexation of the West Bank. As greater and greater numbers of settlement housing units are approved and more illegal outposts are subsumed into the overall settlement policy, the land available to Palestinians in the West Bank has reduced dramatically. The construction of settlements in the West Bank, including East Jerusalem, has created facts on the ground which may prove insurmountable to reverse. Israel’s settlement policy has been denounced as illegal by the International Court of Justice in its Wall Advisory Opinion 8, by the Office for the High Commissioner for Human Rights and by the UN Security Council, notably in the recent resolution 2334 passed on the 23rd of December 2016 which states that Israeli settlements are “a flagrant violation under international law and a major obstacle to the achievement of the two-State solution and a just, lasting and comprehensive peace” 9.

Expansion of settlements, linkage of settlements and the regularization of illegal outposts result in the sprawl of factually annexed islands of Israeli control in the West Bank. Most settlement activity occurs in Area (C) where Israel exercises full civil and military control and where - in stark contrast to Jewish settlers - Palestinian building permits are almost universally denied. According to a 2016 report of the Special Rapporteur on the Situation of Human Rights in the Palestinian Territories10 Israel has “unilaterally assigned 70 per cent of Area (C) for its settlements” along with their associated civil and military infrastructure. The same report highlights that resultantly Palestinians have less than 1% of the land for construction. Through the extension of Israeli civil law to these settlements, such areas become effectively annexed.

Through the linkage of settlements - areas which are designated as closed military zones to Palestinians - the contiguity of the West Bank is seriously imperiled. Palestinians must make wide detours to avoid traversing restricted areas. With such a large amount of Area (C) comprising closed military zones and such severe construction restrictions, the ability for the Palestinian economy to industrialize and expand is severely hampered. Settlements are used to create blocks and separate Palestinian society. A glaring example is the Ma’ale Adumim settlement built to the East of East

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9 UN Security Council, Security Council resolution 2334 (2016) [on cessation of Israeli settlement activities in the Occupied Palestinian Territory, including East Jerusalem], 23 December 2016, S/RES/2334 (2016).

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Jerusalem which effectively portions off and segments the area, giving Israel, its own eyes, legitimization for the annexation of East Jerusalem.

In spite of the ICJ Wall opinion and the recent Security Council resolution 11, settlement activity has increased over the years with 2013 and 2016 showing the highest construction levels in the last 15 years with the construction of 2,874 and 2,630 units respectively. Even more gravely, and in addition to settlement expansion levels, a law was passed by the Knesset on 06/02/2017 legalizing the expropriation of private Palestinian land on which illegal outposts have been built “Regularization Bill”. This law, while providing compensation for the landowners, precludes any opportunity to retrieve the use of the land in the future, paving the way for the total annexation of the West Bank. Illegal outposts are generally regularized by the extension of Israeli law to them as neighborhoods of nearby settlements, thus evading much scrutiny and condemnation which may come from the international community for the construction of new settlements proper. Still however, such potential condemnation has not precluded the Knesset of approving a new settlement named “Emek Shilo” on 30/03/2017 - the first such approval granted in 20 years - for the residents of the recently demolished illegal outpost at Amona. The “Emek Shilo” settlement is to be built near the greater “Shilo” settlement and the two are likely to be linked in the future.

February’s settlement regularization bill is a clear illustration that Israel’s settlement project continues, unabated by illegality under international law. The bill shows Israel’s intentions to ramp up settlement activity and serves to encourage those who would seek to build illegal outposts in the hope that they may, in the future, be rendered legal by more legislation in the same vein.

2. Cremisan and the “Gush Etzion Bloc”

In an attempt to separate occupied East Jerusalem from the rest of the occupied West Bank, Israel built the illegal settlement of Gilo on the hill which lies to the north of the Cremisan valley, annexing around 22,000 dunums from the Bethlehem district in the process (including the northern lands of Beit Jala, Bethlehem and Beit Sahour).

On the southern side of the Cremisan valley, Israel has built the illegal settlement of Har Gilo, which overlooks the western Bethlehem area and is considered by Israel to be the first settlement of the so called “Gush Etzion bloc”, a network of illegal settlements aimed at annexing the western, and the most fertile lands of Bethlehem.

While the Israeli army constantly argues that security is the reason for building the Annexation Wall including in Cremisan, the main motivation behind the suggested routes ostensibly reflects territorial expansion for settlement connectivity. For instance, in June 2012, the expansion of the settlement of Gilo was approved by 800 new housing units. This would not have been considered if security in the area was an issue.

11 See Annex 10 and 11 of this report
In August 2014, the Israeli authorities announced the confiscation of some 5,000 dunums of privately owned Palestinian land south of Bethlehem in the southern West Bank. The Etzion settlements council welcomed the announcement and said it was the prelude to the expansion of the Gush Etzion jurisdiction area, and considered it as a step paving the way towards building the new “city of Gevaot”. In February 2016, the construction of a new road facilitating access between Gush Etzion and Jerusalem started, and housing plans and tenders were advanced in Gilo settlement, both expected to enable the expansion of the settlement southward towards Beit Jala. Israel resumed the construction of the Annexation Wall south of Beit Jala and west of Al Walajeh, and started the construction of a visitors’ center (non-accessible to Palestinians) in an adjacent area located in Beit Jala’s agricultural hinterland, which had been designated as a national park in 2013.

Under “security” pretense, Israel is building the Annexation Wall in Cremisan, located entirely on land belonging to the occupied State of Palestine, which aims at preventing Palestinian expansion in order to link the illegal settlements of Gilo and Har Gilo. As noted before, Construction already began to expand the settlement of Gilo towards the valley, at an area known historically as Wadi Ahmad. By linking both settlements, Israel would not only be annexing thousands of dunums more of Palestinian lands, but it would also allow for the construction of more settlements, including the projected settlement of GI’vat Yael, in the western Bethlehem area.

Over the past few months, Israeli ministers and members of parliament have discussed several initiatives to further annex occupied territory in the periphery of Jerusalem, including the western Bethlehem Area where Cremisan, as well as the Makhrour/Battir Valley, are located “Gush Etzion”. This is part of the policy of annexation of what Israel refer to as “settlement blocks”, or unilaterally defined areas of the Occupied West Bank that are taken as literal reservoirs for further settlement expansion. Though widely used by Israeli politicians, “settlement blocks” is merely an Israeli term that has no legitimacy under international law. All Israeli settlements in occupied territory, regardless of their location of value for Israel, are illegal under international law.

12 “Israeli settlements in the occupied Palestinian Territory, including East Jerusalem, and the occupied Syrian Golan” Report of the Secretary General A/HRC/34/39, page 8, para.28
B. Annexation Wall

Again under “security” pretenses, Israel started building the Annexation wall in 2002. However, instead of constructing the Annexation Wall on the armistice line 1967 (also known as the “green line”) to guard its “security”, the Wall cuts deep into the West Bank, and 85% of it is located in Palestinian lands. The Annexation Wall is associated with a set of measures that gravely violate the basic human rights of the Palestinians and affect their daily life choices. The Annexation wall is mostly eight-meter high concrete blocks, accompanied by military watch towers, a “buffer zone”, electric fences, trenches, advanced security and alarming systems, regular military patrols, constantly blocked agricultural gates, checkpoints, blocked roads and a draconian permit system.

1. Annexation Wall and Seam Zone

The Annexation Wall has been used by Israel as a tool to annex as much Palestinian land as possible and to change demographic and geographic realities. Since its construction, the Annexation Wall has severely undermined and deprived Palestinians from their most basic rights, including the right to self-determination, residency rights, family rights, right to education, right to health, right to employment, among others.

Security considerations following settlement construction in the West Bank have also been used as justification to extend the meandering route of the Annexation Wall to include settlements (located firmly in Palestinian territory) on the west side of the Wall. Indeed this is evidenced by the fact that some 80 settlements comprising roughly 85% of the settler population lie on Palestinian territory west of the Wall. Steps towards connecting these settlements to each other are well under way. Should such connection be successful, a factual circumstance will exist on the ground whereby a large strip of Palestinian territory will be cut off by the Wall, containing a mainly Jewish demographic. It is not hard to notice that these are advanced steps towards the full annexation of Palestinian land. Furthermore, the Annexation Wall prevents the expansion and development of Palestinian communities as populations grow, resulting in overcrowding and diminishing resources, forcing some Palestinians to emigrate away from their homelands.

The “Seam Zone” is the name given to the area of Palestinian land trapped between the Annexation Wall the 1967 borders “Green Line”, demarcating the border between Palestine and Israel. The “seam zone” is governed by a rigid and restrictive permit system applicable only on Palestinians who live or work in this area. Currently, roughly 11,000 Palestinians are affected by this regime, however upon completion of the Wall’s construction some 33,000 West Bank ID holders in 36 communities will be resident or own land in the area. For those who own land in the “Seam Zone” but are not resident there, access is highly restricted. Access for cultivation is only available through a small number of specified gates. Many of these gates are open only seasonally and often at irregular times. Access is often closed during periods of unrest or on Jewish and Israeli national holidays. Access permits are only issues for a limited duration and require renewal. Renewal is contingent on the ability to demonstrate sufficient connection to the land. Since the creation of the first “Seam Zones” in 2003 the number of permits granted has steadily reduced, indeed the OCHA estimates that only 18% of Palestinians who used to be able to cultivate their land in the Seam-Zone have been issued permits to continue doing so.

2. The Annexation Wall in Cremisan

The Israeli government, with the support of its legal and judiciary systems, has continued building the Wall on Palestinian territory, fully disregarding international opposition, international law and the ICJ’s ruling in its Wall Advisory Opinion that the Israeli Annexation Wall is illegal and must be dismantled. While 62% of the Wall has already been constructed, 38% of the Wall is either planned or under construction. Around 85% of the Wall is built on Palestinian occupied territory rather than beyond it, on the 1967 border lines.

In the case of Bethlehem, vast extensions of the Annexation Wall have been built to consolidate the annexation of Palestinian land in the northern Bethlehem area (i.e., in Beit Sahour for the expansion of Har Homa settlement and in Bethlehem for the annexation of Bilal Bin Rabah Mosque/Rachel’s Tomb shrine). The Cremisan valley is no exception to this vast annexation policy; plans to build the Wall in Cremisan started in 2006, when the Israeli commander issued a military order seizing land for the purposes of building a part of the Annexation Wall around the Beit Jala area and Har Gilo settlement.

According to Israeli army orders, annexed maps, detailed plans and suggested routes, the Annexation Wall is to be built in Cremisan. All of the route suggestions negatively affect the functioning of the Convent, Monastery and the agricultural lands in Cremisan: the army’s plans had no regard for the rights and needs of the two Salesian orders, the local community or the landowners.

After the issuing of the military order in 2006, the landowners engaged in a legal battle against the Israeli Ministry of Defense, joined later in 2010 by the Convent and Monastery in order to prevent the Wall in Cremisan. After nine years of legal proceedings, in April 2015, the Israeli High Court allowed the army to build the Wall in the farming lands of Cremisan, and ruled in its decision that the route of the Wall is to avoid the Convent, Monastery and their agricultural lands.17

On the 17th of August 2015, despite the fact that legal proceedings were still pending before the Israeli High Court at the time, the Israeli army arrived unannounced to Beir Onah – Beit Jala, accompanied by bulldozers and heavy machinery. The army started uprooting ancient olive trees that date back to the Roman era and bulldozing the lands in preparation for building the Annexation Wall in Cremisan. At the time of writing, the Annexation Wall in the area has been completed. An agricultural gate has been installed, however, as noted before, it remains entirely closed, even during the olive harvest season of 2016, and no entry permits have been granted for the landowners.

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17 See part III. Legal Frameworks in Cremisan; B. The Legal Case of this report
III. LEGAL FRAMEWORKS IN CREMISAN

In the aftermath of the signing of the Oslo interim agreements in 1993, the West Bank was divided into three distinct areas of control; Area (A), Area (B) and Area (C). Area (A), comprising some 18% of the West Bank was placed under the civil and security control of the Palestinian National Authority (PNA). It consists of discrete islands of control which are non-contiguous and which include the large population centers of the West Bank. Area (B) (roughly 22% of the West Bank) was placed under PNA civil control while the Israeli Army maintained control of security and the administration of Area (C), which comprises most of the West Bank (60%), fell completely to the Israeli Army for all matters both civil and security. Due to the civil control of the Israeli Army in Area (C) construction permits are severely restricted, for example in 2014 only one Palestinian planning permit was granted while some 493 demolitions occurred for so-called “illegal structures”.18 Conversely, in 2014 the number of settlement homes under construction rose by some 40%.19 Regardless of the classification of the land under the Oslo Agreement, which was supposed to last for an interim period of 5 years, Israel, the occupying power, has the responsibility to respect its obligations under International Humanitarian Law and relevant UN resolutions all over the territory it occupies since June 1967.

A. Israeli Military Law Vs. Israeli Civil Law: Occupation and Annexation of Palestinian Lands

The legal regime that currently operates in the Occupied Palestinian Territory is one where two systems of law are applied in a single territory: one is a civilian legal system for Israeli citizens and the other is a military Court system for Palestinian residents, which gives effect to institutionalized discrimination.20

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18 Figures as reported by Ma’an available at https://www.maannews.com/Content.aspx?id=765222.
The prevailing legal situation in the West Bank has developed out of “temporary” military rule, which has given rise to two separate and unequal systems of law that discriminate between the two ethnic groups living in the same territory of the West Bank – Israelis as illegal settlers, and Palestinians. The legal differentiation is not restricted to security or criminal matters, as the Israeli government alleges, but touches upon almost every aspect of daily life, aspects which have nothing to do with security. Indeed, religious life, primary education and agricultural pursuits should not and do not factor into the provision of security from “terrorist cells,” as the Israeli state alleges in the Cremisan context. A number of military decrees, legal rulings and legislative amendments emanating from the Military Courts, the Israeli Supreme Court and the Knesset, respectively, have resulted in a situation whereby Israeli citizens living in the occupied West Bank as illegal settlers, in general, remain under the jurisdiction of Israeli law and the Israeli Court system, with all the benefits and privileges that this confers. This renders the de facto situation of occupation appear de jure (i.e., annexation), which is a completely illegal maneuver, and, in essence, treats Palestine as if it were Israel proper.

Israel’s High Court of Justice has ruled that the rights enshrined in Israel’s Basic Laws – pseudo-constitutional provisions – apply equally to these citizens, despite the fact that they do not reside in sovereign Israeli territory but in an illegally occupied territory, which has been annexed by the building of the Annexation Wall. The Palestinians, conversely, are left to contend with Israeli military law, a second-class system of juridical administration. This is exactly what is taking place in the Cremisan context: the Israeli military is effectively annexing Palestinian lands in the West Bank to Israel, allowing the settlement enterprise to continue, at the expense of minority religious communities, schools, and local Palestinian families.

Further, the laws change when the people living on the land changes, and not when the state in control of the land changes (it has not) – this evidences the system of racial discrimination in which the Palestinian community finds itself. The versatility of Israel’s application of its legal system in Palestine is demonstrated when Israeli Law is applied to “Jews according to the Law of Return;” regardless of whether or not they are Israeli citizens. Theoretically, Cremisan lands could be allocated to Jewish immigrants, people who have never set foot in Occupied Palestine until recently, only to grab conveniently transferred land from generations of Palestinians to newly acquired land for settlement expansion between Bethlehem and Jerusalem.

