

*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 79th Session of the General Assembly Meeting of the Sixth Committee on the Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts (Agenda item 81)

Mr. Chair,

The moral, legal, and political norms that have guided our international community are that people are citizens under the protection and empire of international law; that colonialism, foreign occupations, and other forms of racist and alien rules are the exception to this norm, an abnormal condition, and unlawful one, from darker times; that the fundamental principles of *jus in bello*: proportionality and discrimination transformed the existing laws of war into a more humanitarian code; that starvation and reprisals against protected persons and objects are prohibited under international law; that extending the protection of the law to journalists, medical personnel, equipment and supplies is go the core of our humanity to protect the life and dignity of civilians.

This why the 1977 Additional Protocols are the core of the contemporary international humanitarian. They reaffirmed the international character of wars of national liberations of peoples fighting against colonial domination, alien occupation, and racist regimes and provided rigorous definition of a civilian and reaffirmed the protection of a civilian population.

Chawki Armaly, the Palestinian lawyer representing the Palestine Liberation Organization during the Additional Protocol negotiations and alongside other liberation movements, said that the Additional Protocols, “re-confirmed the legitimacy of the struggles of peoples exercising their right to self-determination.”

Indeed, the 1977 Additional Protocols merged the Geneva and Hague rules and sought to use the force of law to protect civilians and secure their rights. They are the negotiated products of finely tuned compromises; an accepted balance of responsibilities and obligations to which accountability could be measured, monitored, and strengthened. Their strengths lie in their totality, in the moral, legal, and humanitarian provisions.

The Additional Protocols are customary international law. Respect for their provisions is not a choice.

But in Palestine, we have the most protracted, the longest, and the most sustained violations of nearly every provision of the Fourth Geneva Convention and its Additional Protocol.

These violations are result of Israel’s 57 years illegal occupation, its aggression and annexation, its settlement regime and colonial enterprise, its Wall, its blockade, its apartheid regime, its systematic policy of rape of prisoners, its targeting of civilians and civilian objects, and mass killing of children. These violations also stem from Israel’s continued intransigence and unilateral denial of the applicability of these Conventions and their Additional Protocol vis-à-vis the protected Palestinian population under its occupation.

The ICJ in July, in its authoritative advisory opinion on “Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem”, concluded that Israel’s presence in Palestine is unlawful and reiterated that Israel is bound by international humanitarian law. It also recalled that Israel remains bound to comply with its obligation to respect the right of the Palestinian people to self-determination, which the ICJ confirmed to be a *jus cogen* norm.

The ICJ also emphasized that even though Israel's continued presence in Palestine is illegal and described it as "sustained abuse of its position" as an occupying Power, Israel is not released from its obligations and responsibilities under IHL, particularly the law of occupation, towards the Palestinian population and towards other States in respect of the exercise of its powers in relation to Palestine until such time as its presence is brought to an end. "To conclude otherwise", the ICJ said, "would be contrary to the object and purpose of the Fourth Geneva Convention and would deprive the population subject to an ongoing occupation of the protection that it enjoys under international humanitarian law."

Among other things, the ICJ confirmed that Israel has no sovereignty or whatsoever in Palestine and that in cases of prolonged occupation, the occupying Power does not acquire additional powers. It also concluded that no agreement can detract from Israel's obligations under IHL. Israel must also return land and immovable property and allow for return of Palestinians it displaced and to make a reparation for the damage caused to all the natural or legal persons.

The ICJ fulfilled its mandate by unequivocally identifying the legal consequences for Israel, all States and the United Nations and by placing them before the General Assembly, the Security Council and all States to take the necessary measures to ensure compliance with international law. Measures, including not to recognize any changes in the physical character or demographic composition, institutional structure or status of occupied Palestine, to distinguish in their dealings, including taking steps to prevent trade or investment relations that assist in the maintenance of the illegal situation, not to render aid or assistance in maintaining the situation, to ensure compliance by Israel of IHL, and to ensure that any impediment resulting from the illegal presence of Israel in the OPT to the exercise by the Palestinian people of its right to self-determination is brought to an end.

