



DIVISION FOR
PALESTINIAN RIGHTS

Bulletin

on action by the United Nations system and
intergovernmental organizations
relevant to the question of Palestine

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I. UNILATERAL ACTIONS COULD JEOPARDIZE RESUMPTION OF PEACE TALKS, UN SECRETARY-GENERAL SAYS AS PALESTINIAN RIGHTS COMMITTEE ELECTS ITS BUREAU

On 4 February, the Committee on the Exercise of the Inalienable Rights of the Palestinian People held its 402nd meeting, during which it elected its Bureau members. The Secretary-General's remarks are reproduced below ([GA/PAL/1435](#)).

I was very honoured to preside over the beginning of this year's first meeting of the Committee on the Exercise of the Inalienable Rights of the Palestinian People. My congratulations to the Chair, Ambassador Cheikh Niang (Senegal), and other members of the Bureau, on your election.

The unresolved question of Palestine underlines the continued importance of the Committee. This is affirmed by the General Assembly's adoption, last December and by large majorities, of all the resolutions on the question of Palestine recommended by the Committee.

The year 2021 presents tremendous tests and opportunities across the board. It challenges us to reinvent how we make and sustain peace, while confronting the ongoing COVID-19 pandemic. The pandemic has had a severe impact on the Palestinians, particularly in Gaza. The public health system has been pushed to the brink due to the occupation and the fragile socioeconomic, humanitarian and political situation.

The United Nations and its partners are supporting the Palestinian Government's work to control the spread of the pandemic. Through the efforts of the World Health Organization (WHO) and the United Nations Children's Fund (UNICEF), the United Nations is also supporting the Government's preparedness to receive and administer vaccines.

The Special Coordinator [for the Middle East Peace Process, Tor Wennesland,] continues to encourage Israel to help address the priority needs of Palestinians in the Occupied Palestinian Territory — and to support COVID-19 vaccine availability more generally, which is in line with Israel's obligations under international law.

The United Nations remains committed to supporting Palestinians and Israelis to resolve the conflict and bring an end to the suffering. I reiterate my call on the Government of Israel to immediately halt all settlement activity, which is a major obstacle to the achievement of a two-State solution, and a just, lasting and comprehensive peace.

Persistent acts of violence in the occupied West Bank, including East Jerusalem and Gaza, as well as Israeli movement and access restrictions and other violations of international humanitarian and human rights law exacerbate mistrust between Israelis and Palestinians and drive us further from peace.

The Committee plays an important role in mobilizing international opinion and assisting Palestinians and Israelis to re-engage in meaningful negotiations. The long-agreed goal is clear: To end the occupation and realize a two-State solution on the basis of the pre-1967 borders, in line with international law, relevant United Nations resolutions and bilateral agreements, with Jerusalem as the capital of both States.

President Mahmoud Abbas's call for an international peace conference under the auspices of the United Nations, and an expanded Middle East Quartet with considered preparation and involvement by the key parties, provide a positive opportunity to advance peace in the region.

I call on the parties to refrain from unilateral acts that can jeopardize the possibility of restarting the peace process. I welcome the Presidential decree issued by President Mahmoud Abbas to hold legislative, presidential and Palestinian National Council elections this year.

The holding of elections in the occupied West Bank, including East Jerusalem and Gaza, will be a crucial step towards Palestinian unity. It will give renewed legitimacy to national institutions, including a democratically elected Parliament and Government in Palestine. Elections are a vital part of building a democratic Palestinian State founded on the rule of law with equal rights for all. The Committee's support to these efforts will be crucial.

I also commend the Committee's efforts to mobilize support for the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) in a way that is sustainable, predictable and long-term — as Palestinian refugees need and deserve.

Let me conclude by restating the important advocacy role of the Committee. Together, let us strive to uphold the values of the United Nations Charter as our shared framework of cooperation for the realization of the rights of Israelis and Palestinians, the Middle East region and beyond.

II. UN AGENCIES IN PALESTINE REITERATE CALL FOR DEMOLITIONS TO END AND FOR INTERNATIONAL LAW TO BE RESPECTED

On 5 February, Sarah Muscroft, Head of the UN Office for the Coordination of Humanitarian Affairs in the occupied Palestinian territory, James Heenan, Head of the Office of the United Nations High Commissioner for Human Rights in the occupied Palestinian territory, and Lucia Elmi, United Nations Children's Fund Special Representative in the State of Palestine, issued the following [statement](#).

United Nations representatives met yesterday with the Palestinian Bedouin community of Humsa Al Baqai'a, in the northern Jordan Valley of the West Bank. On 1 and 3 February, 60 people, including 35 children, were displaced from their homes and their belongings seized or destroyed by Israeli forces. Among items seized were tents provided to them as humanitarian assistance following an earlier demolition of [83 other structures in November 2020](#), the largest single demolition since 2009.

The demolitions and confiscations were carried out after the families were verbally ordered to leave the area, although the community has made it clear they want to remain. The community has made appeals to the courts and rejected previous proposals to be moved to another location. This situation where the community is put under pressure to move raises a real risk of forcible transfer, which is a breach of international law.

The humanitarian community has also consistently expressed concerns over other impending demolitions, including of schools. One school in Um Qussa, in the southern West Bank, is currently under imminent threat of demolition, which would impact 50 children. Bedouin children,

especially girls, are amongst the most vulnerable to human rights violations. Limiting their access to education and other basic services during a pandemic only exacerbates this vulnerability. Currently 53 schools, which are attended by 5,200 children, have demolition orders placed against them. The rights of children to protection, safety, and well-being must be upheld at all times.

The humanitarian community will continue to provide assistance to those impacted by this demolition, ensure their humanity is recognized and dignity upheld, and advocate for respect for international law.

III. ICC PRE-TRIAL CHAMBER CONFIRMS THE COURT'S TERRITORIAL JURISDICTION OVER OPT

On 5 February, the International Criminal Court issued the following [press release](#).