21 Id.
22 Id.
25 Id.
26 Id.
In stark contrast to civil Israeli laws that apply to the settlers residents of West Bank settlements, Palestinians in the West Bank are subject to much stricter military legal law – military orders that have been issued by generals in the Israeli Army since 1967.\(^{27}\) Israeli military law, the same law that is being invoked to build the Annexation Wall in Cremisan, is being applied in addition to Jordanian, British, and Ottoman Laws which preceded the region’s occupation.\(^{28}\) This report demonstrates that “discrimination between Israelis and Palestinians, living under one rule and in the same territory, is not a localized phenomenon, but an issue of institutional discrimination, as it applied to areas entirely unrelated to security matters. It falls to Israeli society to recognize this reality.”\(^{29}\)

Freedom of movement is strictly protected under civil Israeli law and is an essential condition for the realization of most basic rights.\(^{30}\) Without freedom of movement, a person has difficulty making a living, receiving an education and healthcare services, participating in family life, etc. As stated by Israeli Supreme Court Justice Theodor Or:

“In Israel, freedom of movement is guaranteed as a basic right […] It also encompasses a person’s freedom to move freely throughout and across the State of Israel […] This right is essential to individual self-actualization.”\(^{31}\)

Unfortunately for Palestinians, this Israeli civil law standard for measuring one’s quality of life does not apply. Building the Annexation Wall in the Cremisan valley inevitably means that local families’ freedom of movement becomes severely hindered, cutting them off from their families’ property and delegitimizing their rights to sustain a good quality of life for their families’ future generations.

\(^{27}\) Id.
\(^{28}\) Id.
\(^{31}\) HCJ 5016/96 Horev v. Minister of Transportation, PD 51(4) 1, 95. (2007).
B. The Cremisan Legal Case

Initially, when in 2006 an Israeli military commander issued an order to build part of the Annexation Wall in the Cremisan valley, the Israeli army suggested that the Wall should pass in front of the Convent, which would have left the Convent and its school on the Israeli side of the Wall, while the very community that it serves, would have remained on the Palestinian side. The Wall would have required the building of a guarded gate at the entrance to the Convent and school, which would have seen the passage of children, teachers, and Convent staff completely controlled by the military and in need of permits to attend their local school.

St. Yves intervened as the legal representative for the Convent and school in 2010, on the strength of which Israel decided to change the route and planned to build the Wall not at the entrance to the Convent but on the existing wall that surrounds it and the school. However, this would have seen the Convent being cut off from its property that it has been in possession of since its establishment. Israel suggested that the Convent could access its lands through agricultural gates that it would build within the Wall, which would be open only during certain times during the year’s agricultural season. Building the eight meter high Wall would have blocked the Convent’s view of the Cremisan Valley, creating a prison-like atmosphere for the nuns and the students. The land would have been closed to students, wherein they could no longer participate in outdoor recreational and educational activities.

On August 4, 2014, the Israeli Supreme Court decided after a hearing that Israel should reconsider its suggested route, ensuring that both the Silesian Convent and Monastery would be on the Palestinian side of the Wall. On September 4, 2014, the Israeli Ministry of Defense complied with the Court’s decision by offering new suggestions. Nonetheless, these suggestions still strove to cut off the Convent from its lands, as well as the lands owned by families from Beit Jala: no amount of agricultural gates would solve this problem, considering they would be operated by the Israeli army and would still not facilitate access for recreational or educational purposes.

32 Military Orders #62-06 and 75-07.  
34 Id.  
35 Id.  
36 Id.  
37 Id.  
38 Id.  
40 Id.  
On November 30, 2014, the Israeli High Court held an additional hearing, in order to understand the petitioners’ opinions and apply pressure on them to choose one of the routes suggested by the army. All concerned parties – the Convent, the Monastery, and the landowners – were steadfast in their position that they were fully opposed to all the suggested routes.42

On April 2, 2015, the Israeli High Court delivered its final decision; ruling in favor of keeping both the Monastery and the Convent on the Palestinian side of the Wall, and their connectivity to the community they serve, while at the same time prohibiting construction of the Wall on their lands, giving them convenient access to their agricultural lands.43 As to the privately owned agricultural lands in Cremisan, a “facilitated access” for the landowners was to be provided by the Army. It was not understood whether or not the landowners were granted protection according to the court’s final ruling.

Shortly afterwards, the Israeli army revealed its intentions in the area: in late April 2015, the Army informed the landowners that it would start building the Annexation Wall as per the final Court decision. The landowners submitted a contempt of Court petition, stressing that building the Wall contradicts the court’s decision, but the Court ruled against it. The Court explained that the Israeli army did not contradict its final decision, and clarified that the Annexation Wall – according to the final decision - is to avoid only the Convent and the Monastery, as well as their lands, and not the privately-owned lands. Thus, the Israeli Ministry of Defense was given the green light to begin building the Annexation Wall in the privately owned lands in Cremisan. In other words, the Court limited the ban on building the Annexation Wall to the lands surroundings of the Convent, the Monastery, as well as both orders’ agricultural lands. This effectively leaves a small opening in the Wall, which is a couple of hundred meters in width adjacent to the Convent and Monastery and their lands.

The Israeli Ministry of Defense claimed that the Court’s initial decision from last April 2015 did not annul the full planned route; rather that it had only requested maintaining the geographical connection between the Salesian Convent and Monastery as well as the connection between them and the local community. The High Court dismissed another petition presented by the landowners in Cremisan on August 5th 2015, in which they requested that the route of the Annexation Wall as presented by the Army be annulled, and that the Army present an alternative route.

On July 30th, 2015, St. Yves submitted a new petition to the Israeli High Court, in which it requested the Court to order the Ministry of Defense to reveal and present the whole planned route of the Annexation Wall in Cremisan before it proceeded with building it in privately owned lands. St. Yves also requested the High Court to issue an injunction preventing the Army from building the Wall before they reveal the whole planned route of the Wall, and after allowing all parties and petitioners to submit their objections, especially for the landowners who would incur severe damages from the construction of the Annexation Wall.

In its capacity as the representative of the Salesian Convent, St. Yves stated in its petition that since the Army intends to build the Annexation Wall in Cremisan, leaving a gap of 225 meters of land, without presenting its planned route or suggesting modified routes, it will create an unlawful situation where facts are imposed on the ground, thus disposing of the possibility to set a route in the future which would be less harmful and more convenient for landowners, the local community and their interests, as demanded per the final ruling of the High Court which was delivered in April 2015.

St. Yves also highlighted in its petition that building the Annexation Wall without revealing the whole planned route can be subject to future problems that would affect the landowners and the local community directly, and the Monastery and Convent indirectly, such as harming student access and rending the educational mission of the Salesian orders useless, or depriving the school from the possibility of expanding.

Accordingly, St. Yves demanded that the Army reveal the whole route of the Wall immediately and refrain from any construction until then. The Court ruled against both St. Yves’ and the private landowners’ petitions in January 2016, and held that Israel can build the Annexation Wall as planned, up to the road that connects the Convent and the Monastery to Beit-Jala, while keeping a 225 meter gap in the Wall in order to keep both the Convent and the Monastery connected together and to the communities that they serve. The Court also held that if, in the future, the current route of the Annexation Wall negatively affects the rights of the Convent and the Monastery, then it is not to be considered the final route, nor shall it be construed as the final route should it constitute a hindrance to the landowners’ reasonable access to their agricultural lands. This decision came despite the fact that the Israeli Ministry of Defense argued that the route of this section of the Wall is the final route.

The Court also held that once Israel decides on the final route of the Annexation Wall, it will be possible for the landowners and the Convent and/or any affected party to submit objections against the whole route including the 1.2 kilometer section of the Wall which is currently being built. It is important to state here however that the Wall as built constitutes a fait accompli, a physical fact on the ground. Even if future objections to the route of the Wall are accepted, the likelihood of the Wall being demolished and re-routed is slim to none. The Cremisan case is an example that demonstrates how flagrant violations of International Humanitarian Law are accepted and normalized by Israeli Courts, against Israel’s international commitments, obligations and responsibilities.
IV. INTERNATIONAL LAW

Regarding the Wall’s construction as well as the construction of settlements on occupied territory, Israel constantly argues that the Fourth Geneva Convention does not apply in the West Bank as the area did not belong to a “High Contracting Party” at the time of occupation. Similarly Israel argues that it is not bound by human rights conventions in the OPT because the application of human rights conventions is limited to a State’s national borders – which do not include the West Bank. This issue of applicability was authoritatively settled in 2004 by the International Court of Justice in the Wall Advisory Opinion, clarifying that Israel continues to have the status of Occupying Power in the OPT and is bound, as such, by customary international law and the humanitarian and human rights treaties it has ratified, including, among others, the Fourth Geneva Convention, the International Covenant on Economic, Social and Cultural Rights (“ICESCR”), and the International Covenant on Civil and Political Rights (“ICCPR”).

Israel continues to act in violation of international law across the board vis-à-vis Palestinian lands and Palestinian communities. Despite clear condemnations by the international community for actions which are illegal under international law such as the construction of the Annexation Wall, the settlement enterprise and the forced transfer of Palestinian civilians, Israel has moved forward with these policies to cement its ultimate goal - namely the annexation of Palestine.

44 Id. (rejecting Israel’s assertion that Geneva IV doesn’t apply, the ICJ said that because the war saw the West Bank changing hands between two states that were party to the Convention, then the territory that was exchanged, i.e., the West Bank, is under the Convention).
A. ICJ Opinions re: the Annexation Wall – illegal

The first main issue with the building of the Annexation Wall in any regard, not just in Cremisan, is the denial of Palestinian rights to self-determination. The International Court of Justice (“ICJ”) mentioned the rights to freedom of movement and the right against invasion of privacy of home and family, which are enshrined in Articles (12) and (17) of the ICCPR, and the right to work, to an adequate standard of living, health, and education, which are enshrined in Articles (6), (11), (12), and (13) of the ICESCR.

In its conclusion, the ICJ stated that Israel must cease construction of the Wall, dismantle the parts of the Wall that were built inside the West Bank, revoke the orders issued relating to its construction, and compensate the Palestinians who suffered losses as a result of the Wall. Succinctly, Israel should cease flouting the ICJ’s judgment and desist from confiscating even more Palestinian land. This is not security; this is, in the absence of armed conflict in Cremisan, illegal expansion and annexation. The ICJ also called on the international community to refrain from assisting in maintaining the unlawful situation that has arisen following construction of the Wall, and to take legal measures to cease Israel’s violations and to ensure enforcement of the Fourth Geneva Convention (i.e., revert to the Green Line borders of 1948). It would behoove the United Nations, the European Union, the United States, and the Vatican to interdict Israel’s political message of security with one of human rights, fairness, and common sense in maintaining the status quo in the Cremisan, lest Israel incite resentment for the confiscation and annexation of even more privately held Palestinian land.


49 Id.

50 Id.
B. The Fourth Geneva Convention

Article (47) of the Fourth Geneva Convention solidifies the inviolability of rights of people, regardless of the political regime under which they find themselves. This includes all people under occupation. Not only does the presence of the Wall have devastating effects on the civilian Palestinian population, but it also propagates the Israeli-Palestinian issue, continuously thwarting the possibility of peace in the region. Article (53) prohibits the destruction of real and/or personal property owned by private individuals, the occupied state, or by a collective of social organizations, outside of absolute military necessity. The defamation of local land in Cremisan is hardly a military necessity, as it has not been the site of militant action in the recent past. It is, however, the site of some of the most fertile land in this part of the Holy Land, making it a highly desirable acquisition for the Israeli state in the propagation of its settlement expansion.

Article (49) prohibits the forcible transfer of the occupied population, both within the borders of the occupied territory and outside of the occupied territory. International jurisprudence has shown that not only direct forcible transfers are against the terms of the convention but also those indirect means used to produce the forcible transfer of the occupied population such as intimidation, restriction and appropriation of resources and demolitions calculated to render the conditions of life so unbearable in an area that the residents are left with no genuine choice but to leave. The construction of the Annexation Wall and associated settlements have severely infringed opportunities for education and employment in certain areas and often has resulted in the destruction of the means and ways of life which Palestinians need to survive. Though the Supreme Court of Israel has argued on numerous occasions that deportation of selected individuals for reasons of public order and security was not a violation of Article 49, this view is not widely held.

51 Id. (explaining that the Wall is overstepping the Green Line in an effort to incorporate 320,000 Israeli settlers that are illegally living in occupied territory).
53 See, e.g., HCJ 282/88 ‘Awad v. Minister of Interior, 5 June 1988 para. 162, also HCJ 698/80 Kawasme and Others v. Minister of
Concurrently, and contrary to international law, Israel promotes its own citizens to move to and settle in the West Bank mainly by providing incentive packages for settlers. Israel provides vast tracts of land and large water supplies to these illegal settlements, creates specific plans that take into account both present requirements and forthcoming expansion, and “turns a blind eye to violations of planning and construction laws in settlements”54. The transfer by the Occupying Power of its own population to parts of the occupied territory is prohibited by Article (49)(6). This clause was specifically inserted into the Convention in order to ensure against colonial designs and demographic alteration. Israel was found to be in breach of this article in the Wall Advisory Opinion 55.

It is finally worthy of note that Article (147) considers unlawful transfer and “extensive destruction and appropriation of property, not justified by military necessity [which is] carried out unlawfully and wantonly” as grave breaches of the Convention.

C. Holy See – Israel Treaty

On a different but central issue, Israel has legal commitments to the Catholic Church and its constituency in the Holy Land. In the Fundamental Agreement of 1993, the Holy See and the State of Israel normalized their diplomatic relations, giving effect to many of the extant status quos that exist to this day. In Article (3), Section (2) of the Fundamental Agreement, it states that:

«The State of Israel recognizes the right of the Catholic Church to carry out its religious, moral, educational and charitable functions, and to have its own institutions, and to train, appoint and deploy its own personnel in the said institutions or for the said functions to these ends. The Church recognizes the right of the State to carry out its functions, such as promoting and protecting the welfare and the safety of the people. Both the State and the Church recognize the need for dialogue and cooperation in such matters as by their nature call for it.»56

This agreement entails that political ploys against Catholic religious institutions will not be tolerated in the Cremisan Valley, because the Monastery, the Convent and its school are religious in nature and are protected under this agreement. The Israeli government’s past interference with the community life of both the Convent and the Monastery has contravened the Agreement. Likewise, the farming community of Cremisan is clearly the constituency of the Catholic Church that is referred to in the Agreement, thus assuring the local population protections for their way of life, most notably the education of their children and the continuation of their family lives without outside military interference.

The lives of 58 Christian families is now in jeopardy, due to the subsequent confiscation of their lands where the Wall is being built.57 They are almost sure to leave as a result of the Israeli government’s...
land grab policies disguised in the form of security measures.\textsuperscript{58} Besides, hundreds of other families will be negatively affected by the new Israeli colonization plan in Cremisan. The families will collectively lose 300 hectares of land to the other side of the Wall as well as sources of irrigable water for their crops and for drinking.\textsuperscript{59}

The Israeli government’s denied protection and registration of minority religious sites and institutions has led to a tacit purging of Palestinian culture, violating international human rights law while contravening the Protection of Holy Places Law of 1967. Under international law, Israel must respect the religious rights of all people within its territory (and the territories which it administers as the occupying power), including the protection and recognition of minority religious sites. In Article (18) of the ICCPR, the freedom of religion and worship. These rights are derogable only at times of «public emergency which threatens the life of the nation,» and even then no diminishment of the «rights to life (...) and freedom of thought, conscience and religion» is admissible.

Furthermore, because ethnic, religious and linguistic minorities exist, Article (27) of the ICCPR guarantees these minorities the right, «in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, [and] to use their own language”. This equality implicates the right for religious sites to be protected at the same level that the majority religious sites are in Israel. The ICJ has affirmed the applicability of the ICCPR to the oPt as Israel maintains effective control of the area.

Israel cannot rely on a military law regime to circumvent its obligations under international law, especially considering their agreement with the Vatican on protecting religious minorities, a binding human rights convention ruled by international treaty law. Considering the Wall is dividing Beit Jala into two for the benefit of Israeli citizens in the settlements outside Jerusalem, Israel would do well to apply the Fundamental Agreement to these areas where the Wall is being built, in order to ensure continuity for the protection of minority religious places and institutions.