The ICJ's advisory opinion showed that there is no doubt about the facts or the law. Every single Israeli justification of illegality was debunked. But the law is not there to merely serve as a measuring stick of violations. It is there to prevent those violations, and when that does not work, it is there to punish them, to bring them to a halt, to ensure accountability, to ensure justice.

General Assembly resolution (A/RES/ES-10/24) that followed the ICJ advisory opinion reflected the determinations of the ICJ and sought action for accountability, including demanding that Israel, the occupying Power, bring to an end its unlawful occupation within 12 months.

75 years after the consolidating of the Geneva Conventions, 20 years since the ICJ issued its opinion regarding the illegality of Israel's wall, five months after the ICJ advisory opinion on Israel's unlawful presence, and two months after the GA resolution, Israel's violations of IHL continue unabated. Israel is entrenching its illegal occupation, openly and wantonly.

Generations of Palestinians have grown up knowing IHL not because of its universality but because of its violations and lack of accountability. There is no other place, and no other people, who pay the price of violations of IHL with their lives, their lands, and indeed their existence, so brutally, so brazenly, and so criminally. They are left wondering how can IHL retain any kind of actual meaning after the travesty Israel has made of it?

The ICJ and the GA resolutions have given us mechanisms to ensure accountability for Israel's IHL violations, including an upcoming High Contracting Parties conference. We are thankful for Switzerland for its readiness to hold the meeting within 6 months time and call on High Contracting Parties, in compliance with IHL, in particular pursuant to their obligations under articles 146, 147 and 148 regarding penal sanctions and grave breaches, to determine enforcement measures.

Unchecked, undeterred Israeli impunity is threatening a century of sustained efforts of formulating and implementing the most extraordinary legal machinery to protect civilians. It must be brought to an end.

Chair,

What Israel is doing cannot be encompassed or understood in human terms or by a sane imagination. The annihilation of a captive and starving population, the shooting and bombing of helpless and wounded children for sport, the horrific collective torture of bombed out and displaced communities are all signs of sadistic, depraved, psychopathic monsters that have no relation to humanity.

But in another remarkable moment of depravity, the Israeli delegate, is once again, talking about Israel's commitment to adhere to implement the provisions that reflect customary international law, including throughout Israel's genocide in Gaza. Insulting all of us legal advisors in this room and insulting our eyes that have been witnessing a televised genocide for a year and a colonial oppressive project for 75 years.

Claims to have facilitated humanitarian assistance when Israeli PM and minister of War are wanted for starvation by the Prosecutor of the ICC. A crime that belongs to the dark ages. Claims to protect civilians, but have killed at least 43,000 of them, including 17,000 children. But Israel is not to blame. It is a "democracy" they say. In what world, we ask, a 76 year old settler-colonial project, an illegal occupier, and an apartheid regime committing genocide and a serial violator of IHL is a "democracy"? Every Israeli institution, from its executive, to its judicial, and legislative, have not only failed to stop crimes but are advancing them, over the course of 76 years. But sure, a democracy.

This gaslighting and manufacturing of lies and deception is not new in the history of our world and in the history of oppression and colonialism. Most of you in this room whose lands and homes and rights were usurped from you can testify to it. The history of the drafting of the Additional Protocols can testify to it. This is why Israel was the only State to vote against the adoption of the Additional Protocols, a fact the Israeli delegate omitted in his statement.

It is also important to remind the Israeli delegate that humanitarian law shall not be interpreted so that its application is contingent upon acceptance by the belligerent occupant; international humanitarian law protects the interests of civilians not of belligerents. Israeli unilateral manipulation of the core principles of IHL to justify its violations are rejected by the ICJ, the World's Court, and by all of you who are trying to maintain the protect the work of humanity.

Finally, the State of Palestine is deeply committed to the protection of civilians. We are deeply committed to ensure respect for and implementation of the Geneva Conventions and their Additional Protocols. The development of the Geneva Conventions and their Additional Protocols represented a collective effort to apply the law prevent the violations of basic rights. They are meant to be universally available to, and actionable, by all of us, for all of us, without exceptions.