

*Permanent Observer Mission
of the State of Palestine
to the United Nations*



البعثة المراقبة الدائمة
لدولة فلسطين
لدى الأمم المتحدة

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Statement by Loureen Sayej, Third Secretary, before the 77th Session of the General Assembly Meeting of the Sixth Committee on the Responsibility of States for Internationally Wrongful Acts (Agenda Item 73)

Mr. Chair,

The consolidation of the Draft Articles on Responsibility of States for Internationally Wrongful Acts is one of the most significant contributions to the development of international law.

Upholding international law is the responsibility of States; our practices either advance it or undermine it and the Draft Articles rightly established the general rules for its breach and, most importantly, the consequences that flow from such a breach.

The Draft Articles, with their wide ambit and scope, spanning across all fields of international law, are heavily invoked by national and international courts, bodies, and experts, indeed, reflecting their customary nature and universally binding force.

The State of Palestine is a strong supporter of customary international law, its authority, its advancement, and its crystallization. As such, the State of Palestine will positively engage in the ongoing discussions towards a collective progress on the Draft Articles and eventual codification.

Mr. Chair,

We take pride in the fact one of the first uses of the ILC Draft Articles was in the ICJ Advisory Opinion on the Wall in 2004.

The Advisory Opinion on the Wall is considered one of the most authoritative reviews of the ILC Draft Articles.

The Court addressed the content of the legal obligations on Israel, arising from its wrongful acts and breaches of peremptory norms and *erga omnes* obligations, including the right of the Palestinian people to self-determination.

The Court also reaffirmed the principle that restitution, compensation, and satisfaction, are the primary forms of reparation for breaches of continuing and serious character violating peremptory norms, as per Articles 34-37 of the ILC Draft Articles.

Moreover, the Court analyzed the legal obligations arising for third States from Israel's breaches and delineated the mechanisms available for third States to uphold their obligations, based not only, international humanitarian law but also on human right treaties and customary law.

The Court relied on Article 41 of the ILC Draft Articles and explained that:

1. All States can be held to have a legal interest in the protection of the peremptory norms and rights involved and put an end to any impediment to their respect;
2. All States are under an obligation not to recognize the illegal situation or render aid or assistance in maintaining the situation.

Mr. Chair,

The Advisory Opinion on the Wall has been instrumental in advancing the Draft Articles and ancillary affirming that every State has not only a duty to abstain from committing breaches, but also a positive duty to act as required in order to put an end to such breaches. No one can evade their responsibilities and everyone has a duty towards that end.

The Court also made it clear that the Court's analysis *vis-à-vis* the ILC Draft Articles can be applied to other situations of serious breaches of peremptory norms of customary international law.

Building on this, and as noted by the Secretary-General's compilation report, the United Nations Committee on the Elimination of Racial Discrimination, in its decision on jurisdiction on our case, noted that the "the peremptory norms that are clearly accepted and recognized include the prohibitions of aggression, genocide, slavery, racial discrimination, crimes against humanity and torture, and the right to self-determination" and they are owed to the international community; their breach may also amount to international crimes.

Finally, the State of Palestine looks forward to actively engage in the discussions and ensure the durability, efficacy, and efficiency of the ILC Draft Articles.