\textsuperscript{58} Id.

\textsuperscript{59} Asia News, «For Palestinian leader, the Cremisan Valley Wall is a new obstacle on a path toward peace,» (July 08, 2015) available at http://www.asianews.it/news-en/For-Palestinian-leader,-the-Cremisan-Valley-Wall-is-a-new-obstacle-on-the-path-of-peace-34720.html.
V. ADVOCACY EFFORTS IN CREMISAN

Ever since the Israeli army declared its intention to build the Annexation Wall in Cremisan, Beit Jala citizens put up a steady fight against its implementation. From the outset, the catastrophic consequences of its construction on Beit Jala were clear: more isolated and annexed lands, the loss of its last Green and recreation space, and a threatened existence of tens of Palestinian Christian families due to the loss of their lands and major sources of income.

Besides resorting to the legal recourse in Israeli courts in an attempt to restore their rights, the residents of Beit Jala adopted the path of non-violent resistance. In 2011, Beit Jala Parish youth started an initiative of holding weekly open air masses in the olive groves of Cremisan for prayer and communion, regularly every Friday at 3:30 p.m. The selected day and time are not a coincidence, and carry much symbolism behind, as they represent the day and hour of the death of Jesus Christ and his eventual resurrection. Praying in the olive groves of Palestine reflects Jesus’ prayer the night before his death in an olive grove in Gethsemane in Jerusalem. The weekly mass protest received much solidarity and participation from communities all around the globe, including activists, Palestinian and international government officials, diplomats, and heads of churches from all denominations. The Palestinian President, Mahmoud Abbas, has consistently included the Cremisan case in his Christmas message every year since 2012.

In February 2014, the 3 mayors of Bethlehem, Beit Jala and Beit Sahour took part in Pope Francis’s General Audience and met him in Rome to ring the alarm bells on the destructive effects of building the Annexation Wall in Cremisan on the Palestinian Christian community, and how it is bound to push them further into choosing exodus from the city where Jesus was born. During the Pope’s visit to the Holy Land in May 2014, a Palestinian Christian family which owns lands threatened by confiscation in the Cremisan area met the Pope over lunch, and demonstrated the plight of Palestinian Christian families who would lose their lands as a result of building the Annexation wall, which eventually means they would lose their future and their Children’s future in Palestine.
After the Israeli army started its Wall construction work in the area, daily open air masses was held in
the bulldozed lands, with a heavy military surrounding, along with a weekly peaceful demonstration
that marched in the area to protest against erecting the Annexation Wall. The unarmed, non-violent
demonstrators, mainly Palestinian families, activists and religious leaders, were met with mass
violence from the Israeli army, including firing tear gas bombs and stun grenades, assaulting and
arresting the demonstrators.

“This land belongs to us. Whatever they do, whatever their courts say, this land belongs to us
and it will return to us one day. You are stronger with your guns, but you are not the strongest
when it comes to humanity.”
Latin Patriarch Emiritus of Jerusalem, H.B Michel Sabbah, during the weekly demonstration in
Beir Onah, August 30th, 2015

Throughout different phases of the case, tremendous diplomatic and political efforts were put
in attempting to prevent the Israeli plans: the Cremisan valley was visited by the highest ranking
international governmental and diplomatic figures. Examples include: Archbishop of Canterbury
Justin Welby, U.S Special Representative for Faith-Based Initiative to the US Department of State,
U.S Ambassador at Large for International Religious Freedom, Consuls Generals of the US, UK, Latin
America, EU Consuls, Representatives and heads of missions, US Ambassador to the UN Human
Rights Council, UN representatives, heads of churches and bishops from all around the world,
including annual visits by the Bishops of Holy Land Coordination. In 2015 an oral statement before
the UN Human Rights Council was dedicated to the Cremisan case, delivered by the former Parish
Priest of Beit Jala, Fr. Ibrahim Shomali, through which he warned the Council and member States
against allowing the construction of the Annexation Wall in Cremisan and the eventual strangulation
of Bethlehem and its Palestinian Christian community as a result of it. The Cremisan case was also brought up before the UN Security Council by the UK in May 2016. Moreover, many statements condemning the Israeli Annexation Wall in Cremisan and expressing great concerns were issued by State Representatives, diplomatic missions and world church leaders.

«The construction of the Separation Barrier is also a cause of great concern. In Cremisan, for example, where, as with 85% of the planned route, construction of the Barrier is illegal, 58 families risk being blocked from their land, their schoolings and their healthcare facilities.»

UK’s intervention before UN Security Council, May 6th, 2016

For nearly a decade, the Beit Jala community fought the Annexation Wall in Israeli courts, with the hope that the Israeli judicial system might protect their rights, but it gave them no more than a delusional sense of justice, and eventually put a legal stamp on the Israeli settlement project in Cremisan. Beit Jala’s recourse to non-violent struggle and heavy international advocacy to prevent the construction of the Annexation Wall in Cremisan gave nothing in return either, and eventually, the Israeli illegal annexation and settlement plans prevailed in Cremisan, once again, under the guise of “security”.

Church leaders in peaceful march against the annexation wall in Cremisan 13 September 2015
VI. RECOMMENDATIONS

Given the Israeli policies of expansion and annexation in the Occupied Palestinian Territory generally, and in the Cremisan valley specifically, and with Israel’s expressed insistence to proceed with its plans of building the Annexation Wall in Cremisan, the Society of St. Yves calls upon the international community to urgently exert pressure on Israel and insist upon:

1. Israel to respect the local Beit Jala Palestinians’ rights to self-determination, including their property rights, right to freedom of movement, right to work and right to education under the UN treaty bodies of the ICCPR and ICESCR.

2. Israel to immediately comply with its obligations under international law, abide by the ICJ’s ruling in its Advisory Opinion, cease construction of the Annexation Wall in Cremisan - dismantling the parts of the Wall that were built inside the West Bank, and revoke the military orders issued relating to the Wall’s construction.

3. Israel to cease relying on its military legal regime in the West Bank to circumvent its international law obligations for the benefit of the Palestinian people under occupation as well as its own supposed democratic values.

4. The international community to refrain from assisting in maintaining the unlawful situation that has arisen following construction of the Annexation Wall and take legal measures to cease Israel’s violations of international law and international human rights law, including measures to ensure enforcement of the Fourth Geneva Convention.

5. Individual states to take concrete measures in order to prevent its companies and organizations to profit from and to contribute to the illegal Israeli settlement enterprise in Occupied Palestine, including the Cremisan Valley. This includes corporations and so called charitable organizations, according to the UN Human Rights Council Resolution 31/3660.

60 See Annex 12 in this report
ANNEX 1 - Maps
ANNEX 1 - Maps
ANNEX 1 - Maps

Option A - As suggested by the State of Israel

The Annexation Wall in Cremisan
ANNEX 1 - Maps
ANNEX 1 - Maps
“My family owns, or used to own, a 4 and a half duman land in Beir Onah, now it has been divided to 3 pieces; parts of it behind the annexation wall, others under the wall and the remaining before it. I’ll never forget that day, the 17th of August 2015. I received a call at 7:15 a.m. saying that Israeli forces are destroying our lands. I immediately went there with my brother and found that the whole area was closed and declared a military zone. They were bulldozing all the lands and uprooting all the olive trees – I would say executing the olive trees. Our olive trees used to date back to the roman times, they were ancient. They are now all gone- all except for one tree, and it is half broken behind the wall. As soon as they were done eradicating the lands, my brother and I tried to enter our land, but the Israeli soldiers assaulted us.

After all this damage, we only wanted to go to our land, but we were met with barbarism and violence. They beat us up, and they did not even want to talk to us. My brother had a heart attack while being beaten by the soldiers and stayed in the hospital for a while. They arrested me but released me shortly after. One year since, the wall stands tall there today!”

Issa Shatleh

44 years old

Beit Jala Municipality Employee

Father of 3 children
Testimony # 2:

“My family own a plot of land of approximately 1 dunum in Beir Onah – Beit Jala. The land is cultivated with olive trees, peach, plum and grapes, and I have bee hives in it. My house is 150 meters away from the land. In the second half of June 2015, a group of Israelis, accompanied by border police, visited the area, including my land, and put red and wooden marks on different spots in the lands owned by different families there.

On Sunday, August 16th 2015, they came back again, this time accompanied by border police and a private security force. I went to talk to them, and asked them what they were doing in our lands. They said that they were going to start working in the lands the following day, and that we will know the route of the Wall by the trees that will be uprooted – meaning that the Wall will pass wherever they uproot trees. On the morning of the following day, Monday the 17th of August, at around 7:15 a.m. between 10 to 15 border police jeeps arrived to the area and positioned themselves in different spots, but mainly at the entrance of the main road, accompanied by bulldozers and heavy machinery. Then, the bulldozing work started on the lands, uprooting ancient Roman olive trees. They started uprooting the trees of the Shatleh family. They were uprooting the trees in a way that makes it impossible for them to produce olives again if re-planted. I went to my land, and I wanted to enter it to care for my bee hives, which require daily care, but the soldiers blocked my way and said I cannot go there. They also prevented my brother Judeh from entering the land when he attempted to do so that same morning. At around 11 a.m. the landowners, activists and journalists gathered in Beir Onah where the trees were being uprooted. The landowners, including myself, tried to talk to the soldiers that were there in an attempt to convince them to halt the work and stop uprooting their olive trees, but they did not listen and ignored us. The work continued anyway”.

Rami Abu Sa’d
Land Owner
Owners of Land Threatened by Confiscation in Cremisan

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*Source: Beit Jala Municipality – June 2015*
February 9, 2015

A Cry for Justice to H.H Pope Francis from the Christians of Palestine, the Holy Land

Subject: The Segregation Wall around Cremisan area in Beit Jala city of Bethlehem Governorate, Palestine

Your Holiness, while thanking you for giving us the privilege to meet you, we would like to provide you of more information on a matter that affects Palestinian Christians in the Holy Land, and particularly those in the Bethlehem Area. We, Christian and Muslim residents, religious institutions, civil institutions and communities of Beit Jala town, convey to you our intense concern of the Israeli Segregation Wall and land confiscation activities, which have recently intensified on our lands, and urge you to please help us to Stop the Israeli Segregation Wall and Beit Jala Lands Seizure.

Israel’s Illegal Annexation Wall in Bethlehem

In Bethlehem Governorate a total of 7000 hectares (70 km²) will be cut off behind this Wall from Bethlehem Governorate and will be annexed to Israel. More than 1600 hectares of the area to be segregated are owned by Christian Palestinians living in the three towns of Bethlehem, Beit Jala, and Beit Sahour. The wall will stop all our fertile agricultural lands located at the northern, western and southern parts of Bethlehem Governorate.

The total length of the segregation wall in Bethlehem is planned to be 50 kilometers (31.2 Miles) with a width of 68 meters as a buffer zone.

The proposed wall over the lands of Beit Jala town has a length of 11.7km of which 2.7 km are constructed and 9km planned. The wall stands to isolate 6420 dunums in total, around 3900 dunums in Cremisan area (approximately 45% of Beit Jala’s lands) behind it.

Background of Beit Jala town

Beit Jala, in the Bethlehem Governorate, is a growing Palestinian agricultural town (whose name in Aramaic means “grass carpet”) originally spread over an area of 14,000 dunum (1,400 hectares). It is located at only 1 km west of Bethlehem and 8 km southwest of Jerusalem at an
The Annexation Wall in Cremisan

The Annexation Wall in Cremisan

ALTITUDE of 650-930m above sea level. It lies on slopes covered with olive trees, vineyards and apricots. Beit Jala hosts a population of around 17,000.

Over 47 years of occupation of the West Bank in June 1967, many colonization schemes were implemented in Beit Jala, which shred the town’s agricultural and social infrastructure into segments beginning with the three Israeli settlements Gilo, Har Gilo, and Givat Hamatos, and the by-pass road 60 confiscating from Beit Jala citizens around three thousand dunam of land. In addition, the annexation of 1967 of East Jerusalem included a large area of Beit Jala lands. This annexation spread from St. Elias monastery to Cremisan monastery land and included a horizontal distance of more than 2km.

The latest scheme planned by the Israeli Authorities is the segregation wall around the West Bank and occupied Jerusalem, which included a ring wall around Bethlehem area; especially in the Cremisan valley calling it a separation wall "Seam line around Jerusalem". This wall in this area is adjacent to the houses of Beit Jala citizens and takes a trajectory around the Salesian nuns' monastery leaving it with the Palestinian side and continues around the Cremisan land simulating the Cremisan Monastery on the side of Jerusalem and cutting it off from the Bethlehem environs. Also the Israeli forces built a road from Alwalajh bypass road 60 to the lands of the Cremisan monastery thus connecting it directly with Jerusalem.

Legal aspects of the wall case:

In July 2003, the International Court of Justice (ICJ) passed an advisory opinion declaring that the wall Israel is constructing is illegal built on others lands and it should stop building it, dismantle the built and repair all damages caused to the lands and land owners. This Wall is a collective punishment and a human right violation, including the right to self-determination, the right to freedom of movement, the right to work, the right to medical treatment, the right to education, and the right to an adequate standard of living and access to holy places. Therefore the ICJ declared that the illegal Israeli annexation Wall has to be dismantled and Palestinians have to be compensated for the damage on their lands.

Having been prevented from accessing international courts, Beit Jala municipality since 2006 have filed a court case against the Israeli military to cancel the current trajectory of the wall around and close by the houses of the Beit Jala’s Palestinian citizens, Salesian monastery land and the Cremisan area lands. This case reached the Central Court in Tel Aviv and currently it
is in the Israeli Supreme Court in Jerusalem. This request for cancellation of wall trajectory to the court is based on that the proposed wall:

- Separates both Salesian monasteries from each other, the nuns’ monastery and the Salesian Monastery of the fathers, as well as destroying part of the nuns’ monastery lands.
- Separates the Bethlehem Christian community of Bethlehem, Beit Jala, and Beit Sahour from the Cremsian monasteries, school and services that are offered to this Christian community.
- Annexes lands in the Cremsian valley that are owned by Beit Jala Christian families of around 2000 dunums. Those lands are considered as an income generating for those families from benefiting from its olive products.

The Council of Peace and Security (Israeli retired military officers) submitted to the Supreme Court an alternative trajectory plan for the separation wall in this area running along the northern side of the Cremsian valley adjacent to the Gilo settlement in Jerusalem and continues to the Armistice Line closing near Abudaych village. (included are maps showing this alternative trajectory), but the military still insists on the trajectory proposed by them initially and will not accept any other alternative proposal due to their own reasons. This alternative trajectory proposed by the Council of Peace and Security is a better trajectory of the two evils since it allows connection of the two monasteries and the mobility of the Bethlehem Christian community to use the premises of both monasteries as well as the Beit Jala land owners can reach their lands and to farm them.

Today the status of this case is waiting for the final ruling of the Supreme Court after its last hearing on 30/11/2014.

We are against separation walls of all kinds, we do not want walls instead we want bridges.

**Impacts of the wall:**

The agricultural lands to be segregated are a major source of income of Beit Jala citizens, and Bethlehem Governorate in general, in addition that they include the only remaining forest (Cremsian forest) West of Bethlehem city, which is considered today the only recreational site in the whole area where many citizens used to go during weekends or holidays. The Wall will
swallow the remaining open spaces and strangle the built-up areas and leave Beit Jala without any possibility for future urban expansion or development.