Today, 5 February 2021, Pre-Trial Chamber I of the International Criminal Court (“ICC” or “Court”) decided, by majority, that the Court’s territorial jurisdiction in the Situation in Palestine, a State party to the ICC Rome Statute, extends to the territories occupied by Israel since 1967, namely Gaza and the West Bank, including East Jerusalem.

On 20 December 2019, the ICC Prosecutor announced the [conclusion of the preliminary examination](#) of the Situation in Palestine. The Prosecutor determined that all the statutory criteria under the Rome Statute for the opening of an investigation have been met. A decision on opening the investigation in this situation is in the remit of the ICC Prosecutor. On 22 January 2020, the Prosecutor seized the Chamber under article 19(3) of the Rome Statute, requesting a ruling only on the scope of the Court’s territorial jurisdiction in the [Situation in the State of Palestine](#).

In today’s decision, Pre-Trial Chamber I recalled that the ICC is not constitutionally competent to determine matters of statehood that would bind the international community. By ruling on the territorial scope of its jurisdiction, the Chamber is neither adjudicating a border dispute under international law nor prejudging the question of any future borders. The Chamber’s ruling is for the sole purpose of defining the Court’s territorial jurisdiction.

Pre-Trial Chamber I examined the [Prosecutor’s request](#) as well as the [submissions](#) of other States, organisations and scholars who participated as *amicus curiae* and groups of victims. The Chamber held that, in accordance with the ordinary meaning given to its terms in their context and in the light of the object and purpose of the Statute, the reference to ‘[t]he State on the territory of which the conduct in question occurred’ in article 12(2)(a) of the Statute must be interpreted as a reference to a State Party to the Rome Statute. The Chamber found that, regardless of its status under general international law, Palestine’s accession to the Statute followed the correct and ordinary procedure and that the Chamber has no authority to challenge and review the outcome of the accession procedure conducted by the Assembly of States Parties. Palestine has thus agreed to subject itself to the terms of the ICC Rome Statute and has the right to be treated as any other State Party for the matters related to the implementation of the Statute.

Pre-Trial Chamber I noted that, among similarly worded resolutions, the General Assembly of the United Nations in [Resolution 67/19](#) “[reaffirmed] the right of the Palestinian people to self-determination and to independence in their State of Palestine *on the Palestinian territory occupied*

since 1967“. On this basis, the majority, composed of Judge Reine Adélaïde Sophie Alapini-Gansou and Judge Marc Perrin de Brichambaut, found that the Court’s territorial jurisdiction in the *Situation in Palestine* extends to the territories occupied by Israel since 1967, namely Gaza and the West Bank, including East Jerusalem.

In addition, the Chamber found, by majority, that the arguments regarding the Oslo Agreements, and its clauses limiting the scope of Palestinian jurisdiction, are not pertinent to the resolution of the issue of the Court’s territorial jurisdiction in Palestine. Such matters and other further questions on jurisdiction may be examined when and if the Prosecutor submits an application for the issuance of a warrant of arrest or summons to appear.

Judge Marc Perrin de Brichambaut appended a partly separate opinion on the reasons for which article 19(3) of the Statute is applicable in the present situation. Judge Péter Kovács, Presiding Judge, appended a partly dissenting opinion, in which he disagrees on the fact that Palestine qualifies as ‘[t]he State on the territory of which the conduct in question occurred’ for the purposes of article 12(2)(a) of the Statute, and that the Court’s territorial jurisdiction in the Situation in Palestine extends – in a *quasi*-automatic manner and without any restrictions – to the territories occupied by Israel since 1967, namely Gaza and the West Bank, including East Jerusalem.

IV. EU, UNOPS AND THE OFFICE OF THE QUARTET PARTNER TO SUPPORT PA FINANCIAL STABILITY

On 8 February, the Office of the European Union Representative in Palestine and the United Nations Office for Project Services (UNOPS) – Jerusalem Operations Centre issued the following [press release](#).

Today, the European Union and the UNOPS announce the signature of a partnership agreement to support the capacity of the Office of the Quartet to promote fiscal sustainability of the Palestinian Authority.

The partnership agreement was signed at the Office of the European Union Representative in East Jerusalem by Mr. Tokumitsu Kobayashi, Director of UNOPS Jerusalem, and Mr Sven Kühn von Burgsdorff, European Union Representative to West Bank and Gaza Strip, and will be implemented by the Office of the Quartet.

The Director of UNOPS Jerusalem Office, Mr Tokumitsu Kobayashi said: “This agreement reflects the close partnership between the UN system and the European Union in Palestine. We are hopeful that the activities under this agreement will contribute to the improvement of a more predictable and sustainable financial situation of the Palestinian Authority to the benefit of the Palestinian people.”

For his part, the European Union Representative Mr Sven Kühn von Burgsdorff said: “Palestinians face growing and serious challenges. The uneven implementation of the economic chapter of the Oslo Accords not only undermines Palestinian fiscal sovereignty and prospects for achieving key development objectives but also aspirations for a viable and independent Palestinian state. In this context the European Union urges all parties to fully respect the signed agreements

and to take the necessary steps to ensure the financial stability of the occupied Palestinian territory.”

For the Office of the Quartet, the Head of Mission, Mr John Clarke stated: “We are working with all parties to increase Palestinian economic and institutional development and empowerment, as a support towards achieving a two-state solution.”

The aim of the agreement is to contribute to the predictability and stability of the Palestinian Authority’s budget as the main source of financing of its development objectives. The action will focus in particular on fostering the dialogue on fiscal leakages between the Government of Israel and the Palestinian Authority. The agreement amounts to €1 million, with the European Union as the sole financial contributor of the Action.

V. UN HUMAN RIGHTS EXPERTS CALL ON ISRAEL TO END IMPUNITY FOR TORTURE AND ILL-TREATMENT OF PALESTINIANS

On 8 February, Nils Melzer, Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; Michael Lynk, Special Rapporteur on the situation of human rights in the Palestinian Territory occupied since 1967; Leigh Toomey (Chair-Rapporteur), Elina Steinerte (Vice-Chair), Miriam Estrada-Castillo, Mumba Malila, and Seong-Phil Hong, of the Working Group on Arbitrary Detention issued the following [press release](#).

