**Pakistan, Palestine and the World Court**

Saroop Ijaz

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Pakistan has an important opportunity to support Palestinian rights at the World Court and in doing so to advance key principles of international law that protect human rights globally.

In December 2022, the United Nations General Assembly requested an advisory opinion from the International Court of Justice (ICJ) on the legal consequences of Israel’s prolonged occupation of the West Bank and Gaza. Though this is the second time the General Assembly has asked the ICJ for an advisory opinion related to the Occupied Palestinian Territory, the December request is wider in scope. In 2004, the ICJ in an advisory opinion found that the route of Israel’s separation barrier violated international law and that it should be dismantled. Pakistan should help shape the court’s opinion through an official submission on the questions the ICJ has been asked to address.

Pakistan has long expressed concerns about the Israeli government’s systematic repression of Palestinians and recognized the reality of Israel’s abusive, long occupation. In March, Foreign Minister Bilawal Bhutto recognized Israel’s apartheid at a UN news conference.

Originally coined in relation to South Africa, apartheid today is a universal legal term. The prohibition against particularly severe institutional discrimination and oppression or apartheid constitutes a core principle of international law.

International criminal law, including the 1973 International Convention on the Suppression and Punishment of the Crime of Apartheid and the 1998 Rome Statute, the founding document for the International Criminal Court, define apartheid as a crime against humanity consisting of three primary elements: (1) an intent by one racial group to dominate another; (2) systematic oppression by the dominant group over the marginalized group; and (3) particularly grave abuses known as inhumane acts.

Applying the law to its many years of research on Israel’s treatment of Palestinians, Human Rights Watch in an April 2021 report, 'A Threshold Crossed', found that Israeli authorities were committing the crimes against humanity of apartheid and persecution against Palestinians. This conclusion, based on documentation of an overarching government policy to maintain the domination of Jewish Israelis over Palestinians and coupled with grave abuses against Palestinians living in the occupied territory, including East Jerusalem, is shared by Palestinian, Israeli and other international human rights groups.

In recent months, Israel’s discrimination and repression have intensified. In 2022, the number of killings in the West Bank and of people held in administrative detention without trial or charge based on secret evidence was the highest in years. Israel’s current government has identified as a guiding principle that all the territory between the Jordan River and Mediterranean Sea belongs “exclusive[ly]” to the Jewish people.

In this situation, the ICJ advisory opinion could have significant implications, including for any findings of violations of international human rights law, international humanitarian law, and international criminal law. Even if the court does not reach substantive findings on violations of international law, its opinion can set out guidance to interpret these key international laws, in particular laws that have not yet been litigated, like the crime against humanity of apartheid. Even if the court, operating by consensus, does not issue a clear finding on some issues, strong separate opinions by judges can prove powerful.

Submissions by individual countries form part of the court record and, as previous advisory opinions have shown, can help to shape the court’s approach.

A Pakistan submission should urge the court to broadly assess the legal consequences of the 56-year-old occupation, including violations of core principles of international law, discriminatory laws, policies and practices of successive Israeli governments, and the consequences of these for international human rights, humanitarian and criminal law. It should make clear that, so long as Israeli authorities continue to occupy Palestinian territory, they are required to ensure that Palestinians living under occupation have full protection of the rights guaranteed to everyone under international human rights law, using as a benchmark the rights they grant Israeli citizens, as well as protections they are owed under international humanitarian law.

It should also encourage the court to take stock of the increasingly transparent reality that Israeli authorities methodologically privilege Jewish Israelis, who are governed under the same body of laws with the same rights and privileges wherever they live, while systematically discriminating against Palestinians wherever they live. It should also urge the court to consider the consequences of Israeli authorities’ failure to regard the occupation as temporary. They have made clear their intent to maintain overriding control over the West Bank in perpetuity.

It should ask the court to make clear that Israeli authorities’ treatment of Palestinians is racial discrimination and indicate that Israeli authorities are committing the crimes of apartheid and persecution as defined under international law.

UN member countries have an obligation to take action against the crimes against humanity of apartheid and persecution, to end complicity in such crimes, and to press for accountability. Silence, inaction, and denial in the face of Israeli authorities’ crimes against humanity poses a grave challenge to the rules-based international order.

Continuing to hide behind the empty platitudes of a moribund peace process allows Israel to continue the daily, escalating oppression, humiliation, and anguish of Palestinians. That needs to end. Pakistan has an opportunity to display leadership on this crucial issue before one of the most important international legal forums: the World Court. It should seize that opportunity.

The writer is a senior counsel for Asia at Human Rights Watch.