The population densities in Beit Jala’s municipal area, which is 4460 dunums reaches to nearly 3628 person/km² in 2005, with the creation of the segregation zones and the isolation of the open spaces the population densities are projected to increase to nearly 4196 person/km² in the coming five years. This situation will lead directly to an alarming level of population densities in the urban areas and leads to numerous urban stress and problems. Israel’s implementation of the Segregation Wall in Beit Jala city, Bethlehem Governorate amounts to indirect forceful ethnic cleansing by making the living conditions completely unbearable and unsustainable, and will contribute in emptying the Palestinian Christians from around the birthplace of Christ and the Holy city of Bethlehem.

This confiscation is a clear Israeli land grab measure, which will affect the sustainable development of the town; also it has major negative impacts on the political, economic, social and environmental aspects of the Palestinian life summarized in the following points:

- The wall intends to keep more than 45% of Beit Jala’s lands under Israeli control in the western segregation area.
- Harsh measures are imposed on Palestinian mobility and movement to the segregated area.
- Increased urbanization pressure and population density and will create new demographic facts that will lead to forced migration among Palestinians.
- It will cause severe damage to the Palestinian agricultural sector and the farmers, and natural resources will decrease, forestry, pastures, open spaces and recreation area will be extremely limited. Also a distortion in wildlife movement as a result of cutting off different kinds of species from their natural habitat, and will alter the Palestinian natural landscape.
- Loss of open space posing a threat to the sustainability of the urban and rural areas as well as to the natural resources and biodiversity.
- The owners cannot benefit from their lands that are majorly planted with ancient olive trees through selling their olive and oil and using the olive wood in the handicrafts sold to tourists, this will increase the levels of poverty causing an escalating hatred and violence among the population.
Your Holiness Pope Francis, having survived the horrors of the 1948 Nakba (catastrophe) and the occupation that began in 1967, we know very well what Israel is doing. If it is not stopped, we risk losing any chance to achieve a just and lasting peace. We call upon your Holiness to be our faithful messenger in front of God in your prayers. Therefore we call upon your Holiness to intervene and help us by pressuring the Israeli Government to stop building the wall in this area, which will enable us to achieve our goal for a free and independent state with no settlements and no walls, and the Palestinian Christians to remain as “the salt of this land.” We pray with Prophet Micah “to do justice, love, and mercy and to walk humbly with your God (Micah 6:8).”

Vera Baboun  
Mayor of Bethlehem

Najla Khamis  
Mayor of Beit Jala

Hani Abdelmosilh  
Mayor of Beit Sahour

Municipality of Bethlehem  
03.02.2015

Municipality of Beit Jala  
03.02.2015

Municipality of Beit Sahour  
03.02.2015
JERUSALEM - the Assembly of Catholic Ordinaries of the Holy Land (ACOHL) observes with anxiety the latest developments in the “Cremisan” Valley’s case, of which the final verdict is expected any minute now. The last hearing, held on November 30th, 2014 was meant to pressure the residents in order to make a choice between two unacceptable alternatives, both to the community and the Salesian Congregation.

ACOHL stands wholeheartedly with achieving justice in “Cremisan” and against building the separation wall, which is contrary to international law. In fact, the wall is intended by Israel, not to achieve security for its pre-June 1967 borders, but to protect the settlements illegally constructed on previously confiscated land in the early seventies and to give more expansion to Gilo and Har Gilo settlements. At the same time, the wall alienates the most basic rights and freedom of the Christian community of Beit Jala.

ACOHL stresses that land confiscation and settlement expansion do not serve peace in the region and warns of the continuous emigration of the “Cremisan” community, mostly Christians, as a result of building the separation wall. ACOHL hopes that the Israeli High Court changes its route and shifts it along the “green line”. The bishops are in favor of building bridges and not walls.

Finally, ACOHL calls on the international community to take immediate action to protect the “Cremisan” valley’s integrity within the Palestinian side and prays for all those in power and authority to wake up and realize the values of justice and peace, based on mutual respect and international legitimacy.

+Fouad TWAL
Patriarch of Jerusalem for Latins
President A.C.O.H.L.

+ Georges BACAOUNI
Gr. Melkite Cath. Archb of Akko
Vice president A.C.O.H.L.

+ Moussa AL-HAGE
Maronite Archbishop of Haifa
Maronite Exarch of Jerusalem
President Comm. for Consecrated Life

+ Michel SABBAH
Latin Patriarch of Jerusalem emeritus
President Comm. Justice and Peace

+ Yaser Al-AYYASH
Gr. Melkite Cath. Archb. of Amman

+ Joseph SOUEIF
Maronite Archbishop of Cyprus

+ Jean B. SLEIMAN
Apost. Adm. ‘sede plena’ of Archep.of Amman

+ Boutros MOUALLEM
Gr. Melkite Cath. Archb. of Akka emeritus
ANNEX 5

THE ASSEMBLY OF CATHOLIC ORDINARIES OF THE HOLY LAND
Latin, Melkites, Maronites, Syrians, Armenians, Chaldeans, Custody of the Holy Land

+ Elias CHACOUR
  Gr. Melkite Cath. Archb. of Akko emeritus

+ Gregoire Pierre MELKI
  Syrian Catholic Exarch of Jerusalem

+ Joseph Jules ZEREY
  Greek Melkite Catholic Patriarchal Vicar of Jerusalem

+ Maroun LAHHAM
  Latin Patriarchal Vicar for Jordan

+ Giacinto-Boulos MARCUZZO
  Latin Patriarchal Vicar for Israel

+ William SHOMALI
  Latin Patriarchal Vicar for Jerusalem & Palestine

+ Kamal-Hanna BATHISH
  Latin Patriarchal Vicar general emeritus

+ Selim SAYEGH
  Latin Patriarchal Vicar for Jordan emeritus

Msgr. Georges DANKAYÉ
Admin Armenian Catholic Exarchate

Fr. Pierbattista PIZZABALLA, OFM
Custos of the Holy Land

Fr. Jerzey KRAJ, OFM
Latin Patriarchal Vicar for Cyprus

Fr. David NEUHAUS, S.J.
Patriarchal Vicar for Hebrew Vicariate

Fr. Pietro FELET, scj
Secretary General
Letter to President Obama from the Justice and Peace commission (ACOHL)

JERUSALEM – We publish the letter from “Justice and Peace commission” of the Assembly Catholic Ordinaries of the Holy Land to the US President Obama for his first visit in Israel, West Bank and Jordan. Barack Obama will arrive in Israel on Wednesday, his first visit as US president.

14 March, 2013

The President of the United States
The White House
1600 Pennsylvania Avenue, N.W.
Washington, DC 20500
USA

Dear Mr. President,

We, the heads of the Catholic/Christian Churches in Jerusalem, welcome you wholeheartedly on your forthcoming visit to Israel and Palestine. On this occasion we would like to draw your attention to some major problems that deeply affect the Christian presence in these countries.

In this year, the Palestinian people are living for 46 years under Israeli military occupation. The plight of the Palestinian Christians is the same as that of the Palestinian People as a whole, and as a consequence everything that affects the Palestinian people also affects the Christians.
In the occupied Palestinian territories, among the numerous violations of international law by the Israeli authorities we mention only a few: illegal Israeli settlements, a permit regime which restricts severely access to the Holy places for Muslims and Christians alike, expropriation of privately owned Palestinian land for settlement expansion and the construction of the separation barrier (like in the present case of the valley Cremisan), etc.

Statelessness, endless family unification procedures and the rejection of the registration of children as well as the limited possibilities to expand due to few granted building permits in East Jerusalem violate basic human rights of the Palestinians and force them into displacement, migration and exile.

The majority of the local Christian population being part of the Arab population in Israel, they are as such subjected to an ongoing, hidden policy of discrimination and are treated as second class citizens in the fields of education, job opportunities, property ownership, local municipal services, etc.

Though the Christian Palestinian presence plays an important role in this Holy Land: it gives a large contribution in the fields of education, healthcare and social services, their absence will have catastrophic consequences especially with the rise of the fundamentalists on both sides. Thus every effort should be made to preserve the Christian presence in the Holy Land, and to have it flourish in the future so that hope is not lost. The oppressive and discriminatory policies by the Israeli government constitute a violation of the protection of a religious minority which is specifically underlined by international law.

We urge you, in your position as President of the United States of America, to require from the State of Israel to respect international law and to stop all illegal policies targeting the Palestinian population of the Holy Land; this would be the best way of contributing to preserve and protect the Christian presence in the Holy Land.

Most Respectfully,

Yusef Daher
Secretary
On behalf of the Justice and Peace Commission

Bishops Call for Human Dignity as Basis of Peace  
*Statement of the Co-ordination of Bishops’ Conferences*  
in support of the Church in the Holy Land, 15 January 2015

We came to pray with and support the Christian community and to promote peace and human dignity in this divided land.

We witnessed the tragic consequences of the failure of both local and international politicians to advance peace. Human dignity is given by God and is absolute. The ongoing conflict assaults the dignity of both Palestinians and Israelis, but in a particular way our commitment to the poor calls us to lift up the suffering people in Gaza. A year ago, we called Gaza “a man-made disaster, a shocking scandal, an injustice that cries out to the human community for a resolution.” In the wake of the terrible destruction caused by last year’s war, our presence reminded the small Christian community that they are not forgotten.

Many tens of thousands of families in Gaza lack adequate shelter. In the latest freezing weather, at least two infants died of exposure. The continuing blockade dramatically impedes rebuilding and contributes to desperation that undermines Israelis’ legitimate hope for security. It also creates intolerable levels of unemployment and pushes ordinary people into deeper poverty.

Despite the devastation, the appalling scenes of destruction we saw, and the fears of another war we heard, hope is alive in Gaza. We saw families resolutely rebuilding their lives. We witnessed a small Christian community that has enormous faith. We admired the tenacity of many volunteers. We visited Holy Family School where Muslims and Christians study and play together in harmony. We met with the Holy Rosary Sisters, who true to their co-foundress Marie-Alphonsine, to be canonized a saint this year by Pope Francis, exercise a prophetic ministry of education. We celebrated Mass with the Sisters of the Bethlehem Carmel. Their foundress Mariam Bauardy, another Palestinian whose life testifies to the holiness that still emanates from this Land, also will be canonized.

Political leaders must defend the human dignity of the people in Gaza. One student poignantly told us that he received an email during the war asking if he needed food or clothing or shelter. Without bitterness, he replied that what he needed was dignity. People of good will on both sides of the conflict want the same thing, a dignified life worthy of the human person.

In the coming months we will continue to oppose the building of the proposed wall in the Cremisan Valley. It would result in the loss of the lands and livelihoods of many Christian families. This situation is tragically a microcosm of the reality of the land issue. We will also continue to oppose expansion of the settlement program, illegal under international law, which we witnessed acutely in Hebron. Its impact on the freedom of movement of Palestinians and the confiscation of lands is simply unjust.

After the failed negotiations and ensuing violence of 2014, we urge public officials to be creative, to take new approaches, to build bridges, not walls. We must humanize the
conflict by fostering more interaction between Israelis and Palestinians. Peace will only come when all parties respect the fact that the Holy Land is sacred to three faiths and home to two peoples.

Aware that this year we walk in the footsteps of Pope Francis, we take to heart his recent statement to the Diplomatic Corps:

“My thoughts turn above all to the Middle East, beginning with the beloved land of Jesus which I had the joy of visiting last May, and for whose peace we constantly pray. We did this with extraordinary intensity, together with the then President of Israel, Shimon Peres, and the President of Palestine, Mahmoud Abbas, inspired by a confident hope that negotiations between the two parties will once more resume, for the sake of ending violence and reaching a solution which can enable Palestinians and Israelis alike to live at last in peace within clearly established and internationally recognized borders, thus implementing the ‘two state solution’.”

The path to peace demands respect for the human rights of both Israelis and Palestinians. Our prayer nurtures the hope that makes peace possible. We call on all Christians to pray for the Jews, Christians and Muslims of this Land we call Holy.

Bishop Stephen Ackermann, Germany
Archbishop Stephen Brislin, South Africa
Bishop Raymond Browne, Ireland
Bishop Peter Bürcher, Denmark, Finland, Iceland, Norway, Sweden
Bishop Oscar Cantú, United States of America
Bishop Christopher Chessun, Church of England
Bishop Michel Dubost, France
Archbishop Ricardo Fontana, Italy
Bishop Lionel Gendron, Canada
Bishop Felix Gmur, Switzerland
Archbishop Patrick Kelly, England and Wales
Bishop William Kenney, England and Wales, COMECE
Bishop Declan Lang, England and Wales
Bishop Kieran O’Reilly, Ireland
Bishop Thomas Maria Renz, Germany
Archbishop Joan Enric Vives, Spain

Editors’ notes:
Since 1998, the Co-ordination of Episcopal Conferences in Support of the Church of the Holy Land has met at the invitation of the Assembly of Catholic Ordinaries of the Holy Land. Expressly mandated by the Holy See, the Holy Land Co-ordination meets every January in the Holy Land, focusing on prayer, pilgrimage and persuasion with the aim of acting in solidarity with the Christian community as it experiences intense political and social-economic pressure.
Summary of the Advisory Opinion of 9 July 2004

History of the proceedings (paras. 1-12)

The Court first recalls that on 10 December 2003 the Secretary-General of the United Nations officially communicated to the Court the decision taken by the General Assembly to submit the question set forth in its resolution ES-10/14, adopted on 8 December 2003 at its Tenth Emergency Special Session, for an advisory opinion. The question is the following:

“What are the legal consequences arising from the construction of the wall being built by Israel, the occupying Power, in the Occupied Palestinian Territory, including in and around East Jerusalem, as described in the report of the Secretary-General, considering the rules and principles of international law, including the Fourth Geneva Convention of 1949, and relevant Security Council and General Assembly resolutions?”

The Court then gives a short overview of the history of the proceedings.

Questions of jurisdiction (paras. 13-42)

At the outset of its reasoning the Court observes that, when seised of a request for an advisory opinion, it must first consider whether it has jurisdiction to give the opinion requested and whether, should the answer be in the affirmative, there is any reason why it should decline to exercise any such jurisdiction.

The Court first addresses the question whether it possesses jurisdiction to give the advisory opinion. It notes first that the competence of the Court in this regard is based on Article 65, paragraph 1, of its Statute, according to which the Court “may give an advisory opinion on any legal question at the request of whatever body may be authorized by or in accordance with the Charter of the United Nations to make such a request”, and secondly that the General Assembly, which seeks the advisory opinion, is authorized to do so by Article 96, paragraph 1, of the Charter, which provides: “The General Assembly or the Security Council may request the International Court of Justice to give an advisory opinion on any legal question.” As it has done sometimes in the past, the Court then turns to the relationship between the question which is the subject of a
The Annexation Wall in Cremisan

- 2 -

request for an advisory opinion and the activities of the Assembly. It observes in this respect that Article 10 of the Charter has conferred upon the General Assembly a competence relating to "any questions or any matters" within the scope of the Charter, and that Article 11, paragraph 2, has specifically provided it with competence on "questions relating to the maintenance of international peace and security brought before it by any Member of the United Nations . . ." and to make recommendations under certain conditions fixed by those Articles. It notes that the question of the construction of the wall in the Occupied Palestinian Territory was brought before the General Assembly by a number of Member States in the context of the Tenth Emergency Special Session of the Assembly, convened to deal with what the Assembly, in its resolution ES-10/2 of 25 April 1997, considered to constitute a threat to international peace and security.