UN human rights experts today urged Israel to ensure accountability for torture and other cruel, inhuman or degrading treatment or punishment universally prohibited under international law.

The call comes after the Attorney-General last month ended investigations into the Israeli Security Agency’s “enhanced interrogation techniques” used against Palestinian Samer Al-Arbeed, who was detained in 2019 on suspicion of involvement in a bomb explosion.

“We are alarmed at Israel’s failure to prosecute, punish and redress the torture and ill-treatment perpetrated against Mr Al-Arbeed. Addressing such abuse is not at the discretion of the Government or the judiciary, but constitutes an absolute obligation under international law,” the experts said.

Al-Arbeed was in good health when he was arrested on 25 September 2019 after an alleged attack in the occupied West Bank in August, during which a 17-year-old Israeli girl was killed and her father and brother got injured. Within 48 hours, Al-Arbeed was hospitalized with life-threatening injuries due to ill-treatment and now suffers irreparable physical and psychological conditions.

“We are alarmed that the use of so-called ‘enhanced interrogation techniques’ or ‘exceptional measures’ during questioning reportedly led to a forced confession, which the universal prohibition of torture and ill-treatment aims to prevent,” the experts said.

“Allowing individual agents the ‘necessity defence’ against criminal prosecution is a grave loophole within the Israeli judicial system which effectively excuses the coercive interrogation of persons suspected of possessing information on military operations. This misguided defence

provides de facto impunity for investigative measures amounting to torture or other cruel, inhuman or degrading treatment or punishment,” they said.

Israeli authorities should “urgently and comprehensively review, suspend and/or repeal the necessity defence applied in criminal investigations, and any laws, regulations, policies and practices authorising, justifying, acquiescing in or otherwise leading to impunity for such grave violations of human rights”

They said States were legally responsible for torture or ill-treatment perpetrated by their agents and were duty-bound to prevent and punish such acts. Victims must receive full redress and rehabilitation.

The experts will continue to engage with the authorities and closely monitor the situation.

VI. UN SPECIAL RAPPORTEUR ON THE SITUATION OF HUMAN RIGHTS IN THE OPT CALLS ICC RULING ON JURISDICTION IN OPT WELCOME STEP TOWARDS JUSTICE

On 9 February, Michael Lynk, Special Rapporteur on the situation of human rights in the Palestinian Territory occupied since 1967, issued a statement reflected in the [press release](#) below.

A UN human rights expert said today the International Criminal Court’s (ICC) ruling that it has jurisdiction over grave crimes committed in occupied Palestinian territory, including potential war crimes, is a major move towards ending impunity and ensuring justice.

“This is a significant step forward in the quest for justice and accountability involving the unaccountable 53-year-old occupation of the West Bank, including East Jerusalem, and Gaza,” said Michael Lynk, the Special Rapporteur for the situation of human rights in the Palestinian territory occupied since 1967.

“The leading political organs of the United Nations have repeatedly failed to enforce their own significant body of resolutions on the Israeli occupation,” the independent expert said. “This ruling opens the door for credible allegations of Rome Statute crimes to finally be investigated and potentially reach the trial stage at the ICC. This offers profound hope to those who believe that consequences, not condonation, must be the answer to the commission of grave crimes.”

The allegations of grave crimes that could be investigated by the Prosecutor of the ICC include Israel’s actions during the 2014 war against Gaza, the killing and wounding of thousands of largely unarmed demonstrators during the Great March of Return in 2018-9, and Israel’s settlement activities in East Jerusalem and the West Bank. As well, the Prosecutor can also look into allegations of grave crimes involving Palestinian armed groups.

“In adopting the Rome Statute and creating the International Criminal Court, the international community pledged its determination to end impunity for the perpetrators of grave crimes,” the Special Rapporteur stated. “Yet, in the context of Israel’s protracted occupation, the international community has permitted a culture of exceptionalism to prevail. Had international legal obligations

been purposively enforced years ago, the occupation and the conflict would have been justly resolved and there would have been no need for the ICC process.”

The Special Rapporteur noted that a number of authoritative UN reports in recent years have called for accountability and for Israel to meaningfully investigate credible allegations of grave crimes:

- A report into the 2008-09 Gaza conflict stated that: “...justice and respect for the rule of law are the indispensable basis for peace. The prolonged situation of impunity has created a justice crisis in the Occupied Palestinian Territory that warrants action.”

- A 2013 report into the implications of the Israeli settlements called upon Israel: “...to ensure full accountability for all violations...and to put an end to the policy of impunity.”

- A report into the 2014 Gaza conflict expressed concern that: “... impunity prevails across the board for violations of international humanitarian law and international human rights law allegedly committed by Israeli forces...Israel must break with its recent lamentable track record in holding wrongdoers accountable...”

- A 2019 report into the Gaza protests found that: “To date, the Government of Israel has consistently failed to meaningfully investigate and prosecute commanders and soldiers for crimes and violations...Scarce accountability measures arising out of Operations Cast Lead (2008-09) and Protective Edge (2014)...cast doubt over the State’s willingness to scrutinize the actions of military and civilian leadership....”

The Special Rapporteur said none of these calls for justice and accountability have been implemented.

He urged the international community to support the ICC process. “The preamble of the Rome Statute calls for ‘international cooperation’ to ensure the ‘lasting respect for and the enforcement of international justice,’” Lynk said. “Ending impunity and pursuing justice can only bring us closer to peace in the Middle East.”

VII. UN SPECIAL COORDINATOR WELCOMES MEETING OF PALESTINIAN FACTIONS IN CAIRO

On 12 February, Tor Wennesland, Special Coordinator for the Middle East Peace Process, issued the following [statement](#).

I welcome the recent meeting of the Palestinian national factions under the auspices of the Arab Republic of Egypt. The meeting marks an important advancement towards the holding of elections and Palestinian national unity. I acknowledge the leadership demonstrated by Egypt in helping to advance this step forward.