After recalling the sequence of events that led to the adoption of resolution ES-10/14, the Court turns to the first question of jurisdiction raised in the present proceedings. Israel has alleged that, given the active engagement of the Security Council with the situation in the Middle East, including the Palestinian question, the General Assembly acted ultra vires under the Charter, because its request for an advisory opinion was not in accordance with Article 12, paragraph 1, of the Charter, which provides that: "While the Security Council is exercising in respect of any dispute or situation the functions assigned to it in the present Charter, the General Assembly shall not make any recommendation with regard to that dispute or situation unless the Security Council so requests." The Court first observes that a request for an advisory opinion is not a "recommendation" by the General Assembly "with regard to [a] dispute or situation", within the meaning of Article 12, but considers it appropriate to examine the significance of that Article, having regard to the practice of the United Nations. It notes that, under Article 24 of the Charter, the Security Council has "primary responsibility for the maintenance of international peace and security" and that both the Security Council and the General Assembly initially interpreted and applied Article 12 to the effect that the Assembly could not make a recommendation on a question concerning the maintenance of international peace and security while the matter remained on the Council’s agenda, but that this interpretation of Article 12 has evolved subsequently. The Court takes note of an interpretation of that text given by the United Nations Legal Counsel at the Twenty-third Session of the Assembly, and of an increasing tendency over time for the General Assembly and the Security Council to deal in parallel with the same matter concerning the maintenance of international peace and security. The Court considers that the accepted practice of the Assembly, as it has evolved, is consistent with Article 12, paragraph 1; it is accordingly of the view that the General Assembly, in adopting resolution ES-10/14, seeking an advisory opinion from the Court, did not contravene the provisions of Article 12, paragraph 1, of the Charter. The Court concludes that by submitting that request the General Assembly did not exceed its competence.

The Court recalls that it has however been contended before it that the request did not fulfil the essential conditions set by resolution 377 A (V), under which the Tenth Emergency Special Session was convened and has continued to act.

Resolution 377 A (V) provides that:

"if the Security Council, because of lack of unanimity of the permanent members, fails to exercise its primary responsibility for the maintenance of international peace and security in any case where there appears to be a threat to the peace, breach of the peace, or act of aggression, the General Assembly shall consider the matter immediately with a view to making appropriate recommendations to Members for collective measures . . .".

The Court proceeds to ascertain whether the conditions laid down by this resolution were fulfilled as regards the convening of the Tenth Emergency Special Session of the General Assembly, in particular at the time when the Assembly decided to request an advisory opinion from the Court.
In light of the sequence of events as described by it, the Court observes that, at the time
when the Tenth Emergency Special Session was convened in 1997, the Council had been unable to
take a decision on the case of certain Israeli settlements in the Occupied Palestinian Territory, due
to a negative vote of a permanent member; and that, as indicated in resolution ES-10/2, there
existed a threat to international peace and security. The Court further notes that, on
20 October 2003, the Tenth Emergency Special Session of the General Assembly was reconvened
on the same basis as in 1997, after the rejection by the Security Council, on 14 October 2003, again
as a result of the negative vote of a permanent member, of a draft resolution concerning the
construction by Israel of the wall in the Occupied Palestinian Territory. The Court considers that
the Security Council again failed to act as contemplated in resolution 377 A (V). It does not appear
to the Court that the situation in this regard changed between 20 October 2003 and
8 December 2003, since the Council neither discussed the construction of the wall nor adopted any
resolution in that connection. Thus, the Court is of the view that, up to 8 December 2003, the
Council had not reconsidered the negative vote of 14 October 2003. The Court concludes that,
during that period, the Tenth Emergency Special Session was duly reconvened and could properly
be seised of the matter now before the Court, under resolution 377 A (V).

The Court also emphasizes that, in the course of this Emergency Special Session, the
General Assembly could adopt any resolution falling within the subject-matter for which the
Session had been convened, and otherwise within its powers, including a resolution seeking the
Court’s opinion. It is irrelevant in that regard that no proposal had been made to the Security
Council to request such an opinion.

Turning to alleged further procedural irregularities of the Tenth Emergency Special Session,
the Court does not consider that the “rolling” character of that Session, namely the fact of it having
been convened in April 1997 and reconvened 11 times since then, has any relevance with regard to
the validity of the request by the General Assembly. In response to the contention by Israel that it
was improper to reconvene the Tenth Emergency Special Session at a time when the regular
Session of the General Assembly was in progress, the Court observes that, while it may not have
been originally contemplated that it would be appropriate for the General Assembly to hold
simultaneous emergency and regular sessions, no rule of the Organization has been identified
which would be thereby violated, so as to render invalid the resolution adopting the present request
for an advisory opinion. Finally, the Tenth Emergency Special Session appears to have been
convened in accordance with Rule 9 (b)
of the Rules of Procedure of the General Assembly, and
the relevant meetings have been convened in pursuance of the applicable rules.

The Court turns to a further issue related to jurisdiction namely the contention that the
request for an advisory opinion by the General Assembly does not raise a “legal question” within
the meaning of Article 96, paragraph 1, of the Charter and Article 65, paragraph 1, of the Statute of
the Court.

As regards the alleged lack of clarity of the terms of the General Assembly’s request and its
effect on the “legal nature” of the question referred to the Court, the Court observes that this
question is directed to the legal consequences arising from a given factual situation considering the
rules and principles of international law, including the Geneva Convention relative to the
Protection of Civilian Persons in Time of War of 12 August 1949 (hereinafter the “Fourth Geneva
Convention”) and relevant Security Council and General Assembly resolutions. In the view of the
Court, it is indeed a question of a legal character. The Court further points out that lack of clarity
in the drafting of a question does not deprive the Court of jurisdiction. Rather, such uncertainty
will require clarification in interpretation, and such necessary clarifications of interpretation have
frequently been given by the Court. Therefore, the Court will, as it has done often in the past,
“identify the existing principles and rules, interpret them and apply them . . ., thus offering a reply
to the question posed based on law” (Legality of the Threat or Use of Nuclear Weapons, I.C.J.
Reports 1996 (I), p. 234, para. 13). The Court points out that, in the present instance, if the General
Assembly requests the Court to state the “legal consequences” arising from the construction of the
wall, the use of these terms necessarily encompasses an assessment of whether that construction is or is not in breach of certain rules and principles of international law.

The Court does not consider that what is contended to be the abstract nature of the question posed to it raises an issue of jurisdiction. Even when the matter was raised as an issue of propriety rather than one of jurisdiction, in the case concerning the Legality of the Threat or Use of Nuclear Weapons, the Court took the clear position that it should not deal with a question couched in abstract terms is “a mere affirmation devoid of any justification” and that “the Court may give an advisory opinion on any legal question, abstract or otherwise” (I.C.J. Reports 1996 (I), p. 236, para. 15).

The Court finds that it furthermore cannot accept the view, which has also been advanced, that it has no jurisdiction because of the “political” character of the question posed. As is clear from its long-standing jurisprudence on this point, the Court considers that a legal question also has political aspects, “does not suffice to deprive it of its character as a ‘legal question’ and to ‘deprive the Court of a competence expressly conferred on it by its Statute’, and the Court cannot refuse to admit the legal character of a question which invites it to discharge an essentially judicial task” (Legality of the Threat or Use of Nuclear Weapons, I.C.J. Reports 1996 (I), p. 234, para. 13).

The Court accordingly concludes that it has jurisdiction to give the advisory opinion requested by resolution ES-10/14 of the General Assembly.

Discretionary power of the Court to exercise its jurisdiction (paras. 43-65)

The Court notes that it has been contended, however, that the Court should decline to exercise its jurisdiction because of the presence of specific aspects of the General Assembly’s request that would render the exercise of the Court’s jurisdiction improper and inconsistent with the Court’s judicial function.

The Court first recalls that Article 65, paragraph 1, of its Statute, which provides that “The Court may give an advisory opinion . . .” (emphasis added), should be interpreted to mean that the Court retains a discretionary power to decline to give an advisory opinion even if the conditions of jurisdiction are met. It is mindful however of the fact that its answer to a request for an advisory opinion “represents its participation in the activities of the Organization, and, in principle, should not be refused”. From this it follows that, given its responsibilities as the “principal judicial organ of the United Nations” (Article 92 of the Charter), the Court should in principle not decline to give an advisory opinion, and only “compelling reasons” should lead the Court to do so.

The first argument presented to the Court in this regard is to the effect that it should not exercise its jurisdiction in the present case because the request concerns a contentious matter between Israel and Palestine, in respect of which Israel has not consented to the exercise of that jurisdiction. According to this view, the subject-matter of the question posed by the General Assembly “is an integral part of the wider Israeli-Palestinian dispute concerning questions of terrorism, security, borders, settlements, Jerusalem and other related matters”. The Court observes in this respect that the lack of consent to the Court’s contentious jurisdiction by interested States has no bearing on the Court’s jurisdiction to give an advisory opinion, but recalls its jurisprudence to the effect that the lack of consent of an interested State might render the giving of an advisory opinion incompatible with the Court’s judicial character, e.g. if to give a reply would have the effect of circumventing the principle that a State is not obliged to submit its disputes to judicial settlement without its consent.

As regards the request for an advisory opinion now before it, the Court acknowledges that Israel and Palestine have expressed radically divergent views on the legal consequences of Israel’s
construction of the wall, on which the Court has been asked to pronounce in the context of the opinion it would give. However, as the Court has itself noted before, “Differences of views . . . on legal issues have existed in practically every advisory proceeding.” Furthermore, the Court does not consider that the subject-matter of the General Assembly’s request can be regarded as only a bilateral matter between Israel and Palestine. Given the powers and responsibilities of the United Nations in questions relating to international peace and security, it is the Court’s view that the construction of the wall must be deemed to be directly of concern to the United Nations in general and the General Assembly in particular. The responsibility of the United Nations in this matter also has its origin in the Mandate and the Partition Resolution concerning Palestine. This responsibility has been described by the General Assembly as “a permanent responsibility towards the question of Palestine until the question is resolved in all its aspects in a satisfactory manner in accordance with international legitimacy” (General Assembly resolution 57/107 of 3 December 2002). The object of the request before the Court is to obtain from the Court an opinion which the General Assembly deems of assistance to it for the proper exercise of its functions. The opinion is requested on a question which is of particularly acute concern to the United Nations, and one which is located in a much broader frame of reference than a bilateral dispute. In the circumstances, the Court does not consider that to give an opinion would have the effect of circumventing the principle of consent to judicial settlement, and the Court accordingly cannot, in the exercise of its discretion, decline to give an opinion on that ground.

The Court then turns to another argument raised in support of the view that it should decline to exercise its jurisdiction: that an advisory opinion from the Court on the legality of the wall and the legal consequences of its construction could impede a political, negotiated solution to the Israeli-Palestinian conflict. More particularly, it has been contended that such an opinion could undermine the scheme of the “Roadmap”, which requires Israel and Palestine to comply with certain obligations in various phases referred to therein. The Court observes that it is conscious that the “Roadmap”, which was endorsed by Security Council resolution 1515 (2003), constitutes a negotiating framework for the resolution of the Israeli-Palestinian conflict, but that it is not clear what influence its opinion might have on those negotiations: participants in the present proceedings have expressed differing views in this regard. The Court finds that it cannot regard this factor as a compelling reason to decline to exercise its jurisdiction.

It was also put to the Court by certain participants that the question of the construction of the wall was only one aspect of the wider Israeli-Palestinian conflict which could not be properly addressed in the present proceedings. The Court does not however consider this a reason for it to decline to reply to the question asked: it is aware, and would take into account, that the question of the wall is part of a greater whole. At the same time, the question which the General Assembly has chosen to ask of the Court is confined to the legal consequences of the construction of the wall, and that the Court would only examine other issues to the extent that they might be necessary to its consideration of the question put to it.

The further argument has been raised that the Court should decline to exercise its jurisdiction because it does not have at its disposal the requisite facts and evidence to enable it to reach its conclusions. According to Israel, if the Court decided to give the requested opinion, it would be forced to speculate about essential facts and make assumptions about arguments of law. The Court points out that in the present instance, it has at its disposal the report of the Secretary-General, as well as a voluminous dossier submitted by him to the Court, comprising not only detailed information on the route of the wall but also on its humanitarian and socio-economic impact on the Palestinian population. The dossier includes several reports based on on-site visits by special rapporteurs and competent organs of the United Nations. Moreover, numerous other participants have submitted to the Court written statements which contain information relevant to a response to the question put by the General Assembly. The Court notes in particular that Israel’s Written Statement, although limited to issues of jurisdiction and propriety, contained observations on other matters, including Israel’s concerns in terms of security, and was accompanied by corresponding
annexes; and that many other documents issued by the Israeli Government on those matters are in the public domain.

The Court therefore finds that it has before it sufficient information and evidence to enable it to give the advisory opinion requested by the General Assembly. Moreover, the circumstance that others may evaluate and interpret these facts in a subjective or political manner can be no argument for a court of law to abdicate its judicial task. There is therefore in the present case no lack of information such as to constitute a compelling reason for the Court to decline to give the requested opinion.

Another argument that has been advanced is that the Court should decline to give the requested opinion on the legal consequences of the construction of the wall because such opinion would lack any useful purpose: the General Assembly would not need an opinion of the Court because it has already declared the construction of the wall to be illegal and has already determined the legal consequences by demanding that Israel stop and reverse its construction and further, because the General Assembly has never made it clear how it intended to use the opinion. The Court observes that, as is clear from its jurisprudence, advisory opinions have the purpose of furnishing to the requesting organs the elements of law necessary for them in their action. It recalls what it stated in its Opinion on the Legality of the Threat or Use of Nuclear Weapons: “it is not for the Court itself to purport to decide whether or not an advisory opinion is needed by the Assembly for the performance of its functions. The General Assembly has the right to decide for itself on the usefulness of an opinion in the light of its own needs.” It thus follows that the Court cannot decline to answer the question posed based on the ground that its opinion would lack any useful purpose. The Court cannot substitute its assessment of the usefulness of the opinion requested for that of the organ that seeks such opinion, namely the General Assembly. Furthermore, and in any event, the Court considers that the General Assembly has not yet determined all the possible consequences of its own resolution. The Court’s task would be to determine in a comprehensive manner the legal consequences of the construction of the wall, while the General Assembly — and the Security Council — may then draw conclusions from the Court’s findings.

Lastly, another argument advanced by Israel with regard to the propriety of its giving an advisory opinion in the present proceedings is that Palestine, given its responsibility for acts of violence against Israel and its population which the wall is aimed at addressing, cannot seek from the Court a remedy for a situation resulting from its own wrongdoing. Therefore, Israel concludes, good faith and the principle of “clean hands” provide a compelling reason that should lead the Court to refuse the General Assembly’s request. The Court does not consider this argument to be pertinent. It emphasizes, as earlier, that it was the General Assembly which requested the advisory opinion, and that the opinion is to be given to the General Assembly, and not to an individual State or entity.

In the light of the foregoing, the Court concludes that it has jurisdiction to give an opinion on the question put to it by the General Assembly and that there is no compelling reason for it to use its discretionary power not to give that opinion.

Scope of the question before the Court (paras. 66-69)

The Court then proceeds to address the question put to it by General Assembly resolution ES-10/14 (see above). The Court explains that it has chosen to use the term “wall” employed by the General Assembly, because the other terms used — “fence” or “barrier” — are no
more accurate if understood in the physical sense. It further notes that the request of the General Assembly concerns the legal consequences of the wall being built “in the Occupied Palestinian Territory, including in and around East Jerusalem”, and considers that it is not called upon to examine the legal consequences arising from the construction of those parts of the wall which are on the territory of Israel itself.

Historical background (paras. 70-78)

In order to indicate the legal consequences of the construction of the wall in the Occupied Palestinian Territory, the Court has first to determine whether or not the construction of that wall breaches international law. To this end, it first makes a brief historical analysis of the status of the territory concerned since the time that Palestine, having been part of the Ottoman Empire, was, at the end of the First World War, the subject of a class “A” mandate entrusted by the League of Nations to Great Britain. In the course of this analysis, the Court mentions the hostilities of 1948-1949, and the armistice demarcation line between Israeli and Arab forces fixed by a general armistice agreement of 3 April 1949 between Israel and Jordan, referred to as the “Green Line”. At the close of its analysis, the Court notes that the territories situated between the Green Line and the former eastern boundary of Palestine under the Mandate were occupied by Israel in 1967 during the armed conflict between Israel and Jordan. Under customary international law, the Court observes, these were therefore occupied territories in which Israel had the status of occupying Power. Subsequent events in these territories have done nothing to alter this situation. The Court concludes that all these territories (including East Jerusalem) remain occupied territories and that Israel has continued to have the status of occupying Power.

Description of the wall (paras. 79-85)

The Court goes on to describe, on the basis of the information available to it in a report by the United Nations Secretary-General and the Written Statement presented to the Court by the Secretary-General, the works already constructed or in course of construction in that territory.

Relevant rules and principles of international law (paras. 86-113)

It then turns to the determination of the rules and principles of international law which are relevant in assessing the legality of the measures taken by Israel. It observes that such rules and principles can be found in the United Nations Charter and certain other treaties, in customary international law and in the relevant resolutions adopted pursuant to the Charter by the General Assembly and the Security Council. It is aware, however, that doubts have been expressed by Israel as to the applicability in the Occupied Palestinian Territory of certain rules of international humanitarian law and human rights instruments.

United Nations Charter and General Assembly resolution 2625 (XXV) (paras. 87-88)

The Court first recalls Article 2, paragraph 4, of the United Nations Charter, which provides that:

“All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the Purposes of the United Nations,”

and General Assembly resolution 2625 (XXV), entitled “Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States” (hereinafter “resolution 2625 (XXV)”), in which the Assembly emphasized that “No territorial acquisition resulting from the threat or use of force shall be recognized as legal.” As stated in the Court’s
Judgment in the case concerning Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America), the principles as to the use of force incorporated in the Charter reflect customary international law (see I.C.J. Reports 1986, pp. 98-101, paras. 187-190); the same is true, it observes, of its corollary entailing the illegality of territorial acquisition resulting from the threat or use of force.

As to the principle of self-determination of peoples, the Court points out that it has been enshrined in the United Nations Charter and reaffirmed by the General Assembly in resolution 2625 (XXV) cited above, pursuant to which “Every State has the duty to refrain from any forcible action which deprives peoples referred to [in that resolution] . . . of their right to self-determination.” Article 1 common to the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights reaffirms the right of all peoples to self-determination, and lays upon the States parties the obligation to promote the realization of that right and to respect it, in conformity with the provisions of the United Nations Charter. The Court recalls its previous case law, which emphasized that current developments in “international law in regard to non-self-governing territories, as enshrined in the Charter of the United Nations, made the principle of self-determination applicable to all [such territories]”, and that the right of peoples to self-determination is today a right erga omnes.

International humanitarian law (paras. 89-101)

As regards international humanitarian law, the Court first recalls that Israel is not a party to the Fourth Hague Convention of 1907, to which the Hague Regulations are annexed. It considers, however, that the provisions of the Hague Regulations have become part of customary law, as is in fact recognized by all the participants in the proceedings before the Court. The Court also observes that, pursuant to Article 154 of the Fourth Geneva Convention, that Convention is supplementary to Sections II and III of the Hague Regulations. Section III of those Regulations, which concerns “Military authority over the territory of the hostile State”, is particularly pertinent in the present case.

Secondly, with regard to the Fourth Geneva Convention, the Court takes note that differing views have been expressed by the participants in these proceedings. Israel, contrary to the great majority of the participants, disputes the applicability de jure of the Convention to the Occupied Palestinian Territory. The Court recalls that the Fourth Geneva Convention was ratified by Israel on 6 July 1951 and that Israel is a party to that Convention; that Jordan has also been a party thereto since 29 May 1951; and that neither of the two States has made any reservation that would be pertinent to the present proceedings. The Court observes that the Israeli authorities have indicated on a number of occasions that in fact they generally apply the humanitarian provisions of the Fourth Geneva Convention within the occupied territories. However, according to Israel’s position, that Convention is not applicable de jure within those territories because, under Article 2, paragraph 2, it applies only in the case of occupation of territories falling under the sovereignty of a High Contracting Party involved in an armed conflict. Israel explains that the territories occupied by Israel subsequent to the 1967 conflict had not previously fallen under Jordanian sovereignty.

The Court notes that, according to the first paragraph of Article 2 of the Fourth Geneva Convention, when two conditions are fulfilled, namely that there exists an armed conflict (whether or not a state of war has been recognized), and that the conflict has arisen between two contracting parties, then the Convention applies, in particular, in any territory occupied in the course of the conflict by one of the contracting parties. The object of the second paragraph of Article 2, which refers to “occupation of the territory of a High Contracting Party”, is not to restrict the scope of application of the Convention, as defined by the first paragraph, by excluding therefrom territories not falling under the sovereignty of one of the contracting parties, but simply to making it clear that, even if occupation effected during the conflict met no armed resistance, the Convention is still applicable.
This interpretation reflects the intention of the drafters of the Fourth Geneva Convention to protect civilians who find themselves, in whatever way, in the hands of the occupying Power, regardless of the status of the occupied territories, and is confirmed by the Convention’s travaux préparatoires. The States parties to the Fourth Geneva Convention, at their Conference on 15 July 1999, approved that interpretation, which has also been adopted by the ICRC, the General Assembly and the Security Council. The Court finally makes mention of a judgment of the Supreme Court of Israel dated 30 May 2004, to a similar effect.

In view of the foregoing, the Court considers that the Fourth Geneva Convention is applicable in the Palestinian territories which before the 1967 conflict lay to the east of the Green Line and which, during that conflict, were occupied by Israel, there being no need for any enquiry into the precise prior status of those territories.

Human rights law (paras. 102-113)

The participants in the proceedings before the Court also disagree whether the international human rights conventions to which Israel is party apply within the Occupied Palestinian Territory. Annex I to the report of the Secretary-General states:

“4. Israel denies that the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, both of which it has signed, are applicable to the occupied Palestinian territory. It asserts that humanitarian law is the protection granted in a conflict situation such as the one in the West Bank and Gaza Strip, whereas human rights treaties were intended for the protection of citizens from their own Government in times of peace.”


On the question of the relationship between international humanitarian law and human rights law, the Court first recalls its finding, in a previous case, that the protection of the International Covenant on Civil and Political Rights does not cease in time of war (I.C.J. Reports 1996 (I), p. 240, para. 25). More generally, it considers that the protection offered by human rights conventions does not cease in case of armed conflict, save through the effect of provisions for derogation of the kind to be found in Article 4 of the International Covenant on Civil and Political Rights. It notes that there are thus three possible situations: some rights may be exclusively matters of international humanitarian law; others may be exclusively matters of human rights law; yet others may be matters of both these branches of international law. In order to answer the question put to it, the Court will have to take into consideration both these branches of international law, namely human rights law and, as lex specialis, international humanitarian law.

It remains to be determined whether the two international Covenants and the Convention on the Rights of the Child are applicable only on the territories of the States parties thereto or whether they are also applicable outside those territories and, if so, in what circumstances. After examination of the provision of the two international Covenants, in the light of the relevant travaux préparatoires and of the position of Israel in communications to the Human Rights Committee and the Committee on Economic, Social and Cultural Rights, the Court concludes that those instruments are applicable in respect of acts done by a State in the exercise of its jurisdiction outside its own territory. In the case of the International Covenant on Economic, Social and Cultural Rights, Israel is also under an obligation not to raise any obstacle to the exercise of such rights in those fields where competence has been transferred to Palestinian authorities. The Court further concludes that the Convention on the Rights of the Child is also applicable within the Occupied Palestinian Territory.
Violation of relevant rules (paras. 114-142)

The Court next proceeds to ascertain whether the construction of the wall has violated the rules and principles of international law found relevant to reply to the question posed by the General Assembly.

Impact on right of Palestinian people to self-determination (paras. 115-122)

It notes in this regard the contentions of Palestine and other participants that the construction of the wall is “an attempt to annex the territory contrary to international law” and “a violation of the legal principle prohibiting the acquisition of territory by the use of force” and that “the de facto annexation of land interferes with the territorial sovereignty and consequently with the right of the Palestinians to self-determination”. It notes also that Israel, for its part, has argued that the wall’s sole purpose is to enable it effectively to combat terrorist attacks launched from the West Bank, and that Israel has repeatedly stated that the Barrier is a temporary measure.

The Court recalls that both the General Assembly and the Security Council have referred, with regard to Palestine, to the customary rule of “the inadmissibility of the acquisition of territory by war”. As regards the principle of the right of peoples to self-determination, the Court observes that the existence of a “Palestinian people” is no longer in issue, and has been recognized by Israel, along with that people’s “legitimate rights”. The Court considers that those rights include the right to self-determination, as the General Assembly has moreover recognized on a number of occasions.

The Court notes that the route of the wall as fixed by the Israeli Government includes within the “Closed Area” (i.e. the part of the West Bank lying between the Green Line and the wall) some 80 per cent of the settlers living in the Occupied Palestinian Territory, and has been traced in such a way as to include within that area the great majority of the Israeli settlements in the Occupied Palestinian Territory (including East Jerusalem). The information provided to the Court shows that, since 1977, Israel has conducted a policy and developed practices involving the establishment of settlements in the Occupied Palestinian Territory, contrary to the terms of Article 49, paragraph 6, of the Fourth Geneva Convention which provides: “The Occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies.” The Security Council has taken the view that such policy and practices “have no legal validity” and constitute a “flagrant violation” of the Convention. The Court concludes that the Israeli settlements in the Occupied Palestinian Territory (including East Jerusalem) have been established in breach of international law.

Whilst taking note of the assurance given by Israel that the construction of the wall does not amount to annexation and that the wall is of a temporary nature, the Court nevertheless considers that the construction of the wall and its associated régime create a “fait accompli” on the ground that could well become permanent, in which case, and notwithstanding the formal characterization of the wall by Israel, it would be tantamount to de facto annexation.

The Court considers moreover that the route chosen for the wall gives expression in loco to the illegal measures taken by Israel with regard to Jerusalem and the settlements, as deplored by the Security Council. There is also a risk of further alterations to the demographic composition of the Occupied Palestinian Territory resulting from the construction of the wall inasmuch as it is contributing to the departure of Palestinian populations from certain areas. That construction, along with measures taken previously, thus severely impedes the exercise by the Palestinian people of its right to self-determination, and is therefore a breach of Israel’s obligation to respect that right.

Relevant international humanitarian law and human rights instruments (paras. 123-137)

The construction of the wall also raises a number of issues in relation to the relevant provisions of international humanitarian law and of human rights instruments.
The Court first enumerates and quotes a number of such provisions applicable in the Occupied Palestinian Territory, including articles of the 1907 Hague Regulations, the Fourth Geneva Convention, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and the United Nations Convention on the Rights of the Child. In this connection it also refers to obligations relating to guarantees of access to the Christian, Jewish and Islamic Holy Places.

From the information submitted to the Court, particularly the report of the Secretary-General, it appears that the construction of the wall has led to the destruction or requisition of properties under conditions which contravene the requirements of Articles 46 and 52 of the Hague Regulations of 1907 and of Article 53 of the Fourth Geneva Convention.

That construction, the establishment of a closed area between the Green Line and the wall itself, and the creation of enclaves, have moreover imposed substantial restrictions on the freedom of movement of the inhabitants of the Occupied Palestinian Territory (with the exception of Israeli citizens and those assimilated thereto). There have also been serious repercussions for agricultural production, and increasing difficulties for the population concerned regarding access to health services, educational establishments and primary sources of water.

In the view of the Court, the construction of the wall would also deprive a significant number of Palestinians of the “freedom to choose [their] residence”. In addition, since a significant number of Palestinians have already been compelled by the construction of the wall and its associated régime to depart from certain areas, a process that will continue as more of the wall is built, that construction, coupled with the establishment of the Israeli settlements mentioned above, is tending to alter the demographic composition of the Occupied Palestinian Territory.

In sum, the Court is of the opinion that the construction of the wall and its associated régime impede the liberty of movement of the inhabitants of the Occupied Palestinian Territory (with the exception of Israeli citizens and those assimilated thereto) as guaranteed under Article 12, paragraph 1, of the International Covenant on Civil and Political Rights. They also impede the exercise by the persons concerned of the right to work, to health, to education and to an adequate standard of living as proclaimed in the International Covenant on Economic, Social and Cultural Rights and in the United Nations Convention on the Rights of the Child. Lastly, the construction of the wall and its associated régime, by contributing to the demographic changes mentioned, contravene Article 49, paragraph 6, of the Fourth Geneva Convention and the pertinent Security Council resolutions cited earlier.

The Court then examines certain provisions of the applicable international humanitarian law enabling account to be taken in certain circumstances of military exigencies, which may in its view be invoked in occupied territories even after the general close of the military operations that led to their occupation; it points out, however, that only Article 53 of the Fourth Geneva Convention contains a relevant provision of this kind, and finds that, on the material before it, the Court is not convinced that the destructions carried out contrary to the prohibition in that Article were “rendered absolutely necessary by military operations” so as to fall within the exception.

Similarly, the Court examines provisions in some human rights conventions permitting derogation from, or qualifying, the rights guaranteed by those conventions, but finds, on the basis of the information available to it, that the conditions laid down by such provisions are not met in the present instance.

In sum, the Court finds that, from the material available to it, it is not convinced that the specific course Israel has chosen for the wall was necessary to attain its security objectives. The wall, along the route chosen, and its associated régime gravely infringe a number of rights of Palestinians residing in the territory occupied by Israel, and the infringements resulting from that route cannot be justified by military exigencies or by the requirements of national security or public
order. The construction of such a wall accordingly constitutes breaches by Israel of various of its obligations under the applicable international humanitarian law and human rights instruments.

**Self-defence and state of necessity** (paras. 138-141)

The Court recalls that Annex I to the report of the Secretary-General states, however, that, according to Israel: “the construction of the Barrier is consistent with Article 51 of the Charter of the United Nations, its inherent right to self-defence and Security Council resolutions 1368 (2001) and 1373 (2001)”.

Article 51 of the Charter, the Court notes, recognizes the existence of an inherent right of self-defence in the case of armed attack by one State against another State. However, Israel does not claim that the attacks against it are imputable to a foreign State. The Court also notes that Israel exercises control in the Occupied Palestinian Territory and that, as Israel itself states, the threat which it regards as justifying the construction of the wall originates within, and not outside, that territory. The situation is thus different from that contemplated by Security Council resolutions 1368 (2001) and 1373 (2001), and therefore Israel could not in any event invoke those resolutions in support of its claim to be exercising a right of self-defence. Consequently, the Court concludes that Article 51 of the Charter has no relevance in this case.

The Court considers further whether Israel could rely on a state of necessity which would preclude the wrongfulness of the construction of the wall. In this regard, citing its decision in the case concerning the Gabčíkovo-Nagymaros Project (Hungary/Slovakia), it observes that the state of necessity is a ground recognized by customary international law that “can only be invoked under certain strictly defined conditions which must be cumulatively satisfied” (I.C.J. Reports 1997, p. 40, para. 51), one of those conditions being that the act at issue be the only way for the State to guard an essential interest against a grave and imminent peril. In the light of the material before it, the Court is not convinced that the construction of the wall along the route chosen was the only means to safeguard the interests of Israel against the peril which it has invoked as justification for that construction. While Israel has the right, and indeed the duty to respond to the numerous and deadly acts of violence directed against its civilian population, in order to protect the life of its citizens, the measures taken are bound to remain in conformity with applicable international law. Israel cannot rely on a right of self-defence or on a state of necessity in order to preclude the wrongfulness of the construction of the wall. The Court accordingly finds that the construction of the wall, and its associated régime, are contrary to international law.