I also take note of the statement issued by the League of Arab States in support of the two State solution and the establishment of an independent and sovereign Palestinian state, which followed the meeting of the Foreign Ministers of the Arab Republic of Egypt and the Hashemite Kingdom of Jordan.

The UN will continue to support the Palestinian people as well as preparations towards the holding of elections.

VIII. ICC ISSUES FACTSHEET ON DECISION ON TERRITORIAL JURISDICTION IN THE SITUATION IN PALESTINE

On 15 February, the International Criminal Court published the following [factsheet](#).

WHAT WAS DECIDED BY THE JUDGES REGARDING THE SITUATION IN PALESTINE? On 5 February 2021, Pre-Trial Chamber I of the International Criminal Court (ICC) decided, by majority, that the Court’s territorial jurisdiction in the Situation in Palestine, a State party to the ICC Rome Statute, extends to the territories occupied by Israel since 1967, namely Gaza and the West Bank, including East Jerusalem.

The Chamber held that, in accordance with the ordinary meaning given to its terms in their context and in the light of the object and purpose of the Rome Statute, the reference to ‘[t]he State on the territory of which the conduct in question occurred’ in article 12(2)(a) of the Statute must be interpreted as a reference to a State Party to the Rome Statute.

The Chamber found that, regardless of its status under general international law, Palestine’s accession to the Statute followed the correct and ordinary procedure and that the Chamber has no authority to challenge and review the outcome of the accession procedure conducted by the Assembly of States Parties. Palestine is therefore a State Party to the Rome Statute, and, as a result, a ‘State’ for the purposes of article 12(2)(a) of the Statute. Palestine has thus agreed to subject itself to the terms of the ICC Rome Statute and has the right to be treated as any other State Party for the matters related to the implementation of the Statute.

Pre-Trial Chamber I noted that, among similarly worded resolutions, the General Assembly of the United Nations in [Resolution 67/19](#) “[reaffirmed] the right of the Palestinian people to self-determination and to independence in their State of Palestine *on the Palestinian territory occupied since 1967*”. On this basis, the Chamber found that the Court’s territorial jurisdiction in the *Situation in Palestine* extends to the territories occupied by Israel since 1967, namely Gaza and the West Bank, including East Jerusalem.

WHY DID THE JUDGES DECIDE ON THIS MATTER? The Judges’ decision on territorial jurisdiction follows a request from the ICC Prosecutor. A decision on opening an investigation in Palestine is in the remit of the ICC Prosecutor.

On 20 December 2019, the ICC Prosecutor announced the [conclusion of the preliminary examination](#) of the Situation in Palestine. The Prosecutor determined that all the statutory criteria under the Rome Statute for the opening of an investigation have been met, that is, there is a reasonable basis to believe that war crimes have been or are being committed in the West Bank, including East Jerusalem, and the Gaza Strip (“Gaza” or “Gaza Strip”), and some of the potential cases arising from the situation would be admissible. Further, there were no substantial reasons to believe that an investigation would not serve the interests of justice.

However, given the unique circumstances in Palestine, and the potential uncertainty this raised as to the question of the scope of the Court’s territorial jurisdiction, the Prosecutor decided to request a ruling, in order to confirm that she was proceeding on a solid legal foundation. On 22 January 2020, the Prosecutor therefore requested a ruling from Pre-Trial Chamber I on the territorial scope of the Court’s jurisdiction in the [Situation in the State of Palestine](#).

HOW DID THE JUDGE MAKE THEIR DECISION? Pre-Trial Chamber I examined the [Prosecutor’s request](#) of 20 December 2019 and re-submitted on 22 January 2020 as well as the [submissions](#) of 43 other States, organisations and scholars who participated as *amicus curiae*, as well as of groups of victims.

The judges also examined the Court’s core legal texts in particular the Rome Statute, the interpretation of the provision of article 12(2)(a) of the Statute in accordance with the ordinary meaning to be given to its terms in their context and in the light of the Rome Statute’s object and purpose.

HAS THE CHAMBER DECIDED ON PALESTINE’S STATEHOOD? No. Pre-Trial Chamber I recalled that the ICC is not constitutionally competent to determine matters of statehood that would bind the international community. By ruling on the territorial scope of its jurisdiction, the Chamber neither adjudicated a border dispute under international law nor prejudged the question of any future borders. The Chamber’s ruling was for the sole purpose of defining the Court’s territorial jurisdiction.

Arguments to the effect that the aim or consequence of the Prosecutor’s Request would be the creation of a ‘new State’ reflect a misunderstanding of the actual subject-matter of the Prosecutor’s Request. Indeed, the creation of a new state pursuant to international law is a political process of high complexity far detached from the ICC’s mission.

IS THIS DECISION OF A POLITICAL NATURE? No. The issues raised by the Prosecutor in its Request clearly raised legal questions on the Court’s jurisdiction which required a legal answer by the Chamber.

The Prosecutor addressed a legal issue to the Chamber, namely whether ‘the “territory” over which the Court may exercise its jurisdiction under article 12(2)(a) comprises the West Bank including East Jerusalem, and Gaza’. The Chamber provided a legal answer based on the strict interpretation of the Rome Statute. It emphasised that the issue of the territorial jurisdiction of the Court would have to be further examined when the Prosecutor submits an application for the issuance of a warrant of arrest or summons to appear. The Chamber declined to address the arguments regarding the Oslo Accords in the context of the present proceedings and indicated that these issues may be raised at a later stage of the proceedings.

CAN THIS DECISION BE SUBJECT TO APPEAL? Yes, it can be appealed by the party who sought the ruling, that is the Prosecutor. It is possible to appeal decisions of this kind—which were rendered under article 19(3) of the Statute—by a “party” if the conditions in article 82(1)(a) of the Statute are met. This should be done not later than five days from the date upon which the party filing the appeal is notified of the decision.

DOES THE JUDGES' DECISION AUTOMATICALLY TRIGGER AN ICC INVESTIGATION? WHAT ARE THE NEXT STEPS? No. The decision whether or not to open an investigation in the Situation in Palestine is in the remit of the ICC Prosecutor. The Chamber nonetheless recalled the Prosecutor is, in principle, obliged to initiate an investigation if she is satisfied that the relevant criteria established by the Statute are fulfilled.

The Office of the Prosecutor has welcomed the Chamber's decision providing judicial clarity on the scope of the territorial jurisdiction of the ICC in this situation.

The Office of the Prosecutor is currently carefully analysing the decision and will then decide its next step guided strictly by its independent and impartial mandate and obligations under the Rome Statute.

IF AN INVESTIGATION IS OPENED, WOULD THE PROSECUTOR LOOK AT ALL SIDES OF THE CONFLICT? The ICC Prosecutor has a duty to investigate all alleged crimes in a specific situation, no matter on which side of the conflict. The Prosecutor works within the confines of the independent, objective and impartial exercise of her mandate under the Rome Statute, with full respect for the principle of complementarity.

In this regard, ICC Prosecutor has previously identified in her request for a jurisdictional ruling a reasonable basis to believe crimes within the jurisdiction of the Court were allegedly committed by members of the Israeli Defense Forces, Israeli authorities, Hamas and Palestinian armed groups.

WHY WAS THERE A DISSENTING OPINION AND HOW DOES THIS IMPACT THE DECISION? In the absence of consensus, a Chamber may adopt its decision by majority. A judge who does not agree with the majority can attach a dissenting, or partially dissenting, opinion. A dissenting opinion lays out the position of the dissenting judge, but has no legal authority as such.

In the current situation, the decision was adopted by 2 of the 3 Pre-Trial judges. Judge Péter Kovács appended a partly dissenting opinion, in which he disagrees on the fact that Palestine qualifies as '[t]he State on the territory of which the conduct in question occurred' for the purposes of article 12(2)(a) of the Rome Statute, and that the Court's territorial jurisdiction in the Situation in Palestine extends – in a *quasi*-automatic manner and without any restrictions – to the territories occupied by Israel since 1967, namely Gaza and the West Bank, including East Jerusalem.

WHO ARE THE ICC JUDGES ON THIS CHAMBER? ICC Pre-Trial Chamber I is composed of Judge Péter Kovács, Presiding Judge, Judge Marc Perrin de Brichambaut and Judge Reine Adélaïde Sophie Alapini-Gansou. The ICC Judges are persons of high moral character, impartiality and integrity who possess the qualifications required in their respective States for appointment to the highest judicial offices. All have extensive experience relevant to the Court's judicial activity. The Judges are elected by the Assembly of States Parties on the basis of their established competence in criminal law and procedure and in relevant areas of international law such as international humanitarian law and the law of human rights.

CAN THE ICC SUBJECT STATES TO ITS JURISDICTION WHILE THEY ARE NOT STATE PARTIES? No. The ICC can only investigate and prosecute individuals, not States. Furthermore, States that are not parties to the Rome Statute have no obligations toward the ICC

under that treaty. Nevertheless, individual nationals of such States may be subject to the Court's jurisdiction under certain circumstances. This is entirely different from the question whether a State has obligations under a treaty.

The ICC can open an investigation in a situation only in accordance with the rules conditioning its jurisdiction. The Prosecutor may initiate investigations into a situation in the following three circumstances: (1) a State Party or State that has accepted the Court's jurisdiction requests the Prosecutor to carry out an investigation; (2) the United Nations Security Council refers a situation to the Prosecutor; or (3) the Judges of the ICC authorise the Prosecutor to open an investigation on his/her initiative on the basis of information on crimes within the jurisdiction of the Court, et after determining that certain conditions are fulfilled.

Before the Prosecutor can open an investigation, she will also assess the criteria for initiating an investigation, amongst other, if: (1) crimes have been committed after 1 July 2002; (2) crimes took place on the territory of a State Party or a State that has accepted the jurisdiction of ICC, or were committed by a national of such a State (except for referrals by UNSC); (3) crimes amount to war crimes, crimes against humanity or genocide, and are of a certain level of gravity; (4) crimes are not already genuinely being investigated and prosecuted nationally; and (5) the investigation serves the interests of justice and of the victims.

Keeping these criteria in mind, the ICC may have jurisdiction in situations where a citizen (and not a state) of a non-party state when the crime scene is in the territory of a State Party to the Rome Statute. This does not mean that the ICC is imposing itself to a non-party state, but that it exercises territorial jurisdiction.

HOW DOES THE ICC ANSWER THE COMMENTS OF PRIME MINISTER BENJAMIN NETANYAHU AND OTHER STATES? The Court is an independent and impartial judicial institution crucial for ensuring accountability for the gravest crimes under international law. The Court acts strictly within the legal framework and the jurisdictional competence bestowed upon it by the Rome Statute. The ICC, as a court of law, will continue to do its independent work, in accordance with its mandate and the overarching principle of the rule of law.

IX. AD-HOC LIAISON COMMITTEE OF DONORS MEETS

Ine Eriksen Søreide, Minister of Foreign Affairs of Norway and Chair of the Ad-Hoc Liaison Committee (AHLC), issued the following [Chair's summary](#) of the 23 February AHLC meeting. The [Special Coordinator](#) on the Middle East Peace Process, [Office of the Quartet, Norway](#) and the [European Union](#) made remarks while the [World Bank](#) and [UNSCO](#) submitted reports.

The AHLC was established to promote cooperation between the parties and the donor community in support of the two-state solution, development of the Palestinian economy, and institution-building for a Palestinian state. While the parties were far apart during the last AHLC meeting, this meeting demonstrated a renewed commitment to enhanced cooperation by the parties. The donor community – to include the United States – expressed their support for the AHLC agenda and the shared objectives of advancing freedom, security, and prosperity for the Palestinian people.