**Legal consequences of the violations** (paras. 143-160)

The Court then examines the consequences of the violations by Israel of its international obligations. After recalling the contentions in that respect of various participants in the proceedings, the Court observes that the responsibility of Israel is engaged under international law. It then proceeds to examine the legal consequences by distinguishing between, on the one hand, those arising for Israel and, on the other, those arising for other States and, where appropriate, for the United Nations.

**Legal consequences of those violations for Israel** (paras. 149-154)

The Court notes that Israel is first obliged to comply with the international obligations it has breached by the construction of the wall in the Occupied Palestinian Territory. Consequently, Israel is bound to comply with its obligation to respect the right of the Palestinian people to self-determination and its obligations under international humanitarian law and international human rights law. Furthermore, it must ensure freedom of access to the Holy Places that came under its control following the 1967 War.
The Court observes that Israel also has an obligation to put an end to the violation of its international obligations flowing from the construction of the wall in the Occupied Palestinian Territory. Israel accordingly has the obligation to cease forthwith the works of construction of the wall being built by it in the Occupied Palestinian Territory, including in and around East Jerusalem. In the view of the Court, cessation of Israel’s violations of its international obligations entails in practice the dismantling forthwith of those parts of that structure situated within the Occupied Palestinian Territory, including in and around East Jerusalem. All legislative and regulatory acts adopted with a view to its construction, and to the establishment of its associated régime, must forthwith be repealed or rendered ineffective, except where of continuing relevance to Israel’s obligation of reparation.

The Court finds further that Israel has the obligation to make reparation for the damage caused to all the natural or legal persons concerned. The Court recalls the established jurisprudence that “The essential principle contained in the actual notion of an illegal act . . . is that reparation must, as far as possible, wipe out all the consequences of the illegal act and reestablish the situation which would, in all probability, have existed if that act had not been committed.” Israel is accordingly under an obligation to return the land, orchards, olive groves and other immovable property seized from any natural or legal person for purposes of construction of the wall in the Occupied Palestinian Territory. In the event that such restitution should prove to be materially impossible, Israel has an obligation to compensate the persons in question for the damage suffered. The Court considers that Israel also has an obligation to compensate, in accordance with the applicable rules of international law, all natural or legal persons having suffered any form of material damage as a result of the wall’s construction.

Legal consequences for other States (paras. 154-159)

The Court points out that the obligations violated by Israel include certain obligations erga omnes. As the Court indicated in the Barcelona Traction case, such obligations are by their very nature “the concern of all States” and, “In view of the importance of the rights involved, all States can be held to have a legal interest in their protection.” (Barcelona Traction, Light and Power Company, Limited, Second Phase, Judgment, I.C.J. Reports 1970, p. 32, para. 33.) The obligations erga omnes violated by Israel are the obligation to respect the right of the Palestinian people to self-determination, and certain of its obligations under international humanitarian law. As regards self-determination, the Court recalls its findings in the East Timor case, and General Assembly resolution 2625 (XXV). It recalls that a great many rules of humanitarian law “constitute intransgressible principles of international customary law” (I.C.J. Reports 1996 (I), p. 257, para. 79), and observes that they incorporate obligations which are essentially of an erga omnes character. It also notes the obligation of States parties to the Fourth Geneva Convention to “ensure respect” for its provisions.

Given the character and the importance of the rights and obligations involved, the Court is of the view that all States are under an obligation not to recognize the illegal situation resulting from the construction of the wall in the Occupied Palestinian Territory, including in and around East Jerusalem. They are also under an obligation not to render aid or assistance in maintaining the situation created by such construction. It is also for all States, while respecting the United Nations Charter and international law, to see to it that any impediment, resulting from the construction of the wall, to the exercise by the Palestinian people of its right to self-determination is brought to an end. In addition, all the States parties to the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949 are under an obligation, while respecting the United Nations Charter and international law, to ensure compliance by Israel with international humanitarian law as embodied in that Convention.

The United Nations (para. 160)
Finally, the Court is of the view that the United Nations, and especially the General Assembly and the Security Council, should consider what further action is required to bring to an end the illegal situation resulting from the construction of the wall and the associated régime, taking due account of the present Advisory Opinion.

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The Court considers that its conclusion that the construction of the wall by Israel in the Occupied Palestinian Territory is contrary to international law must be placed in a more general context. Since 1947, the year when General Assembly resolution 181 (II) was adopted and the Mandate for Palestine was terminated, there has been a succession of armed conflicts, acts of indiscriminate violence and repressive measures on the former mandated territory. The Court would emphasize that both Israel and Palestine are under an obligation scrupulously to observe the rules of international humanitarian law, one of the paramount purposes of which is to protect civilian life. Illegal actions and unilateral decisions have been taken on all sides, whereas, in the Court’s view, this tragic situation can be brought to an end only through implementation in good faith of all relevant Security Council resolutions, in particular resolutions 242 (1967) and 338 (1973). The “Roadmap” approved by Security Council resolution 1515 (2003) represents the most recent of efforts to initiate negotiations to this end. The Court considers that it has a duty to draw the attention of the General Assembly, to which the present Opinion is addressed, to the need for these efforts to be encouraged with a view to achieving as soon as possible, on the basis of international law, a negotiated solution to the outstanding problems and the establishment of a Palestinian State, existing side by side with Israel and its other neighbours, with peace and security for all in the region.

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The full text of the final paragraph (para. 163) reads as follows:

“For these reasons,

THE COURT,

(1) Unanimously,

Finds that it has jurisdiction to give the advisory opinion requested;

(2) By fourteen votes to one,

Decides to comply with the request for an advisory opinion;

IN FAVOUR: President Shi; Vice-President Ranjeva; Judges Guillaume, Koroma, Vereshchetin, Higgins, Parra-Aranguren, Kooijmans, Rezek, Al-Khasawneh, Elaraby, Owada, Simma, Tomka;

AGAINST: Judge Buergenthal;

(3) Replies in the following manner to the question put by the General Assembly:
A. By fourteen votes to one,

The construction of the wall being built by Israel, the occupying Power, in the Occupied Palestinian Territory, including in and around East Jerusalem, and its associated régime, are contrary to international law;

IN FAVOUR: President Shi; Vice-President Ranjeva; Judges Guillaume, Koroma, Vereshchetin, Higgins, Parra-Aranguren, Kooijmans, Rezek, Al-Khasawneh, Elaraby, Owada, Simma, Tomka;

AGAINST: Judge Buergenthal;

B. By fourteen votes to one,

Israel is under an obligation to terminate its breaches of international law; it is under an obligation to cease forthwith the works of construction of the wall being built in the Occupied Palestinian Territory, including in and around East Jerusalem, to dismantle forthwith the structure therein situated, and to repeal or render ineffective forthwith all legislative and regulatory acts relating thereto, in accordance with paragraph 151 of this Opinion;

IN FAVOUR: President Shi; Vice-President Ranjeva; Judges Guillaume, Koroma, Vereshchetin, Higgins, Parra-Aranguren, Kooijmans, Rezek, Al-Khasawneh, Elaraby, Owada, Simma, Tomka;

AGAINST: Judge Buergenthal;

C. By fourteen votes to one,

Israel is under an obligation to make reparation for all damage caused by the construction of the wall in the Occupied Palestinian Territory, including in and around East Jerusalem;

IN FAVOUR: President Shi; Vice-President Ranjeva; Judges Guillaume, Koroma, Vereshchetin, Higgins, Parra-Aranguren, Kooijmans, Rezek, Al-Khasawneh, Elaraby, Owada, Simma, Tomka;

AGAINST: Judge Buergenthal;

D. By thirteen votes to two,

All States are under an obligation not to recognize the illegal situation resulting from the construction of the wall and not to render aid or assistance in maintaining the situation created by such construction; all States parties to the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949 have in addition the obligation, while respecting the United Nations Charter and international law, to ensure compliance by Israel with international humanitarian law as embodied in that Convention;

IN FAVOUR: President Shi; Vice-President Ranjeva; Judges Guillaume, Koroma, Vereshchetin, Higgins, Parra-Aranguren, Rezek, Al-Khasawneh, Elaraby, Owada, Simma, Tomka;

AGAINST: Judges Kooijmans, Buergenthal;

E. By fourteen votes to one,
The United Nations, and especially the General Assembly and the Security Council, should consider what further action is required to bring to an end the illegal situation resulting from the construction of the wall and the associated régime, taking due account of the present Advisory Opinion.

IN FAVOUR: President Shi; Vice-President Ranjeva; Judges Guillaume, Koroma, Vereshchelin, Higgins, Parra-Aranguren, Kooijmans, Rezek, Al-Khasawneh, Elaraby, Owada, Simma, Tomka;

AGAINST: Judge Buergenthal.”
Resolution 2334 (2016)

Adopted by the Security Council at its 7853rd meeting, on 23 December 2016

The Security Council,


Guided by the purposes and principles of the Charter of the United Nations, and reaffirming, inter alia, the inadmissibility of the acquisition of territory by force,

Reaffirming the obligation of Israel, the occupying Power, to abide scrupulously by its legal obligations and responsibilities under the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, and recalling the advisory opinion rendered on 9 July 2004 by the International Court of Justice,

Condemning all measures aimed at altering the demographic composition, character and status of the Palestinian Territory occupied since 1967, including East Jerusalem, including, inter alia, the construction and expansion of settlements, transfer of Israeli settlers, confiscation of land, demolition of homes and displacement of Palestinian civilians, in violation of international humanitarian law and relevant resolutions,

Expressing grave concern that continuing Israeli settlement activities are dangerously imperilling the viability of the two-State solution based on the 1967 lines,

Recalling the obligation under the Quartet Roadmap, endorsed by its resolution 1515 (2003), for a freeze by Israel of all settlement activity, including “natural growth”, and the dismantlement of all settlement outposts erected since March 2001,

Recalling also the obligation under the Quartet roadmap for the Palestinian Authority Security Forces to maintain effective operations aimed at confronting all those engaged in terror and dismantling terrorist capabilities, including the confiscation of illegal weapons,
Condemning all acts of violence against civilians, including acts of terror, as well as all acts of provocation, incitement and destruction,

Reiterating its vision of a region where two democratic States, Israel and Palestine, live side by side in peace within secure and recognized borders,

Stressing that the status quo is not sustainable and that significant steps, consistent with the transition contemplated by prior agreements, are urgently needed in order to (i) stabilize the situation and to reverse negative trends on the ground, which are steadily eroding the two-State solution and entrenching a one-State reality, and (ii) to create the conditions for successful final status negotiations and for advancing the two-State solution through those negotiations and on the ground,

1. Reaffirms that the establishment by Israel of settlements in the Palestinian territory occupied since 1967, including East Jerusalem, has no legal validity and constitutes a flagrant violation under international law and a major obstacle to the achievement of the two-State solution and a just, lasting and comprehensive peace;

2. Reiterates its demand that Israel immediately and completely cease all settlement activities in the occupied Palestinian territory, including East Jerusalem, and that it fully respect all of its legal obligations in this regard;

3. Underlines that it will not recognize any changes to the 4 June 1967 lines, including with regard to Jerusalem, other than those agreed by the parties through negotiations;

4. Stresses that the cessation of all Israeli settlement activities is essential for salvaging the two-State solution, and calls for affirmative steps to be taken immediately to reverse the negative trends on the ground that are imperilling the two-State solution;

5. Calls upon all States, bearing in mind paragraph 1 of this resolution, to distinguish, in their relevant dealings, between the territory of the State of Israel and the territories occupied since 1967;

6. Calls for immediate steps to prevent all acts of violence against civilians, including acts of terror, as well as all acts of provocation and destruction, calls for accountability in this regard, and calls for compliance with obligations under international law for the strengthening of ongoing efforts to combat terrorism, including through existing security coordination, and to clearly condemn all acts of terrorism;

7. Calls upon both parties to act on the basis of international law, including international humanitarian law, and their previous agreements and obligations, to observe calm and restraint, and to refrain from provocative actions, incitement and inflammatory rhetoric, with the aim, inter alia, of de-escalating the situation on the ground, rebuilding trust and confidence, demonstrating through policies and actions a genuine commitment to the two-State solution, and creating the conditions necessary for promoting peace;

8. Calls upon all parties to continue, in the interest of the promotion of peace and security, to exert collective efforts to launch credible negotiations on all final status issues in the Middle East peace process and within the time frame specified by the Quartet in its statement of 21 September 2010;
9. **Urges in this regard** the intensification and acceleration of international and regional diplomatic efforts and support aimed at achieving, without delay a comprehensive, just and lasting peace in the Middle East on the basis of the relevant United Nations resolutions, the Madrid terms of reference, including the principle of land for peace, the Arab Peace Initiative and the Quartet Roadmap and an end to the Israeli occupation that began in 1967; and **underscores** in this regard the importance of the ongoing efforts to advance the Arab Peace Initiative, the initiative of France for the convening of an international peace conference, the recent efforts of the Quartet, as well as the efforts of Egypt and the Russian Federation;

10. **Confirms its determination** to support the parties throughout the negotiations and in the implementation of an agreement;

11. **Reaffirms** its determination to examine practical ways and means to secure the full implementation of its relevant resolutions;

12. **Requests** the Secretary-General to report to the Council every three months on the implementation of the provisions of the present resolution;

13. **Decides** to remain seized of the matter.
Human Rights Council
Thirty-first session
Agenda item 7


31/36. Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and in the occupied Syrian Golan

The Human Rights Council,

Guided by the principles of the Charter of the United Nations, and affirming the inadmissibility of the acquisition of territory by force,

Reaffirming that all States have an obligation to promote and protect human rights and fundamental freedoms, as stated in the Charter and as elaborated in the Universal Declaration of Human Rights, the International Covenants on Human Rights and other applicable instruments,

Recalling relevant resolutions of the Commission on Human Rights, the Human Rights Council, the Security Council and the General Assembly reaffirming, inter alia, the illegality of the Israeli settlements in the occupied territories, including in East Jerusalem,

Recalling also Human Rights Council resolution 19/17 of 22 March 2012, in which the Council decided to establish an independent international fact-finding mission to investigate the implications of the Israeli settlements on the human rights of the Palestinian people throughout the Occupied Palestinian Territory, including East Jerusalem,

Reaffirming the applicability of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, to the Occupied Palestinian Territory, including East Jerusalem, and to the occupied Syrian Golan, and recalling the declarations adopted at the Conferences of High Contracting Parties to the Fourth Geneva Convention, held in Geneva on 5 December 2001 and 17 December 2014,

Noting the recent accession by Palestine to several human rights treaties and the core humanitarian law conventions, and its accesssion on 2 January 2015 to the Rome Statute of the International Criminal Court,

Affirming that the transfer by the occupying Power of parts of its own civilian population into the territory it occupies constitutes a breach of the Fourth Geneva Convention and relevant provisions of customary law, including those codified in Additional Protocol I to the four Geneva Conventions,
Recalling the advisory opinion rendered on 9 July 2004 by the International Court of Justice on the legal consequences of the construction of a wall in the Occupied Palestinian Territory, and recalling also General Assembly resolutions ES-10/15 of 20 July 2004 and ES-10/17 of 15 December 2006,

Noting that the International Court of Justice concluded that the Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, had been established in breach of international law,

Taking note of the recent relevant reports of the Secretary-General, the Office of the United Nations High Commissioner for Human Rights, the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories and the treaty bodies monitoring compliance with the human rights treaties to which Israel is a party, and the recent reports of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967,

Recalling the report of the independent international fact-finding mission to investigate the implications of the Israeli settlements on the civil, political, economic, social and cultural rights of the Palestinian people throughout the Occupied Palestinian Territory, including East Jerusalem,1

Noting that Israel has over the years been planning, implementing, supporting and encouraging the establishment and expansion of settlements in the Occupied Palestinian Territory, including East Jerusalem, through, inter alia, the granting of benefits and incentives to settlements and settlers,