The immediate necessity is to combat the Covid-19 pandemic. The concerted and largely successful efforts of both parties to contain the spread of the pandemic gives ground for hope. Israel has started an impressive campaign to vaccinate all its citizens, as well as Palestinians in East Jerusalem. The PA has started the vaccination of health personnel and vulnerable groups in the West Bank and Gaza. When both Palestinians and Israelis are vaccinated, normal economic activity and interaction can resume. The immediate priority of donors should be to alleviate the burden on the affected population, strengthen the Palestinian public health system, and stimulate economic recovery.

Last year was extraordinarily challenging for the Palestinian economy. The Covid-19 pandemic contributed to an estimated 10-12 percent negative growth. The PA will face a demanding fiscal situation again this year with a projected USD 1,2 billion budget deficit, due to factors like additional expenses to vaccination, elections and restored payments of salaries to Gaza staff at their normal levels. The level of external budget support is projected to be as low as USD 300 million.

Since the last AHLC meeting, it is encouraging to see advancements on important projects financed by the donors within energy, water, and other sectors in both the West Bank and in Gaza. Donors have also provided significant assistance to the fight against the pandemic, and pledged more today. However, little progress has been achieved in the discussions between the parties regarding the fiscal files and the much-needed revisions to the Paris Protocol.

Structural constraints for a sustainable development of the Palestinian economy remain. Resolving the fiscal issues under discussion is vital to stabilise the PA's economy. The dialogue between the parties should be resumed to substantially increase the revenues to the PA. The priority of the parties and the donors should be to promote measures to build trust, finalize infrastructure projects, to facilitate production and trade, as well as to stimulate private sector growth.

Against this backdrop, which is elaborated in the meeting reports submitted by UNSCO, the World Bank and the Office of the Quartet, the donors expressed support for a set of recommendations:

For the donor community and development partners:

- to support the PA in acquiring and rolling out a safe, rapid and nationwide Covid-19 vaccination programme, and with priority for health workers and vulnerable populations.
- to continue strengthening the Palestinian public health system and provision of humanitarian support, including cash-for-work programmes across Palestine.
- to support the Palestinian socio-economic recovery with a focus on social protection, the private sector, and trade facilitation, in line with PA priorities.
- to increase and frontload their budget assistance to the PA.
- to cover outstanding funding gaps for ongoing, critical infrastructure projects.
- to finance the Gaza Reconstruction Mechanism for entry of critical materials for projects and private sector development, and
- to support and coordinate with the relevant UN bodies.

Furthermore, calls were made to the parties:

- to continue coordinating their efforts to combat the pandemic and on Israel to facilitate the delivery and availability of vaccines and other essential materials to the PA.
- to replace the paper-based VAT mechanism with an electronic system.
- to restart talks on outstanding fiscal files related to the Paris Protocol with particular focus on the handling fee, exemption of excise tax from Palestinian fuel purchased from Israel, improved customs processes including bonded warehouses and transfer of customs authority.
- to agree on outstanding telecommunication issues and the allocation of adequate 4G/5G frequencies for Palestinian operators.
- to finalise outstanding and important agreements, including with donors, within the energy and water sectors, including Gas for Gaza, Central Gaza Desalination Plant, the overall Power Purchasing Agreement, as well as measures to facilitate movement and trade.
- to advance the new mechanism for corresponding banking relations, with support from development partners.
- to resume meeting in all technical committees relevant for making progress on projects, and the 'Joint Economic Committee'.
- to the PA to strengthen its collection of domestic revenues and cost recovery for services and amenities, and to continue its prudent management of the budget.
- to avoid all unilateral actions on the ground that undermine the prospects for resuming negotiations and the two-state solution.

Donors also expressed concern regarding the insufficient funding of the UNRWA. They recalled the importance of the services provided by UNRWA, while acknowledging the needs for continued focus on reform and ensuring neutrality in its implementation of its mandate, according to the values of the UN. The donor community welcomed the decision by the PA to carry out general elections and asked all relevant actors to contribute to their success.

The Palestinian economy cannot reach its full potential before the Palestinians get full access to their land and resources, and they can move and trade inside and outside their own territory. Therefore, the international donor community urges the parties to demonstrate, through policies and actions, a genuine commitment to the two-state solution and to create a path back to meaningful negotiations on a comprehensive political settlement.

The AHLC will review progress in all these issues at its next meeting, which is scheduled for September this year.

X. HUMAN RIGHTS COUNCIL HOLDS INTERACTIVE DIALOGUE WITH HIGH COMMISSIONER FOR HUMAN RIGHTS ON SITUATION IN OPT

On 24 February, Michelle Bachelet, United Nations High Commissioner for Human Rights, made the following [statement](#) during an interactive dialogue with the Human Rights Council.

I am pleased to present our report under item 2 on ensuring accountability and justice for all violations of international law in the Occupied Palestinian Territory, including East Jerusalem ([A/HRC/46/22](#)).

The report provides an update on matters related to accountability for **alleged violations of international human rights law and international humanitarian law in the Occupied Palestinian territory**. It also considers how to ensure **follow-up to recommendations issued to all parties** in our 2017 report ([A/HRC/35/19](#)). And it outlines the **responsibilities of third States** to ensure that all parties to the conflict respect their obligations under international law.

Serious violations continued during the reporting period. Between 1 November 2019 and 31 October 2020, 67 Palestinians, including 16 children, were killed by Israeli security forces, and 3,678 were injured. One Israeli soldier was killed by Palestinians during this period and 90 other Israelis were injured.

The demonstrations at the Israel-Gaza fence were suspended. However, my Office observed a disturbing lack of progress regarding investigations into the widespread use of lethal force in 2018 and 2019, in the context of these protests. Available information suggests that only 17 investigations have been initiated into the 231 reported incidents that resulted in killing of Palestinian demonstrators – and that there has been only one conviction.

There has been no notable progress in the investigation and prosecution of suspected violations of international humanitarian law, including allegations of war crimes, perpetrated by all parties in the context of multiple outbreaks of hostilities in Gaza. This is extremely concerning. Moreover, violations of international humanitarian law continued to be reported. They include an attack carried out by Israeli Security Forces in November 2019, which killed nine Palestinians (including five children) in Deir El Balah. Palestinian armed groups in Gaza also continued to indiscriminately launch rockets, mortar shells and incendiary balloons towards Israel.

We also continue to observe persistent impunity afforded to members of the Israeli Security Forces for incidents of possible excessive use of force in the West Bank, including East Jerusalem. In the rare cases where convictions have been secured, the charges and sentences have appeared extremely lenient given the gravity of the conduct.

Similarly, there was no notable progress in investigations into allegations of ill-treatment and torture in Israeli detention facilities. The recent closure of a criminal investigation into the alleged torture of Samer Al Arbeed in September 2019 is of deep concern.

Regarding the accountability of Palestinian authorities over this reporting period, I note the lack of progress by authorities in the West Bank, as well as the de facto authorities in Gaza, regarding incidents of possible excessive use of force, or allegations of torture and ill-treatment, by their security forces. Available information suggests there have been no charges brought against any persons involved in these violations.

I urge far more efforts by the parties to the conflict, as well as the international community, to advance accountability for serious violations, and to provide redress to victims.

XI. UN HUMANITARIAN COORDINATOR ON THE DEMOLITIONS AT HUMSA – AL BAQAI'A

On 24 February, United Nations Humanitarian Coordinator for the Occupied Palestinian Territory, Lynn Hastings, issued the following [statement](#).

Yesterday, I visited the community of Humsa – Al Baqai'a which is situated some hundreds of metres into a firing zone in the Northern West Bank. In accordance with Israel's domestic legal process, the homes and belongings of the families living there were demolished or confiscated five times by the Israeli authorities since the beginning of February. Tents, food, water tanks and fodder for their livestock have all been confiscated despite repeated calls by the international community for these actions to stop in accordance with international law. As we have noted previously, situations where communities are put under pressure to move raises a real risk of forcible transfer.

Although the Humsa – Al Baqai'a community has exhausted its recourse through the domestic legal process, in accordance with international law, the Israeli authorities should immediately halt all further demolitions of Palestinian homes and possessions, allow the humanitarian community to provide shelter, food and water to this most vulnerable group and these people to remain in their homes.

XII. UN SPECIAL COORDINATOR TELLS SECURITY COUNCIL, UPCOMING ISRAELI, PALESTINIAN ELECTIONS COULD PAVE WAY TO RESTORING POLITICAL HORIZON IN MIDDLE EAST

Tor Wennesland, United Nations Special Coordinator for the Middle East Peace Process, made the following [remarks](#) at the Security Council meeting of 26 February. Excerpts are below:

Significant developments in the coming weeks and months will influence the dynamics and the prospects for advancing peace going forward.

Palestinians and Israelis are fully engaged in their respective electoral processes. The COVID-19 crisis remains a persistent health threat that has triggered a massive economic fallout. Meanwhile unilateral steps on the ground are eroding the prospect of establishing a viable and contiguous Palestinian state, and are moving the parties further from constructive dialogue and compromise. The United Nations is continuing its engagement to meet these challenges.

We are working actively with the parties, and with our partners in the international community, to address the pressing socio-economic needs of the Palestinian people, including in the context of the pandemic. We are also advancing the goal of ending the occupation and realizing a negotiated two-State solution based on UN resolutions, international law and prior agreements.

Palestinian factions are making progress towards holding legislative, presidential and Palestinian National Council elections. Earlier this month they met in Cairo, reaching agreement on several outstanding issues and advancing the election process. The factions also emphasized that elections must be held throughout the occupied West Bank, including East Jerusalem, and the Gaza Strip, without exception. I welcome the positive steps to date and appreciate the leadership of Egypt in helping move this process forward.

Meanwhile, the Palestinian public is doing its part. On 17 February, the Central Elections Commission closed voter registration and announced 421,000 new registrants during the period, raising the total registered voters to over 2.6 million, 93 per cent of all eligible voters according to population estimates from the Palestinian Central Bureau of Statistics. An estimated 40 per cent of registered voters are under the age of 30 years old. It is encouraging to see such strong public participation in the democratic process.

The UN will continue to work collectively to support the Palestinian people, including through facilitating and supporting preparatory processes towards these important elections.

In a number of recent meetings, the international community has demonstrated that it is focused on helping the parties return to the path of negotiations and signaled its continued support to the Palestinian people and institutions, including in Covid-19 response.

On 8 February the League of Arab States issued a statement reiterating its support for the establishment of an independent and sovereign Palestinian State based on the 1967 lines, with East Jerusalem as its capital.

On 15 February, the Envoys of the Middle East Quartet, from Russia, the United States, the European Union and the United Nations, met virtually to discuss the latest political developments and the situation on the ground. All agreed to meet on a regular basis to continue their engagement.

On 23 February, members of the Ad Hoc Liaison Committee met virtually in a meeting chaired by the Foreign Minister of Norway and the EU High Representative. The Chair's Summary highlighted that the parties expressed renewed commitment to enhance cooperation. The donor community called on the parties to take specific steps to improve their relations on the economic front, to facilitate critical infrastructure and assistance projects on the ground. They were also called to avoid unilateral actions that could undermine the resumption of negotiations. The donor community also pledged increased assistance to the Palestinians in a variety of areas including to support the Government's COVID-19 vaccination efforts.

In the UN's report to the AHLC meeting, it was clearly underlined that the Palestinian economy contracted - mostly due to the negative effects on the economy of the COVID-19 pandemic and to the Palestinian Authority's suspension of coordination with Israel. Let me be clear, it may take years for the economy of Palestine to recover.

The AHLC Chair also noted the critical importance of rolling out a safe and effective COVID-19 vaccine program as rapidly as possible, both in the West Bank and Gaza.