Recalling the Quartet road map to a permanent two-State solution to the Israeli-Palestinian conflict, and emphasizing specifically its call for a freeze on all settlement activity, including so-called natural growth, and the dismantlement of all settlement outposts erected since March 2001, and the need for Israel to uphold its obligations and commitments in this regard,

Taking note of General Assembly resolution 67/19 of 29 November 2012, by which, inter alia, Palestine was accorded the status of non-member observer State in the United Nations, and also of the follow-up report thereon of the Secretary-General,2

Aware that Israeli settlement activities involve, inter alia, the transfer of nationals of the occupying Power into the occupied territories, the confiscation of land, the forcible displacement of Palestinian civilians, including Bedouin families, the exploitation of natural resources, the conduct of economic activity for the benefit of the occupying Power, the disruption of the livelihood of protected persons, the de facto annexation of land and other actions against the Palestinian civilian population and the civilian population in the occupied Syrian Golan that are contrary to international law,

Affirming that the Israeli settlement activities in the Occupied Palestinian Territory, including East Jerusalem, undermine regional and international efforts aimed at the realization of the two-State solution of Israel and Palestine, living side by side in peace and security within recognized borders, on the basis of the pre-1967 borders, and stressing that the continuation of these policies seriously endangers the viability of the two-State solution, undermining the physical possibility of its realization,

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1 A/HRC/22/63.
ANNEX 10

Noting in this regard that the Israeli settlements fragment the West Bank, including East Jerusalem, into isolated geographical units, severely limiting the possibility of a contiguous territory and the ability to dispose freely of natural resources, both of which are required for the meaningful exercise of Palestinian self-determination,

Noting that the settlement enterprise and the impunity associated with its existence, expansion and related violence continue to be a root cause of many violations of the Palestinians’ human rights, and constitute the main factors perpetuating Israel’s belligerent occupation of the Palestinian Territory, including East Jerusalem, since 1967,

Condemning the continuation by Israel, the occupying Power, of settlement activities in the Occupied Palestinian Territory, including in East Jerusalem, in violation of international humanitarian law, relevant United Nations resolutions, the agreements reached between the parties and obligations under the Quartet road map, and in defiance of the calls by the international community to cease all settlement activities,

Expressing grave concern in particular at the construction and expansion by Israel of settlements in and around occupied East Jerusalem, including its so-called E-1 plan, which aims to connect its illegal settlements around and further isolate occupied East Jerusalem, the continuing demolition of Palestinian homes and eviction of Palestinian families from the city, the revocation of Palestinian residency rights in the city, and ongoing settlement activities in the Jordan Valley,

Expressing grave concern at the continuing construction by Israel of the wall inside the Occupied Palestinian Territory, including in and around East Jerusalem, in violation of international law, and expressing its concern in particular at the route of the wall in departure from the Armistice Line of 1949, which is causing humanitarian hardship and a serious decline in socioeconomic conditions for the Palestinian people, is fragmenting the territorial contiguity of the Territory and undermining its viability, and could prejudice future negotiations by creating a fait accompli on the ground that could be tantamount to de facto annexation in departure from the Armistice Line of 1949, and make the two-State solution physically impossible to implement,

Deeply concerned that the wall’s route has been traced in such a way as to include the great majority of the Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem,

Gravely concerned at all acts of violence, destruction, harassment, provocation and incitement by extremist Israeli settlers and groups of armed settlers in the Occupied Palestinian Territory, including East Jerusalem, against Palestinian civilians, including children, and their properties, including homes, agricultural lands and historic and religious sites, and the acts of terror carried out by several extremist Israeli settlers, which are a longstanding phenomenon aimed at, inter alia, displacing the occupied population and facilitating the expansion of settlements,

Expressing concern at ongoing impunity for acts of settler violence against Palestinian civilians and their properties, and stressing the need for Israel to investigate and to ensure accountability for all of these acts,

Aware of the detrimental impact of the Israeli settlements on Palestinian and other Arab natural resources, especially as a result of the confiscation of land and the forced diversion of water resources, including the destruction of orchards and crops and the seizure of water wells by Israeli settlers, and of the dire socioeconomic consequences in this regard, which precludes the Palestinian people from being able to exercise permanent sovereignty over their natural resources,

Noting that the agricultural sector, considered the cornerstone of Palestinian economic development, has not been able to play its strategic role because of the
Recalling Human Rights Council resolution 22/29 of 22 March 2013, in follow-up to the report of the independent international fact-finding mission to investigate the implications of Israeli settlements on the civil, political, economic, social and cultural rights of the Palestinian people throughout the Occupied Palestinian Territory, including East Jerusalem,

Recalling also the Guiding Principles on Business and Human Rights, which place responsibilities on all business enterprises to respect human rights by, inter alia, refraining from contributing to human rights abuses arising from conflict, and call upon States to provide adequate assistance to business enterprises to assess and address the heightened risks of abuses in conflict-affected areas, including by ensuring that their current policies, legislation, regulations and enforcement measures are effective in addressing the risk of business involvement in gross human rights abuses,

Noting that, in situations of armed conflict, business enterprises should respect the standards of international humanitarian law, and concerned that some business enterprises have, directly and indirectly, enabled, facilitated and profited from the construction and growth of the Israeli settlements in the Occupied Palestinian Territory,

Reaffirming the fact that the High Contracting Parties to the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, undertook to respect and to ensure respect for the Convention in all circumstances, and that States should not recognize an unlawful situation arising from breaches of peremptory norms of international law,

Calling upon all States not to provide Israel with any assistance to be used specifically in connection with settlements in the Occupied Palestinian Territory, including East Jerusalem, and in the occupied Syrian Golan,

Emphasizing the importance for States to act in accordance with their own national legislation on promoting compliance with international humanitarian law with regard to business activities that result in human rights abuses,

Concerned that economic activities facilitate the expansion and entrenchment of settlements, and aware that the conditions of harvesting and production for products made in settlements involve the breach of applicable legal norms, inter alia, the exploitation of the natural resources of the Occupied Palestinian Territory, including East Jerusalem, and calling upon all States to respect their legal obligations in this regard,

Aware that products wholly or partially produced in settlements have been labelled as originating from Israel,

Aware also of the role of private individuals, associations and charities in third States that are involved in providing funding to Israeli settlements and settlement-based entities, contributing to the maintenance and expansion of settlements,

Expressing its concern at the failure of Israel, the occupying Power, to cooperate fully with the relevant United Nations mechanisms, in particular the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967,

1. Reaffirms that the Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and in the occupied Syrian Golan are illegal and an obstacle to peace and economic and social development;
2. Calls upon Israel to accept the de jure applicability of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, to the Occupied Palestinian Territory, including East Jerusalem, and to the occupied Syrian Golan, to abide scrupulously by the provisions of the Convention, in particular article 49 thereof, and to comply with all its obligations under international law and cease immediately all actions causing the alteration of the character, status and demographic composition of the Occupied Palestinian Territory, including East Jerusalem, and the occupied Syrian Golan;

3. Demands that Israel, the occupying Power, immediately cease all settlement activities in all the Occupied Palestinian Territory, including East Jerusalem, and in the occupied Syrian Golan, and calls in this regard for the full implementation of all relevant resolutions of the Security Council, including, inter alia, resolutions 446 (1979) of 22 March 1979, 452 (1979) of 20 July 1979, 465 (1980) of 1 March 1980, 476 (1980) of 30 June 1980 and 1515 (2003) of 19 November 2003;

4. Also demands that Israel, the occupying Power, comply fully with its legal obligations, as mentioned in the advisory opinion rendered on 9 July 2004 by the International Court of Justice;

5. Condemns the continuing settlement and related activities by Israel, including the expansion of settlements, the expropriation of land, the demolition of houses, the confiscation and destruction of property, the expulsion and displacement of Palestinians, including entire communities and the construction of bypass roads, which change the physical character and demographic composition of the occupied territories, including East Jerusalem and the Syrian Golan, and constitute a violation of the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, and in particular article 49 thereof;

6. Also condemns the construction of new housing units for Israeli settlers in the West Bank and around occupied East Jerusalem, as it seriously undermines the peace process and jeopardizes the ongoing efforts by the international community to reach a final and just peace solution compliant with international law and legitimacy, including relevant United Nations resolutions, and constitutes a threat to the two-State solution;

7. Expresses its grave concern at, and calls for the cessation of:

   (a) The operation by Israel of a tramway linking the settlements with West Jerusalem, which is in clear violation of international law and relevant United Nations resolutions;

   (b) The expropriation of Palestinian land, the demolition of Palestinian homes, demolition orders, forced evictions and “relocation” plans, the obstruction and destruction of humanitarian assistance and the creation of unbearable living conditions by Israel in areas identified for the expansion and construction of settlements, and other practices aimed at the forcible transfer of the Palestinian civilian population, including Bedouin communities and herders, and further settlement activities, including the denial of access to water and other basic services by Israel to Palestinians in the Occupied Palestinian Territory, including East Jerusalem, particularly in areas slated for settlement expansion, and including the appropriation of Palestinian property through, inter alia, declarations of so-called “State lands”, closed “military zones”, “national parks” and “archaeological” sites to facilitate and advance the expansion or construction of settlements and related infrastructure, in violation of Israel’s obligations under international humanitarian law and international human rights law;

   (c) Israeli measures in the form of policies, laws and practices that have the effect of preventing Palestinians from full participation in the political, social, economic
and cultural life of the Occupied Palestinian Territory, including East Jerusalem, and prevent their full development in both the West Bank and the Gaza Strip;

8. Calls upon Israel, the occupying Power:

(a) To reverse the settlement policy in the occupied territories, including East Jerusalem and the Syrian Golan, and, as a first step towards the dismantlement of the settlement enterprise, to stop immediately the expansion of existing settlements, including so-called natural growth and related activities, to prevent any new installation of settlers in the occupied territories, including in East Jerusalem, and to discard its “E-1” plan;

(b) To put an end to all of the human rights violations linked to the presence of settlements, especially of the right to self-determination, and to fulfill its international obligations to provide effective remedy for victims;

(c) To take immediate measures to prohibit and eradicate all policies and practices that discriminate against and disproportionately affect the Palestinian population in the Occupied Palestinian Territory, including East Jerusalem, by, inter alia, putting an end to the system of separate roads for the exclusive use of Israeli settlers, who reside illegally in the said territory, to the complex combination of movement restrictions consisting of the wall, roadblocks and a permit regime that only affects the Palestinian population, the application of a two-tier legal system that has facilitated the establishment and consolidation of the settlements, and other violations and forms of discrimination;

(d) To cease the requisition and all other forms of unlawful appropriation of Palestinian land, including so-called “State land”, and its allocation for the establishment and expansion of settlements, and to halt the granting of benefits and incentives to settlements and settlers;

(e) To put an end to all measures and policies resulting in the territorial fragmentation of the Occupied Palestinian Territory, including East Jerusalem, and which are isolating Palestinian communities into separate enclaves and changing the demographic composition of the Occupied Palestinian Territory;

(f) To take and implement serious measures, including confiscation of arms and enforcement of criminal sanctions, with the aim of ensuring full accountability for and preventing all acts of violence by Israeli settlers, and to take other measures to guarantee the safety and protection of Palestinian civilians and Palestinian properties in the Occupied Palestinian Territory, including East Jerusalem;

(g) To bring to a halt all actions, including those perpetrated by Israeli settlers, harming the environment, including the dumping of all kinds of waste materials in the Occupied Palestinian Territory, including East Jerusalem, and in the occupied Syrian Golan, which gravely threaten their natural resources, namely water and land resources, and which pose an environmental, sanitation and health threat to the civilian population;

(h) To cease the exploitation, damage, cause of loss or depletion and endangerment of the natural resources of the Occupied Palestinian Territory, including East Jerusalem, and of the occupied Syrian Golan;

9. Welcomes the adoption of the European Union Guidelines on the eligibility of Israeli entities and their activities in the territories occupied by Israel since June 1967 for grants, prizes and financial instruments funded by the European Union since 2014;

10. Encourages all States and international organizations to continue to actively pursue policies that ensure respect of their obligations under international law with regard to all illegal Israeli practices and measures in the Occupied Palestinian Territory, including East Jerusalem, particularly Israeli settlements;
11. *Reminds* all States of their legal obligations as mentioned in the advisory opinion of the International Court of Justice of 9 July 2004 on the legal consequences of the construction of a wall in the Occupied Palestinian Territory, including not to recognize the illegal situation resulting from the construction of the wall, not to render aid or assistance in maintaining the situation created by such construction, and to ensure compliance by Israel with international humanitarian law as embodied in the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949;

12. *Urges* all States:

   (a) To ensure that they are not taking actions that either recognize or assist the expansion of settlements or the construction of the wall in the Occupied Palestinian Territory, including East Jerusalem, including with regard to the issue of trading with settlements, consistent with their obligations under international law;

   (b) To implement the Guiding Principles on Business and Human Rights in relation to the Occupied Palestinian Territory, including East Jerusalem, and to take appropriate measures to help to ensure that businesses domiciled in their territory and/or under their jurisdiction, including those owned or controlled by them, refrain from committing or contributing to gross human rights abuses of Palestinians, in accordance with the expected standard of conduct in the Guiding Principles and relevant international laws and standards, by taking all necessary steps;

   (c) To provide guidance to individuals and businesses on the financial, reputational and legal risks, including the possibility of liability for corporate involvement in gross human rights abuses, and abuses of the rights of individuals, of becoming involved in settlement-related activities, including through financial transactions, investments, purchases, procurements, loans and the provision of services, and other economic and financial activities in or benefiting Israeli settlements, to inform businesses of these risks in the formulation of their national action plans for the implementation of the Guiding Principles on Business and Human Rights, and to ensure that their policies, legislation, regulations and enforcement measures effectively address the heightened risks of operating a business in the Occupied Palestinian Territory, including East Jerusalem;

   (d) To increase monitoring of settler violence with a view to promoting accountability;

13. *Calls upon* business enterprises to take all measures necessary to comply with the Guiding Principles on Business and Human Rights and relevant international laws and standards with respect to their activities in or in relation to the Israeli settlements and the wall in the Occupied Palestinian Territory, including East Jerusalem, to avoid the adverse impact of such activities on human rights and to avoid contributing to the establishment or maintenance of Israeli settlements or the exploitation of natural resources of the Occupied Palestinian Territory;

14. *Requests* that all parties concerned, including United Nations bodies, implement and ensure the implementation of the recommendations contained in the report of the independent international fact-finding mission to investigate the implications of Israeli settlements on the civil, political, economic, social and cultural rights of the Palestinian people throughout the Occupied Palestinian Territory, including East Jerusalem,

15. *Calls upon* the relevant United Nations bodies to take all necessary measures and actions within their mandates to ensure full respect for and compliance with Human Rights Council resolution 17/4 of 16 June 2011, on the Guiding Principles on Business and Human Rights and other relevant international laws and standards, and to ensure the

17. **Requests** the United Nations High Commissioner for Human Rights, in close consultation with the Working Group on the issue of human rights and transnational corporations and other business enterprises, in follow-up to the report of the independent international fact-finding mission to investigate the implications of the Israeli settlements on the civil, political, economic, social and cultural rights of the Palestinian people throughout the Occupied Palestinian Territory, including East Jerusalem, and as a necessary step for the implementation of the recommendation contained in paragraph 117 thereof, to produce a database of all business enterprises involved in the activities detailed in paragraph 96 of the afore-mentioned report, to be updated annually, and to transmit the data therein in the form of a report to the Council at its thirty-fourth session;

18. **Requests** the Secretary-General to report on the implementation of the present resolution, with particular emphasis on the human rights and international law violations involved in the production of settlement goods and the relationship between trade in these goods and the maintenance and economic growth of settlements, at its thirty-fourth session;

19. **Decides** to remain seized of the matter.