In this respect, the UN welcomes the announcement of the Palestinian vaccination strategy and the initial allocation to the Palestinian Ministry of Health of at least 37,440 doses of vaccines by the COVAX-AMC facility. In addition, in February, 30,000 doses of vaccines were delivered to Palestinians, including in Gaza, by Russia and the United Arab Emirates. This is in addition to the Israeli's earlier transfer of 5,200 vaccines to the Palestinian Authority, the vaccination of 5,000 Palestinian educational and health workers working in Israel and efforts to vaccinate the population in East Jerusalem, which is 50 per cent completed.

The Palestinian Government's efforts to prepare and plan this vaccination efforts are to be commended, as is the dedication of UN agencies, in particular WHO, UNICEF, UNRWA, and their partners. Israeli facilitation of vaccine deliveries has also been essential and I appreciate efforts by the Israeli Government to support the Palestinian response to COVID-19. It is critically important that this cooperation continues and is enhanced to ensure that Palestinians in the West Bank and Gaza receive a fair and timely share in the distribution of vaccines.

Turning to Gaza, I welcome Egypt's reopening of the Rafah Crossing on 9 February in both directions until further notice. The Rafah crossing is the main gateway to the world for 2 million residents of Gaza.

I also commend the decision of the Government of Qatar to significantly increase its financial contribution for Gaza, including the agreement signed with UNOPS to provide fuel to the Gaza Power Plant to the end of this year. This arrangement will generate over twelve hours of electricity – stable – per day. The UN stands ready to play its part, and will continue to work closely with donors to ensure the continuity of existing commitments.

Unfortunately, concerning developments on the ground continued throughout the reporting period.

Overall, Israeli authorities demolished or seized 170 Palestinian-owned structures in Area C and 10 in East Jerusalem, displacing some 314 Palestinians, including 67 women and 177 children. The demolitions were carried out due to the lack of Israeli-issued building permits, which are nearly impossible for Palestinians to obtain.

In a particularly concerning series of incidents, on 1, 3, 8, 16 and 22 February, the ISF demolished or confiscated 80 structures in the Palestinian Bedouin community of Humsa al-Baqai'a in an Israeli declared firing zone in the Jordan Valley. The actions displaced reportedly 63 people, including 36 children multiple times, and followed a similar demolition in November 2020. On 23 February, my Deputy and the Humanitarian Coordinator visited the site and called on Israeli authorities to cease further demolitions in accordance with international law and allow the humanitarian community to provide shelter, food and water to this most vulnerable community.

I reiterate this message from the Humanitarian Coordinator and urge Israel to cease the demolition and seizure of Palestinian property throughout the occupied West Bank, including East Jerusalem, and to allow Palestinians to develop their communities.

Daily violence also continued throughout the OPT during the reporting period.

In the occupied West Bank, including East Jerusalem, clashes, attacks, search and arrest operations, and other incidents resulted in the death of two Palestinians, including one child, reportedly while they were attempting to stab Israeli soldiers, as well as injuries to 34 Palestinians, including 6 children. Ten Israelis, including two women and three children, were injured by Palestinians during the reporting period.

On 26 January, a 17-year-old Palestinian boy tried to stab a female Israeli soldier near the settlement of Ariel and was subsequently shot and killed by Israeli Security Forces (ISF).

On 31 January, a 36-year-old Palestinian man was shot and killed by the ISF as he ran towards officers stationed at the Gush Etzyon junction south of Bethlehem while reportedly holding an improvised weapon.

Meanwhile, Israeli settlers and other civilians perpetrated some 25 attacks against Palestinians, resulting in five injuries and damage to property. Palestinians perpetrated 59 attacks against Israeli settlers and other civilians in the West Bank, resulting in eight injuries and damage to property.

On 5 February, a Palestinian man was shot and killed by Israeli settlers in the Sadeh Ephraim Farm outpost near the village of Ras Karkar, after reportedly attempting to break into a house. The ISF, who stated the incident was a terrorist attack, also stated that the man was unarmed, and no weapons were found in his possession. I call on Israeli authorities to conduct a thorough investigation into the circumstances of the incident.

On 15 February, Israeli civilians vandalized nine vehicles belonging to Palestinian workers near the West Bank settlement of Shiloh. The Israeli police opened an investigation into the incident noting that it occurred following the removal of an unauthorized structure from a nearby outpost by the ISF.

On the same day, Israeli police announced that they had arrested several Israelis in the West Bank on suspicion of stone throwing that injured Palestinians, illegal possession of weapons, and membership in a terrorist organization.

On 23 February, Israeli authorities filed an indictment against a 17-year-old Israeli boy accused of throwing stun grenades into Palestinian homes in the West Bank village of Sarta and causing damage to property. Israeli police also arrested four additional individuals suspected of involvement in the incident.

I underscore that all perpetrators of violence must be held accountable and swiftly brought to justice. Particular care should be taken to protect children from any sort of violence.

On 5 February, the International Criminal Court Pre-Trial Chamber decided that the Court's jurisdiction extends to the Occupied Palestinian Territory.

...

Madam President, in closing allow me to underline the following,

It is critical to begin the process of restoring hope to Palestinians and Israelis that the achievement of the two-State solution and a just, lasting and comprehensive peace can be realized. Given the reality of developments on the ground, the depth of the task is daunting, but not insurmountable. We must seize emerging opportunities.

The upcoming elections in Palestine may be one such opportunity. The extraordinarily high registration rate among the Palestinians is a resoundingly positive response from the people of Palestine in support of President Abbas' call for elections. The holding of free and fair elections across the Occupied Palestinian Territory is a crucial step towards reestablishing Palestinian national unity, one that can renew the legitimacy of national institutions, including a democratically elected Legislative Council and Government in Palestine.

The democratic right to vote, particularly for young people, is the right to decide one's own political future and should be carefully guarded. The UN and the international community will continue to play an active part in supporting the election process.

Elections will also help to clear the path toward restoring a legitimate political horizon to realize a two-State solution. The United Nations, alongside its partners in the Middle East Quartet, will continue to support Palestinians and Israelis in their efforts to achieve this goal.
